

14-0281

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

MARK E. DAVIS,
TAMMY L. DAVIS,

Plaintiffs

v.

MIKE RUTHERFORD, et al.,

Defendants.

Civil Action No. 08-C-1058
Judge Carrie Webster

2014 FEB 18 PM 3:15

CATHY B. ...
KANAWHA COUNTY CIRCUIT COURT

ORDER GRANTING COSTS *et SANCTIONS*

On January 27, 2014, the Court convened a hearing on Defendant Rebuild America, Inc's Motion for Authority to Protect Property from Damage. Proper notice of the motion was given and all parties, by counsel, appeared at the hearing except for the *pro se* Plaintiffs, who did not attend the hearing either in person or by counsel. At the hearing, the Court determined, *sua sponte*, that the Plaintiffs had repeatedly and deliberately disregarded the Orders and directives of the Court and ordered that the fees and costs associated with attempting to compel the plaintiffs' attendance at deposition and their compliance with the outstanding discovery requests be awarded to Defendant Rebuild America, Inc.

Based upon the affidavit submitted by counsel for Rebuild America, Inc., a copy of which is attached as Exhibit A, 11 hours were spent preparing for, arranging and attempting to secure Plaintiffs' attendance at deposition and compliance with discovery requests in this case. At the charged hourly rate of \$225.00, the total in fees paid by defendant Rebuild was Two Thousand Four Hundred Seventy-Five Dollars (\$2,475.00). See Affidavit attached as Exhibit A. Further, the total costs incurred relative to attempting service of process upon the Plaintiffs for deposition was Two Hundred Eighteen Dollars and Eighty-Three Cents, making the total amount

of fees and expenses Two Thousand Six Hundred Ninety-Three Dollars and Eight-Three Cents (\$2,693.83). See Affidavit attached as Exhibit A.

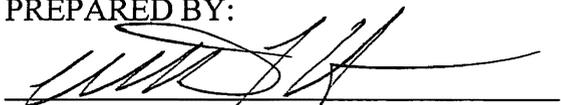
Accordingly, as a sanction for their deliberate and repeated failure to comply with the Orders of this Court and the Rules of Civil Procedure governing this matter, it is hereby ORDERED that the Plaintiffs shall personally pay attorneys fees and costs in the amount of Two Thousand Six Hundred Ninety-Three Dollars and Eighty-Three Cents (\$2,693.83) to Defendant, Rebuild America, Inc. and/or its counsel within 30 days of the entry of this Order.

Entered this 18 day of February, 2014.



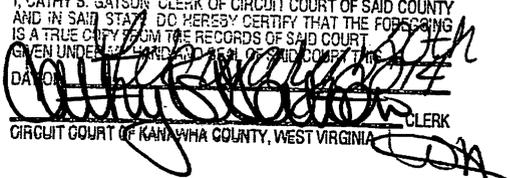
JUDGE CARRIE WEBSTER

PREPARED BY:



William J. Hanna (WV Bar #5518)
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P.O. Box 3843
Charleston, WV 25338-3843
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Counsel for Rebuild America, Inc.

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS
DAY OF _____, 2014.



CATHY S. GATSON
CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

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CATHY S. JONES, CLERK
KANAWHA COUNTY CIRCUIT COURT

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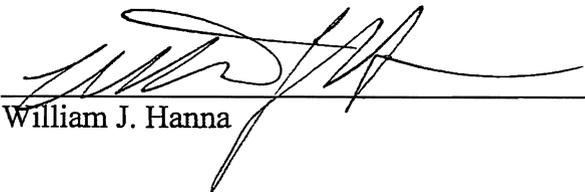
AFFIDAVIT OF WILLIAM J. HANNA

I, William J. Hanna, having been first duly sworn, state as follows:

1. I am co-counsel of record for the defendant Rebuild America, Inc. and have personal knowledge of the matters set forth in this Affidavit and, based upon information and belief, represent the following:

2. 11 hours were spent preparing for, arranging and attempting to secure Plaintiffs' attendance at deposition and compliance with outstanding discovery requests in this matter. At the charged hourly rate of \$225.00 paid by Rebuild America for legal services in this matter, the total in fees is Two Thousand Four Hundred Seventy-Five Dollars (\$2,475.00). The total costs in the matter for attempting service of process upon the Plaintiffs for deposition is Two Hundred Eighteen Dollars and Eighty-Three Cents.

Further the affiant sayeth not.



William J. Hanna

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to wit:

2014 FEB 18 PM 3:15

I, CINDY Melton, a Notary Public in and for the said County and State do hereby certify that William J. Hanna, who signed the foregoing dated the 12th day of February, 2014, has this day in my County and State, before me acknowledged the same.

Given under my hand this 12th day of February, 2014.

My commission expires September 26, 2023.

Cindy L. Melton
NOTARY PUBLIC

