

**IN THE CIRCUIT COURT OF ST. CHARLES COUNTY,
MISSOURI**

STATE OF MISSOURI ex rel.,)
CHRIS KOSTER, Attorney General of)
Missouri, THE MISSOURI)
DEPARTMENT OF NATURAL)
RESOURCES, and THE MISSOURI)
CLEAN WATER COMMISSION)

Plaintiff,)

v.)

ZANE R. STINNETT and)
STINNETT GREASE SERVICE, LLC)

Defendants,)

FILED

FEB 27 2012

**JUDY ZERR
CIRCUIT CLERK
ST. CHARLES CO.**

Case No. 1011-CV01835

**ENTRY OF DEFAULT JUDGMENT AND ASSESSMENT OF
CIVIL PENALTIES AND DAMAGES AGAINST DEFENDANTS**

This Court, upon review and after a hearing on the State of Missouri's Motion for Default Judgment and Assessment of Civil Penalties against Defendants Zane R. Stinnett and Stinnett Grease Service, LLC, finds that:

1. The State's Petition in the above-styled action was filed with this Court on February 24, 2010.
2. Defendants Zane R. Stinnett and Stinnett Grease Service, LLC, were personally served with a Summons and copy of the Petition on February 21, 2011.
3. Defendants failed to file a timely Answer to any of the allegations pled in the Petition.

4. Supreme Court Rule 55.25(a) governs the timing of pleadings and provides in relevant part that:

A defendant shall file an answer within thirty days after the service of the summons and petition, except where service by mail is had, in which event a defendant shall file an answer within thirty days after the acknowledgment of receipt of summons and petition or return registered or certified mail receipt is filed in the case or within forty-five days after the first publication of notice if neither personal service nor service by mail is had.

5. Supreme Court Rule 55.09 explains the effect of the party's failure to file an answer:

Specific averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleadings. Specific averments in a pleading to which no responsive pleading is required shall be taken as denied.

6. In light of Defendants' failure to file a timely Answer with this Court, Defendants are subject to the entry of an Order of Default Judgment pursuant to Supreme Court Rule 74.05. Supreme Court Rule 74.05 provides in pertinent part:

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules, upon proof of damages or entitlement to other relief, a judgment may be entered against the defaulting party. The entry of an interlocutory order of default is not a condition precedent to the entry of a default judgment.

7. By virtue of Defendants' failure to file a timely Answer or responsive pleading within thirty (30) days after service of the summons, Defendants are deemed in default and the facts alleged in the State's Petition are deemed admitted.

8. This Court has authority to issue an injunction and assess civil penalties against Defendants, pursuant to Supreme Court Rule 74.05(c), which states: "A default judgment may include an award of damages, other relief, or both."

9. Section 644.076.1, RSMo, of the Missouri Clean Water Law authorizes this Court to assess civil penalties of up to Ten Thousand Dollars (\$10,000.00) per day for each day of each violation.

10. Section 260.240.1, RSMo, of the Missouri Solid Waste Management Law authorizes this Court to assess civil penalties of up to Five Thousand Dollars (\$5,000.00) per day for each day of each violation.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

11. The Court finds that the terms of this Judgment protect the public's interest.

12. For purposes of this decree, this Court has jurisdiction over the subject matter of this action and over the parties hereto. This Judgment covers matters alleged in Plaintiff State of Missouri's Petition.

13. The provisions of this Judgment shall be binding upon the parties to this Judgment as well as their agents, servants, employees, heirs, successors, assigns, and to all persons, firms, corporations and other entities who are, or will be acting in concert or privity with, on behalf of the parties to this judgment or their agents, servants, employees, heirs, successors, and assigns.

14. Defendants are permanently ordered and enjoined to obey, abide by and comply with this Order, the Missouri Clean Water Law and the Missouri Solid Waste Management Law, Chapter 260 and 644, RSMo, and the rules and regulations promulgated thereunder.

15. Defendants are ordered within 30 days to submit a plan, subject to Department approval, for cleaning up all contaminants that have been released onto the ground and into waters of the state, and addressing all off-site impacts. The Defendants shall promptly obtain all necessary permits and provide copies of landfill receipts showing proper disposal.

16. Defendants are hereby ordered to immediately forward a civil penalty in the amount of \$22,250 in the form of a check made payable to the "*State of Missouri (St. Charles County)*" to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899.

17. Defendants are ordered to pay cost recovery and damages to the State of Missouri to reimburse the State for its costs in investigating,

responding to and monitoring the contamination to waters of the State caused by Defendants.

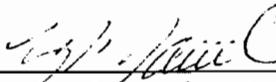
18. Defendants are ordered to pay all future costs and expenses incurred by the State of Missouri to investigate, respond to, and monitor the cleanup of the contamination caused by Defendants' pollution to waters of the state.

19. Defendants are ordered to pay, within 30 days of this Order, natural resource damages in the amount of \$25,000 for damages to the groundwater, surface water, and natural resources of the State resulting from events described in the Petition. The payment shall be made by check made payable to "State of Missouri (Natural Resource Damages Subaccount No. 0555)" and sent to Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, Missouri 65102-0899. The State reserves the right to pursue additional natural resource damages against Defendants and other responsible parties if subsequent information or remediation indicates damages beyond what is anticipated.

20. This Judgment does not discharge any other potentially responsible parties.

21. All costs associated with this action shall be paid by Defendants.

IT IS SO ORDERED.


Circuit Judge U. H. Z. 27897

Dated this 27th day of February, 2012.