**In the Supreme Court of Appeals of West Virginia**

Docket No. 11-012

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| **FRED FLINTY**  Petitioner  V.)  **BARNEY RUBBLECRACKER**,  Respondent | Appeal from a final order  of the Circuit Court of \_\_\_\_\_\_\_\_\_\_ County (09-C-123) |

**Petitioner's Brief**

**Counsel for Petitioner, Fred Flinty**

Angie Attorney (WV Bar #)

*Counsel of Record*

Adam Associate (WV Bar #)

LAW FIRM NAME

Mailing Address

Telephone Number

E-mail address of counsel of record

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**TABLE OF AUTHORITIES**

[A table of authorities is required if the brief exceeds five pages. The table of authorities does not count toward the page limitation.]

**ASSIGNMENTS OF ERROR**

1. THE CIRCUIT COURT ERRED IN GRANTING DEFAULT JUDGMENT WITHOUT GIVING THE PETITIONER PROPER NOTICE AND AN OPPORTUNITY TO BE HEARD
2. THE CIRCUIT COURT APPLIED AN OUTDATED STANDARD WHEN EVALUATING THE PETITIONER'S SHOWING OF GOOD CAUSE
3. DEFAULT JUDGMENT WAS IMPROPER BECAUSE THE PETITIONER DEMONSTRATED GOOD CAUSE FOR REINSTATEMENT

**STATEMENT OF THE CASE**

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**SUMMARY OF ARGUMENT**

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**STATEMENT REGARDING ORAL ARGUMENT AND DECISION**

Because the principle issues in this case have been authoritatively decided in the Court's recent decision in Blank v. Blank, *infra*, oral argument under Rev. R.A.P. 18(a) is not necessary unless the Court determines that other issues arising upon the record should be addressed. If the Court determines that oral argument is necessary, this case is appropriate for a Rule 19 argument and disposition by memorandum decision.

**ARGUMENT**

1. **THE CIRCUIT COURT ERRED IN GRANTING DEFAULT JUDGMENT WITHOUT GIVING THE PETITIONER PROPER NOTICE AND AN OPPORTUNITY TO BE HEARD**

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1. **THE CIRCUIT COURT APPLIED AN OUTDATED STANDARD WHEN EVALUATING THE PETITIONER'S SHOWING OF GOOD CAUSE**

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Syl. Pt. 3, Blank v. Blank, *see also* String v. Cite #2, 897 W.Va. 456, 13 S.E.3d 657 (2040), String v. Cite #3, 897 W.Va. 456, 13 S.E.3d 657 (2040), String v. Cite #4, 897 W.Va. 456, 13 S.E.3d 657 (2040), String v. Cite #5, 897 W.Va. 456, 13 S.E.3d 657 (2040). **[Citations to five or fewer cases must be placed in the body of the text. Rev. R.A.P. 38. Citations to more than five cases may be placed in a footnote. See footnote 2 on page 6 for an example.]** Etiam eget dui. Aliquam erat volutpat. Sed at lorem in nunc porta tristique. Proin nec augue. Quisque aliquam tempor magna. Pellentesque habitant morbi tristique senectus et netus et malesuada fames ac turpis egestas.

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1. **DEFAULT JUDGMENT WAS IMPROPER BECAUSE THE PETITIONER DEMONSTRATED GOOD CAUSE FOR REINSTATEMENT**

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**CONCLUSION**

The Circuit Court's order granting default judgment should be reversed, and this matter should be remanded for further proceedings.

**Signed**:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Angie Attorney (WV Bar # )

Counsel of Record for Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of January, \_\_\_\_, true and accurate copies of the foregoing **Petitioner's Brief** were deposited in the U.S. Mail contained in postage-paid envelope addressed to counsel for all other parties to this appeal as follows:

|  |  |
| --- | --- |
| Counsel for Respondent  Larry Lawyer  LAW FIRM NAME  Mailing Address |  |

**Signed**:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Angie Attorney (WV Bar # ----)

Counsel of Record for Petitioner

1. References to the Appendix Record—the contents of which were agreed to by the parties—are set forth as "A.R. \_\_." **[If the case utilizes a Designated Record under Rule 8, then the references would be set forth as "D.R. \_\_."]** [↑](#footnote-ref-1)
2. String v. Cite #1, 897 W.Va. 456, 13 S.E.3d 657 (2040), String v. Cite #2, 897 W.Va. 456, 13 S.E.3d 657 (2040), String v. Cite #3, 897 W.Va. 456, 13 S.E.3d 657 (2040), String v. Cite #4, 897 W.Va. 456, 13 S.E.3d 657 (2040), String v. Cite #5, 897 W.Va. 456, 13 S.E.3d 657 (2040), String v. Cite #6, 897 W.Va. 456, 13 S.E.3d 657 (2040), String v. Cite #7, 897 W.Va. 456, 13 S.E.3d 657 (2040), String v. Cite #8, 897 W.Va. 456, 13 S.E.3d 657 (2040). **[Citations of more than five cases may be placed in a footnote. Citations of five or fewer cases must be placed in the body of the text. See page 4 for an example. Footnotes may be single-spaced and shall be no smaller than eleven-point proportionally spaced or ten-point nonproportionally spaced type. This sample brief uses Georgia, a proportionally spaced type.]** [↑](#footnote-ref-2)