

IN THE CIRCUIT COURT OF MINERAL COUNTY, WEST VIRGINIA

COMMERCE AND INDUSTRY INSURANCE COMPANY,

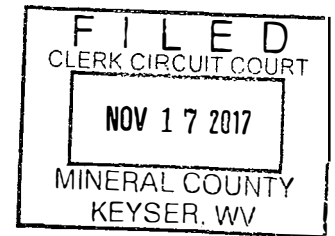
Plaintiff,

v.

CIVIL ACTION NO. 14-C-75

SAMUEL R. AMORUSO, JR. d/b/a  
QUALITY SUPPLIER TRUCKING, INC.,

Defendant.



ORDER

On the 21<sup>st</sup> day of September 2017, came the Plaintiff, Commerce and Industry Insurance Company, by counsel, Clinton W. Smith, and came the Defendant, by counsel, James Smith, upon the Defendant's *Motion to Set Aside the Default Judgment*.

The Court does hereby find as follow:

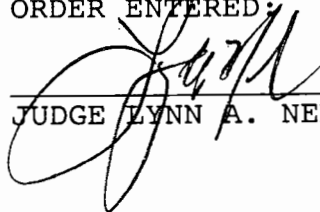
1. The Default Judgment in this case was entered January 28, 2016.
2. The Motion to Set Aside the Default Judgment was filed May 19, 2017.
3. Rule 60(b) of West Virginia Rules of Civil Procedure requires that a Motion to Set Aside a Judgment alleging either (1) mistake, surprise, excusable neglect, or unavoidable cause or (3) fraud, misrepresentation, or misconduct, be filed not more than one year after the judgment order was entered.

Therefore, it is the Judgment and Order of the Court that the motion by the Defendant to set aside the *Default Judgment* is hereby denied on the grounds that the motion was not timely filed.

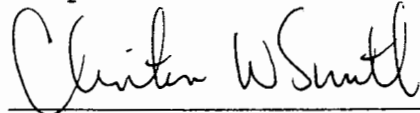
C. Smith  
J. Smith  
11/17/17  
KJ

The objection and exception of the Defendant is hereby noted.

ORDER ENTERED:

  
\_\_\_\_\_  
JUDGE LYNN A. NELSON

Prepared and Presented by:



\_\_\_\_\_  
CLINTON W. SMITH, ESQ.  
WV Bar No. 3458  
Mezzanine Suite 4  
405 Capitol Street  
Charleston, WV 25301  
(304) 343-4498  
COUNSEL FOR THE PLAINTIFF

**TESTE COPY**



\_\_\_\_\_  
Clerk Circuit/Family Court of Mineral County, WV

Approved as to Form by:

\_\_\_\_\_  
James E Smith, II, Esq.  
122 East Street;  
PO Box 127  
Keyser, WV 26726  
COUNSEL FOR THE DEFENDANT