

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF GRAND TRAVERSE

MOLON EXCAVATING, INC., a Michigan
corporation,

Plaintiff,

v

File No. 00-20839-CK
HON. PHILIP E. RODGERS,
JR.

BRYAN PUNTURO,

Defendant.

C. Enrico Schaefer (P43506)
Attorney for Plaintiff

James M. Hunt (P24243)
Attorney for Defendant

ORDER REGARDING
DEFENDANT'S OBJECTION TO REQUEST FOR ATTORNEY FEES

The Defendant's motion to set aside default was heard on January 8, 2001. At that time the Court set aside the default and established a timetable for the Plaintiff to file a request for costs, including reasonable attorney fees. The Plaintiff was to file a bill of costs no later than January 15, 2001 and the Defendant was to file any objection thereto no later than January 22, 2001.

On January 26, 2001, the parties submitted an agreed order setting aside default and the Plaintiff submitted a bill of costs. The Order Setting Aside Default was entered on January 29, 2001. The Defendant filed an objection to the bill of costs on February 2, 2001. On February 7, 2001, the Court issued a Pre-Hearing Order. The deadlines stated therein have now expired. The Court dispenses with oral argument pursuant to MCR 2.119(E)(3) and issues this written order.

MCR 2.603(D)(4) provides:

An order setting aside the default must be conditioned on the party against whom the default was taken paying the taxable costs incurred by the other

party in reliance on the default, except as prescribed in MCR 2.625(D). The order may also impose other conditions the court deems proper, including a reasonable attorney fee.

The Court will consider the Plaintiff's bill of costs, even though it was technically untimely.

The Plaintiff requested \$665.00 in attorney fees and \$78.50 in costs. No affidavits setting forth an hourly rate or the time expended was included. The Defendant claims that the amount of the attorney fees is excessive.

The Defendant shall pay to the Plaintiff the total sum of \$453.50.¹ If said sum is not paid within 21 days of the date of this Order, the default will be reinstated.

IT IS SO ORDERED.

This Order does **not** close the case.

HONORABLE PHILIP E. RODGERS, JR.
Circuit Court Judge

Dated: _____

¹ The Court has approved two and one-half (2.5) hours at the rate of \$150 per hour.