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IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED

2010 NOV -1 PM 3:12

CATHY S. GATSON, CLERK
KANAWHA CO. CIRCUIT COURT

HAROLD A. CURTISS, Executor of the
Estate of Norma Lee Curtiss, Deceased;
HAROLD A. CURTISS, Administrator of the
Estate of Mary Lynn Curtiss, Deceased; and
HAROLD A. CURTISS, Executor of the
Estate of Charles E. Curtiss, Deceased

Plaintiffs,

v.

CIVIL ACTION NO. 05-C-1118
(Judge Zakaib)

HARTLEY TRUCKING COMPANY, INC.,
and JOHN R. TANNER,

Defendants.

**ORDER CLARIFYING THIS COURT'S PRIOR ORDERS AND
DENYING MR. CASACCIO AND NATIONAL INDEMNITY'S OBJECTIONS**

1. On August 22, 2008, this Court entered its Order Awarding Sanctions against Joseph Casaccio and National Indemnity Company and to the Plaintiffs in this case.
2. On February 22, 2010, this Court issued its Order regarding Attorney Fees & Expenses in this case and awarded attorney's fees and expenses to the law firm of Allen Guthrie & Thomas, PLLC, in regard to the Court's prior sanctions award. Although this Order was not entitled "Final Order," it did in fact dispose of all issues in this case.
3. On July 2, 2010, Mr. Schuda, counsel for Mr. Casaccio and National Indemnity Company, contacted this Court ex parte and represented that due to a clerical error he had not received a copy of the February 22, 2010, Order. As a result, on July 6, 2010, this Court issued its Order Staying Execution of Judgment to ensure that Mr. Casaccio and National Indemnity Company had the opportunity to appeal this matter, if they chose to do so.

EXHIBIT

C

4. On September 21, 2010, Counsel for Mr. Casaccio and National Indemnity filed a Motion for Clarification of Rulings and Entry of Final Order alleging that no final order has been entered in this case. Plaintiffs oppose this motion and have also filed their Motion to Lift Stay of Execution of Judgment.

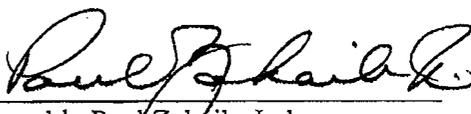
5. At this time, this Court denies Mr. Casaccio and National Indemnity's objections and issues the following Order:

a. Although not styled a Final Order, the February 22, 2010, Order did, in fact, resolve all issues in this case. Therefore, it is a final order from which an appeal may lie.

b. Counsel for Mr. Casaccio and National Indemnity Company have represented to the Court that due to a clerical error, they did not receive a copy of the February 22, 2010, Order until July 2, 2010. Therefore, the Court granted relief pursuant to Rule 60(b). This Court also finds that Mr. Casaccio and National Indemnity's time to file an appeal runs from July 2, 2010, rather than February 22, 2010, since this is the date upon which counsel represents they received the Court's Order.

c. Neither Mr. Casaccio nor National Indemnity Company have filed an appeal bond. This Court finds no reason to stay the execution of judgment and, therefore, the Stay of Execution of Judgment contained in the Court's July 6, 2010, Order is now lifted.

Entered: October 29, 2010


Honorable Paul Zakaib, Judge
Circuit Court of Kanawha County, WV

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 3
DAY OF MAY 2010

CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA *KW*

PREPARED BY:

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