

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

Oklahoma Department of Securities)
ex rel. Irving L. Faught,)
Administrator,)
)
Plaintiff,)
)
v.)
)
Nick's Oil & Gas Corporation, an)
unincorporated association;)
Semper Fidelis Exploration & Production,)
LLC, a Texas limited liability company;)
Harbor Resources, LLC, a)
dissolved Texas limited liability company;)
BTJ Consulting, Inc., a Texas corporation;)
and Nicholas P. Yukich, III, an individual,)
)
Defendants.)

AUG 22 2016
RICK WARREN
COURT CLERK
54_____

Case No. CJ-2016-2884
Judge Aletia H. Timmons

RESPONSE IN OPPOSITION
TO DEFENDANTS' MOTION FOR LEAVE TO FILE
OUT OF TIME

COMES NOW the Plaintiff, Oklahoma Department of Securities ("Department") *ex rel.* Irving L. Faught, Administrator, and respectfully requests this Court deny the *Defendant's Opposed Motion for Leave to File Out of Time* (the "Motion") filed by Defendants Nick's Oil & Gas Corporation ("NOG"), Semper Fidelis Exploration & Production, LLC ("SFEP"), and Nicholas P. Yukich, III ("Yukich") (collectively, the "Default Defendants").

I. Introduction

The Default Defendants have not appeared before this Court in this matter until the filing of the Motion, have not answered the Plaintiff's petition in time, do not have an

absolute right to an extension,¹ and are not entitled to an enlargement of time to answer. The reason stated in the Default Defendants' Motion does not meet the "excusable neglect" requirement of 12 O.S. § 2006(B)(2) and of the Oklahoma Supreme Court as outlined in *Humphries v. Lewis*, 2003 OK 12, 67 P.3d 333 as corrected (Feb. 12, 2003).

While the existence of the public policy "favoring resolution of cases on their merits and against default judgment" is undisputed, plaintiffs are also "entitled to rely on the time periods set out in the statutes[.]" *Coulson v. Owens*, 2005 OK CIV APP 93, ¶ 28, 125 P.3d 1233, 1240. Even a single-day delay in filing can affect substantive rights. *Gilbert v. City of Coweta*, No. CIV-08-432-RAW, 2009 WL 918530, at *3 (Apr. 1, 2009).

The purported reservation of time sent by the Default Defendants to the Department, and not filed with this Court, is a legal nullity. However, even if the Court were to recognize the Default Defendants' original reservation of time, the Default Defendants failed to answer within the time allowed in 12 O.S. § 2012(A)(b). In addition, a favorable ruling by this Court on the Default Defendants' Motion would, in effect, provide *two* extensions of time to answer the petition – the second extension not authorized by statutory or case law – and allow the continuation of the Default Defendants' history of manipulating and abusing the legal system.

II. Statement of Facts

The Department filed its petition on June 8, 2016 (the "Petition"). The Default Defendants received service of process, via personal service, on June 18, 2016.

¹ *GJA v. Oklahoma Dep't of Human Servs.*, 2015 OK CIV APP 32, ¶ 42, 347 P.3d 310, 318.

In accordance with 12 O.S. §§ 2006(A) and 2012(A), the Default Defendants' answer to the Petition was due July 8, 2016. Until the filing of the Motion on August 18, the Default Defendants failed to appear, answer or otherwise plead to the petition.

On July 7, 2016, the Department received, via U.S. mail, an "Entry of Appearance and Reservation Of Time", attached hereto as *Exhibit A* (the "Entry"), sent by Yukich acting *pro se* and on behalf of NOG and SFEP. The Entry purports to reserve an additional 20 days to file an answer to the Plaintiff's petition.

The Default Defendants were notified on July 11, 2016, by Plaintiff's counsel, via email to Yukich's admitted email address, that the Entry must be filed with the Court. See *Exhibit B*, 8:22 - 25 (exert from an administrative deposition of Yukich conducted by the Department) and *Exhibit C*. The Entry was never filed with the Court.

On July 28, 2016, the Department filed its motion for default. On August 18, 2016, more than 40 days past the answer due date and more than 20 days past the purportedly reserved time via the Entry, the Default Defendants' finally appeared before this Court through the filing of the Motion.

III. Arguments and Authority

In order for the Default Defendants to be granted an extension of time to answer the Petition, they must demonstrate that their "failure to act was the result of excusable neglect[.]" 12 O.S. § 2006(B)(2). A court's failure to give a party the opportunity to show excusable neglect is grounds for reversal. *Durant Civic Found., Inc. v. Grand Lodge of Oklahoma of Indep. Order of Odd Fellows*, 2008 OK CIV APP 54, ¶ 13 - 14, 191 P.3d 612, 616.

The Oklahoma Supreme Court adopted the analysis used by the U.S. Supreme Court, the *Pioneer* standard, as the test to evaluate the “excusable neglect” requirement of § 2006(B)(2). *Humphries* at ¶ 16. The *Pioneer* standard, an equitable determination, takes into account all relevant circumstances. Factors for a Court to consider include:

the danger of prejudice to the non-movant,...the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith.

Id. at ¶ 20 (citing *Pioneer Iv. Servs. Co. v. Brunswick Assocs. Ltd. Partnerships*, 507 U.S. 380 (1993)). This analysis is pertinent to both the movant and movant’s counsel.

Id. In *Humphries*, the Oklahoma Supreme Court found that although counsel suffered from computer problems beyond his control and “the length of the delay was short, with little impact on judicial proceedings and little or no prejudice to plaintiff[,]” the Court still found counsel’s inaction did *not* constitute excusable neglect. *Id.* at ¶ 18.

In the case at bar, the Department would, and is, suffering prejudice. The Default Defendants state no circumstances beyond their reasonable control that would warrant their pleading out of time. As outlined below, the Default Defendants have not acted in good faith.

**a. *Pioneer* Standard:
Danger of Prejudice to the Department**

The Default Defendants provide no arguments as to why the Department would not suffer prejudice if the Motion is approved by the Court. Instead, they offer a conclusory statement that there “is no prejudice to Plaintiff[.]” Motion at ¶ 8.

The Default Defendants are already over 40 days past the original answer date to respond to the Petition; if the Court were to allow the Default Defendants an additional extension of time, the Department would continue to suffer detriment to its

legal right and duty to protect investors in Oklahoma. It is unknown whether the Default Defendants continue the actions complained of in the Petition; however, it remains a very real danger. What is a certainty is the continued and growing damage to the investors involved and the danger to potential investors.

No further delay should be allowed by this Court unfairly benefiting the Default Defendants to the detriment of the public policies designed to protect Oklahoma investors. As outlined below, the Default Defendants' delay is but one more chapter in Yukich's long line of manipulation of the legal system.

**b. Pioneer Standard:
Reason for the Delay**

The Default Defendants' only stated reason for their failure to file the Entry with the Court is that it was due to "a lack of understanding of the legal system." Motion at ¶ 4.

The Default Defendants state they were not, until recently, represented by an attorney in the case at bar and, therefore, should be held to a different standard; however, this is contrary to Oklahoma law. "[A] party proceeding pro se in a civil action...is to be held to the same standards as an attorney." *Funnell v. Jones*, 1985 OK 73, ¶4, 737 P.2d 105, 107.

Any arguments the Default Defendants make relying on the Entry – that was not filed with the Court – are void for several reasons: 1) even if this Court accepts the Entry as a procedurally and legally sound reservation of time, the Default Defendants have still failed to file an answer within the extended timeframe; 2) pursuant to *Funnell*, the Court must hold the Default Defendants to the same standard as an attorney, therefore, since the Entry was not filed with this Court, it should be treated as a legal nullity; and

3) as to NOG and SFEP, the Entry is a legal nullity because entities cannot be represented *pro se* by a non-attorney regardless of the non-attorney's interest in the entity.²

Further, any assertion by the Default Defendants that they lacked an understanding of the legal system is disingenuous at best. As detailed in the subsequent section, the Default Defendants have a long history of failing to answer, appear, and follow procedure and court orders.

**c. Pioneer Standard:
Good Faith**

Because of their actions, and Yukich's legal history, it is apparent the Default Defendants did not act in "good faith." As defined by Black's, "good faith" is a state of mind consisting in: (1) honesty in belief or purpose, (2) faithfulness to one's duty or obligation,...or (4) absence of intent ... to seek unconscionable advantage. GOOD FAITH, Black's Law Dictionary (10th ed. 2014). The Default Defendants fail to meet this definition in not one but in at least three ways.

Due to Yukich's adjudicative history outlined below, it is highly unlikely that the Default Defendants honestly believed filing more than 40 days out of time is legally acceptable, or equitable; that they were keeping faith with their legal duties after notices of summons were served upon them; or that they were not intending to seek an unconscionable advantage by manipulating and abusing the legal system.

i. Adjudicative History

The Default Defendants, by and through Yukich's history in attempting to manipulate and abuse the legal system, cannot reasonable claim honesty in belief,

² *Massongill v. McDevitt*, 1989 OK CIV APP 82, ¶8, 828 P.2d 438, 439 – 40.

faithfulness to duty or obligation, an absence of intent to gain an unconscionable advantage or a lack of understanding of the legal system. This history includes:

1. Chapter 13 bankruptcy filing by Yukich in the Eastern District of Texas on August 6, 2013. This case was dismissed on August 29, 2013, due to Yukich's "willful failure" to abide by court orders. See *Exhibit D*.
2. Second Chapter 13 bankruptcy filing by Yukich in the Eastern District of Texas on December 2, 2013. This case was dismissed on November 19, 2014, due to Yukich's failure to file documents with the court as required by 11 U.S.C. § 1308(a). See *Exhibit E*.
3. Civil Court Case No. 1053521 filed in Harris County, Texas, on September 30, 2014, against SFEP. A motion for default was filed on February 11, 2015, and properly served on SFEP via Yukich. Default judgment was entered on February 17, 2015, due to a failure to answer. See *Exhibit F*.
4. On June 3, 2015, in Criminal Court Case No. CM-2014-499 filed in Okmulgee County, Oklahoma, the court found Yukich guilty of obstructing a peace officer in violation of 21 O.S. § 540. See *Exhibit G*.
5. Civil Court Case No. DC-15-13310 filed in Dallas County, Texas, on October 30, 2015, against Yukich and SFEP. On March 16, 2016, a motion for default was filed against Yukich and SFEP for failure to answer or appear. On April 29, 2016, due to Yukich and SFEP's default, a final judgment was entered by the court. On August 15, 2016, a motion for new trial was denied for SFEP and approved for Yukich. See *Exhibit H*.

6. Civil Court Case No. CJ-2015-245 filed in Washington County, Oklahoma, on November 4, 2015, against Yukich. A motion for default judgment was filed on May 12, 2016. Yukich has not filed an answer or appeared before the court. See *Exhibit I*. Plaintiffs filed an application for a protective order on November 6, 2015, against Yukich alleging threats against their person. See *Exhibit J*.

7. Civil Court Case No. CJ-15-0036 filed in Bristow County, Oklahoma, on November 23, 2015, against Yukich and SFEP. A motion for default judgment was filed on April 8, 2016. On April 10, 2016, 147 days after commencement of the action, Yukich finally filed an entry of appearance and reservation of time materially identical to the Entry in this case. A short answer was also filed by Yukich. On August 10, Yukich did not make an appearance at his trial and judgment was entered against Yukich and SFEP. See *Exhibit K*.

8. Chapter 13 bankruptcy filing by Yukich – dba as SFEP and NOG – in the Eastern District of Oklahoma on January 20, 2016. This case was dismissed on April 6, 2016, due to Yukich’s “will[ful] failure” to abide by court orders and rules. See *Exhibit L*.

9. Civil Court Case No. 4:16-cv-00200 filed in the Northern District of Oklahoma on Apr 14, 2016. Due to Yukich and SFEP’s failure “to plead or otherwise defend” a Clerk’s Entry of Default was filed on May 19, 2016. On May 26, Yukich and SFEP were granted an extension of time to answer pursuant to an unopposed motion. See *Exhibit M*.

As outlined above, it would be disingenuous for the Default Defendants to argue they are not familiar with legal proceedings and their consequences; in fact, they are well experienced with both.

Taking into account *all* of the circumstances of this case and the history above, the results of the “good faith” analysis using the *Pioneer* standard are clear.

ii. Honesty in Belief or Purpose

It is unreasonable to believe the unfiled Entry and the lack of an answer to the petition in a timely manner – either within 20 days, 40 days or even 60 days – was a result of the Default Defendants’ honesty in belief or purpose. As the Default Defendants’ adjudicative history shows, they are well aware of what is expected of litigants and the consequences for not complying with procedural and legal requirements.

iii. Faithfulness to Duty or Obligation

The Default Defendants had the duty and obligation to file an answer within 20 days of service of process, file their Entry with this Court, and answer within 40 days of service of process if they had faith in the legitimacy of the Entry, and to not attempt to manipulate this Court in order to gain an unconscionable advantage. The Default Defendants have failed at each step.

iv. Intent to Seek Unconscionable Advantage

There can be little doubt that the Default Defendants, whether acting *pro se* or not, understand the legal system or how to abuse and manipulate it. The adjudicative history above demonstrates a thorough understanding of how to deflect creditors, and plaintiffs, in order to avoid obligations or to delay legal proceedings in the hopes a case

will be dismissed. The Default Defendants' inexcusable inactions in the case at bar appear to be yet another attempt to seek an unconscionable advantage.

IV. Conclusion

The Default Defendants have failed to answer in time not once, but twice. Now, the Default Defendants are requesting leave to, purportedly, "file an answer 20 days late";³ at best, they are requesting to file at least 60 days late.

The Default Defendants have *not* shown "excusable neglect" warranting an extension of time, much less a second extension, to answer the petition. The Default Defendants prove "neglect" but fall short of proving that neglect is "excusable." Any additional delay in the proceedings at bar will further prejudice the Department by damaging its legal interests and duties to protect Oklahoma investors. The only reason given to the Court is a disingenuous "lack of understanding of the legal system".⁴ Finally, the Default Defendants' lack of honesty in belief or purpose or faithfulness in duty or obligation and their intent to seek an unconscionable advantage show their lack of good faith.

WHEREFORE, premises considered, Plaintiff prays the Court deny the Default Defendant's Motion.

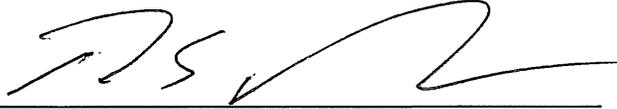
³ Motion at ¶ 8.

⁴ *Id.* at ¶ 4.

Respectfully submitted,

OKLAHOMA DEPARTMENT OF SECURITIES
Irving L. Faught, Administrator

By:



Robert Fagnant, OBA #30548
Oklahoma Department of Securities
204 North Robinson Avenue, Suite 400
Oklahoma City, Oklahoma 73102
Telephone: (405) 280-7700
Facsimile: (405) 280-7742
Email: rfagnant@securities.ok.gov

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 22d day of August, 2016, a true and correct copy of the above and foregoing *Response in Opposition to Defendant's Opposed Motion for Leave to File Out of Time* was mailed via electronic and first-class US mail, with postage prepaid thereon, and addressed to:

Stephen Q. Peters, Esq.
TOMLINS & PETERS, PLLC
Southern Hills Tower, Suite 305
2431 E. 61st Street
Tulsa, Oklahoma 74136
steve@tplawtulsa.com

Attorney for Defendants
Nicholas P. Yukich, III
Semper Fidelis Oil & Gas, LLC
Nick's Oil and Gas Corp.



Robert Fagnant

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Oklahoma Department of Securities)
ex rel. Irvin L. Faight)
administrator)
Plaintiffs,)

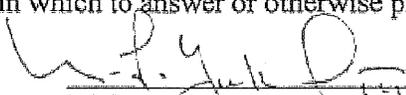
vs.)

Nick's Oil & Gas Corp. an unincorporated)
corporation; Semper Fidelis Exploration &)
Production, LLC a Texas Limited Liability)
Corporation and Nicholas P. Yukich III, individual)
Defendants.)

Case No. CJ-2016-2834
Judge Unknown

ENTRY OF APPEARANCE AND RESERVATION OF TIME

Nick's Oil & Gas Corp., Semper Fidelis Exploration & Production, LLC and Nicholas P. Yukich III, hereby enters his appearance in the above-captioned case and reserves an additional twenty (20) days from the current answer date in which to answer or otherwise plead.

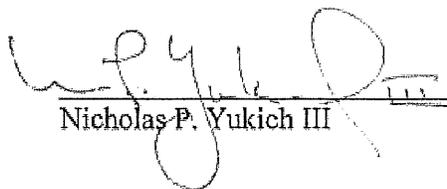


Nicholas P. Yukich III
316 N. MAIN STREET
BRISTOW, OKLAHOMA 74010
(918) 367-9012
(214) 697-7325

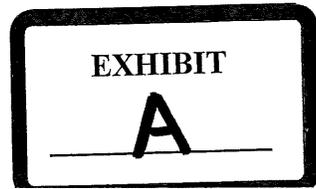
CERTIFICATE OF SERVICE

I certify that on the 30th day of June, 2016, a copy of the above and foregoing was mailed, via U.S. Mail to the following:

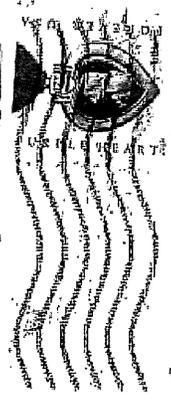
Robert Fagnant (OBA # 30548)
204 North Robinson Avenue, Suite #400
Oklahoma City, Ok 73102
Telephone: 405-280-7700



Nicholas P. Yukich III



SFEP/NOE
Nicholas G. Smith
314 N. Main
Bristow, Ok 74010



OKLAHOMA CITY OK 73102

05 JUL 2016 PM 6:1

Oklahoma Dept of Sewer Dis
204 North Robinson Street #402
Oklahoma City, Ok 73102
Att: Robert Flanagan

7310255500 0002

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES

COPY

IN THE MATTER OF:

NICHOLAS P. YUKICH, III, ODS FILE NO. 14-036

DEPOSITION OF NICHOLAS P. YUKICH, III
TAKEN ON BEHALF OF THE
OKLAHOMA DEPARTMENT OF SECURITIES
ON FEBRUARY 19, 2016
IN OKLAHOMA CITY, OKLAHOMA

WORD FOR WORD REPORTING, L.L.C.
100 NORTH BROADWAY
SUITE 3250
OKLAHOMA CITY, OKLAHOMA 73102
(405) 232-9673

REPORTED BY: HOLLY HURLEY, CSR

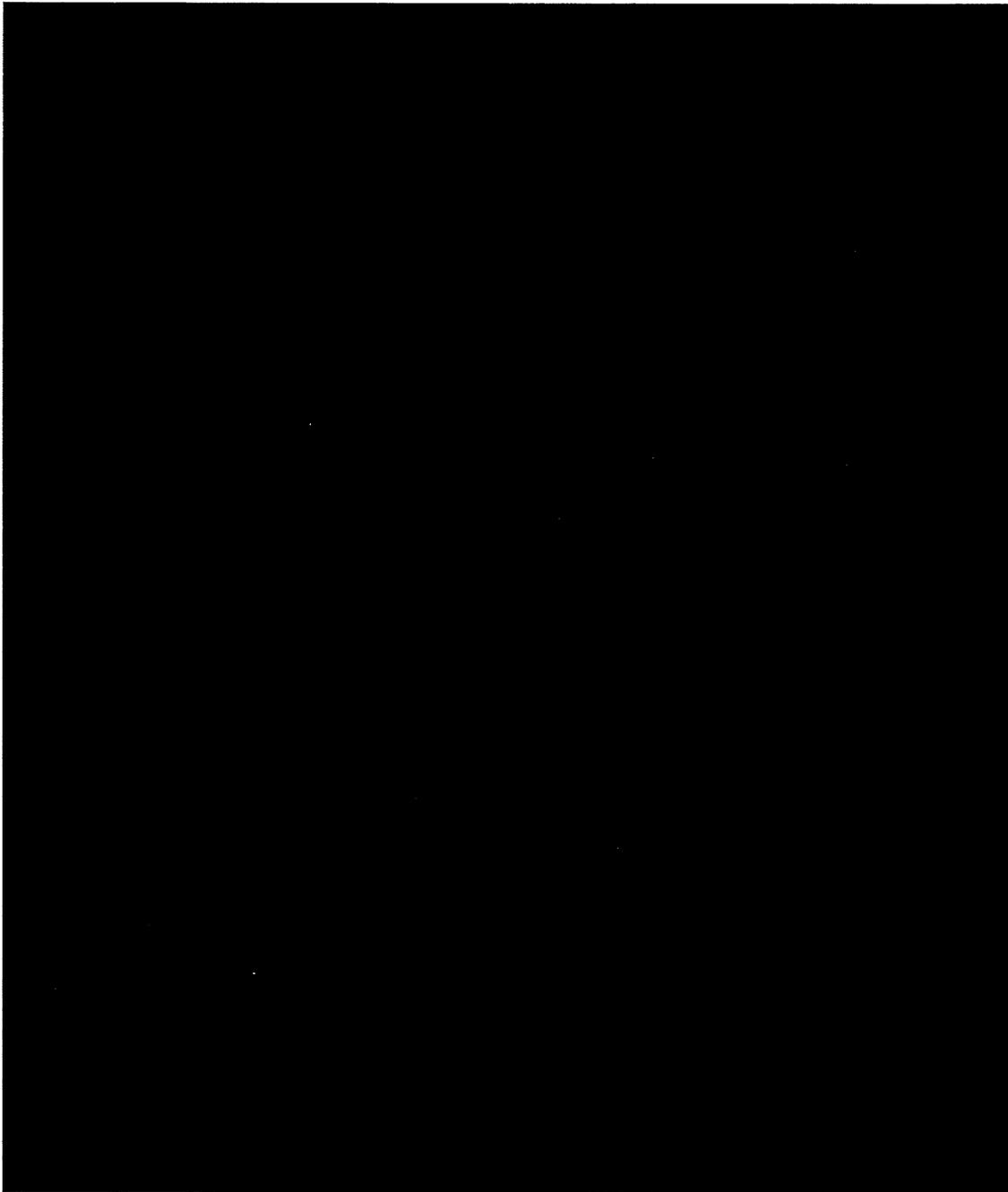
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A P P E A R A N C E S

For the Oklahoma Department of Securities:

MR. ROBERT FAGNANT
MR. OLIVER BLAHA
Suite 400
204 N. Robinson Avenue
Oklahoma City, Oklahoma 73102

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Q. Do you have any email accounts, sir?

A. Yes.

Q. What's that?

A. There's nicksoilandgas@gmail.com; Gunny,

From: Rob Fagnant
Sent: Monday, July 11, 2016 9:18 AM
To: nicksoilandgas@gmail.com
Subject: FW: Nick's Oil & Gas CJ-16-2884
Attachments: CJ-16-2884_EntryOfAppear-Yukick_14-036.pdf

Mr. Yukich,

The correct case number is CJ-2016-2884. You have it marked 2834.

The Judge is Aletia Timmons.

In addition, it appears you have sent this document to the Department and not filed it with the District Court of Oklahoma County; it must be filed with the Court and not the Department.

Regards

From: Brenda London
Sent: Friday, July 08, 2016 8:04 AM
To: Rob Fagnant
Subject: Nick's Oil & Gas CJ-16-2884

Brenda London

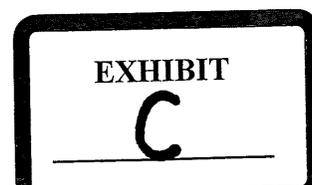
Paralegal
Oklahoma Department of Securities



204 N. Robinson Ave., Suite 400
Oklahoma City, OK 73102-7001
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Investedok.org is an unbiased investor education resource sponsored by the Oklahoma Securities Commission and the Oklahoma Department of Securities.

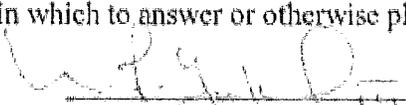


IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Oklahoma Department of Securities)
ex rel. Irvin L. Faught)
administrator)
Plaintiffs,)
vs.) Case No. CJ-2016-2834
Judge Unknown
Nick's Oil & Gas Corp. an unincorporated)
corporation; Semper Fidelis Exploration &)
Production, L.L.C a Texas Limited Liability)
Corporation and Nicholas P. Yukich III, individual)
Defendants.

ENTRY OF APPEARANCE AND RESERVATION OF TIME

Nick's Oil & Gas Corp., Semper Fidelis Exploration & Production, L.L.C and Nicholas P. Yukich III, hereby enters his appearance in the above-captioned case and reserves an additional twenty (20) days from the current answer date in which to answer or otherwise plead.

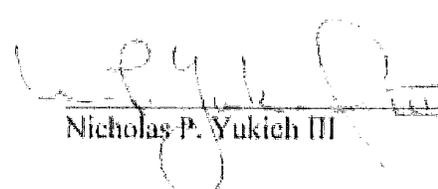


Nicholas P. Yukich III
316 N. MAIN STREET
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(918) 367-9012
(214) 697-7325

CERTIFICATE OF SERVICE

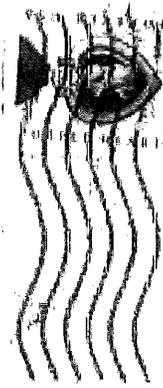
I certify that on the 30th day of June, 2016, a copy of the above and foregoing was mailed, via U.S. Mail to the following:

Robert Fagnant (OBA # 30548)
204 North Robinson Avenue, Suite #400
Oklahoma City, Ok 73102
Telephone: 405-280-7700



Nicholas P. Yukich III

SFEP/NOG
Nicholas G. Galt
314 N. Main St
Bristow, Ok 74010

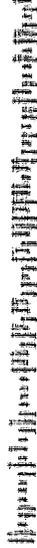


OKLAHOMA CITY OK 730

05 JUL 2016 PMS L

Oklahoma Dept of Sewer Services
204 North Robinson Suite #402
Oklahoma City, Ok 73102
Attn: Robert Flament

7310236500 0002



EOD

UNITED STATES BANKRUPTCY COURT 08/29/2013.
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE:

Nicholas Philip Yukich
410 Leameadow Dr
Allen, TX 75002
SSN: XXX-XX-2520

Case No. 13-41946 btr
Chapter: 13

Debtor(s)

**ORDER DISMISSING CHAPTER 13
CASE WITH PREJUDICE FOR 90 DAYS**

On August 6th, 2013 the above-referenced Debtor(s) filed by electronic means a Chapter 7 Voluntary Petition. The filing of documents with this Court by electronic means is authorized and governed by administrative procedures contained in LBR Appendix 5005 to the Local Rules of Bankruptcy Procedure. Specifically, Section III(B)(3) of LBR Appendix 5005 requires that:

[w]ithin five(5) business days of the filing by electronic means of a bankruptcy petition, list, schedule, or statement that requires verification under Fed. R. Bankr. P. 1008, the Electronic Filer shall file with the Court in paper format the appropriate "Declaration for Electronic Filing," substantially conforming either to Exhibit "B-1," "B-2," or "B-3," which has been executed by the debtor or by the authorized representative of the debtor.

However, the Debtor(s) have failed to fulfill that requirement as to either the petition, the matrix of creditors, the schedules or the statements, or the amendments thereof filed with the Court. Thus, in violation of Fed. R. Bankr. P. 1008, the Debtor(s) have, in actuality, failed to present to the Court a voluntary petition, the matrix of creditors, schedules and statements or amendments thereof which have been verified under penalty of perjury by the Debtor(s) or contain an unsworn declaration of the Debtor(s) as provided in 28 U.S.C. §1746.

In response to this critical omission, the Court issued on August 22nd, 2013 an "Order Setting 7-Day Dismissal Deadline for Filing Declarations for Electronic Filing" in which the Court ordered the Debtor(s) to file the required Declaration with 7 calendar days of the entry of the order and further ordered that, in the event that the Debtor(s) failed to file such a Declaration within the 7-day period, and in the absence of an order extending such deadline for cause shown, this case would be dismissed without further notice of hearing, and that such dismissal would be with prejudice to the rights of the Debtor(s) to file a subsequent petition under any of the provisions of Title 11, United States Code, for a period of ninety (90) days from the entry of the order of dismissal.

The Court's *sua sponte* review of the file in this case reveals that the Debtor(s) has (have) wholly failed and/or refused to file the required Declaration by the deadline imposed by the Court. The Court finds the the Debtor's failure to cure this omission constitutes a willful failure of the Debtor(s) to abide by the orders of this Court. Accordingly, just cause exists for the entry of the following order:

EXHIBIT

D

IT IS THEREFORE ORDERED that the above-referenced Chapter 13 case is hereby DISMISSED WITH PREJUDICE to the rights of the above-referenced Debtor(s), to re-file for relief under any chapter of Title 11, United States Code, **for a period of ninety (90) days from the entry of this order.**

Signed on 8/29/2013

Brenda T. Rhoades

WH

HONORABLE BRENDA T. RHOADES,
CHIEF UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

EOD
11/19/2014

In Re:)	
)	
NICHOLAS PHILIP YUKICH, III)	BANKRUPTCY NO. 13-42884
XXX-XX-2520)	JUDGE RHOADES
)	
410 Leameadow Drive)	
Allen, TX 75002)	CHAPTER 13
)	
Debtor.)	

ORDER OF DISMISSAL

Came on to be heard the United States of America's (IRS) Motion to Dismiss with prejudice for 120 days pursuant to Title 11 U.S.C. § 1307(e), and it being established that the Debtor filed a petition requesting relief under Chapter 13 of Title 11, United States Code Annotated, and it being established that the Debtor failed to file the requisite tax returns as required by 11 U.S.C. § 1308(a), the Court hereby finds that the United States of America's (IRS) Motion to Dismiss with prejudice for 120 days is meritorious. IT IS HEREBY,

ORDERED that the United States' Motion to Dismiss is GRANTED and the Chapter 13 petition filed by the Debtor is hereby dismissed with prejudice to refiling for 120 days, provided, however, that this case shall remain open and the Court shall retain jurisdiction to entertain and to determine all requests for relief, whether raised sua sponte or by any party in interest, pertaining to the compensation to be paid to the Debtor's counsel, so long as any such request is filed before the expiration of fourteen (14) days



after the entry of this order, and to enter any order pertaining thereto which may be appropriate under the circumstances.

Signed on 11/19/2014

Brenda T. Rhoades

SD

HONORABLE BRENDA T. RHOADES,
CHIEF UNITED STATES BANKRUPTCY JUDGE

NJ
3-23-15

NO. 1053521

EXPRESS ENERGY SERVICES
OPERATING, L.P.

VS.

SEMPER FIDELIS OIL & GAS, L.L.C.

§
§
§
§
§
§
§

IN THE COUNTY CIVIL COURT

AT LAW NO. FOUR (4)

HARRIS COUNTY, TEXAS

PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, EXPRESS ENERGY SERVICES OPERATING, L.P., ("Plaintiff") in the above entitled and numbered cause, and files this their Motion for Default Judgment against Defendant SEMPER FIDELIS OIL & GAS, L.L.C., ("Defendant") who was served with due process pursuant to Texas Rules of Civil Procedure, and in support thereof would respectfully show the Court the following:

1. The Defendant SEMPER FIDELIS OIL & GAS, L.L.C., a domestic limited liability company engaged in the exploration and development of oil and gas, as an operator, which does business in the State of Texas, including but not limited to, Harris County, Texas, and which was served with Plaintiff's Original Petition, through its registered agent, in the above captioned suit on October 10, 2014.

2. Although duly served as aforesaid, Defendant SEMPER FIDELIS OIL & GAS, L.L.C., failed to appear or answer in this cause within the time allowed by law. See the Citation and Return on file with the Court.

EXHIBIT
F

NO-100-NUM-01-NUM-0000

\$ 1,250.00 (PK)

Tex. Finance Code § 302.002., attorney's fees in the amount of \$2,500.00, post-judgment interest thereon from the date of judgment at the rate of 5% percent per annum until date of payment, and all costs of court. All other relief is denied. Plaintiff, EXPRESS ENERGY SERVICES OPERATING, L.P., shall have such writs and process as are appropriate to satisfy this judgment.

SIGNED this 17 day of Feb, 20 15

JUDGE PRESIDING

APPROVED AS TO FORM:

SULLINS, JOHNSTON, ROHRBACH & MAGERS

By: [Signature]
MICHAEL J. DULANEY, TBA#24059698
R. DOUGLAS DOWNING, TBA#24074153
2200 Phoenix Tower
3200 Southwest Freeway
Houston Texas 77027
Tel 713.521.0221 | Fax 713.521.3242
E-Mail: ddowning@sjrm.com

ATTORNEYS FOR PLAINTIFF,
EXPRESS ENERGY SERVICES OPERATING, L.P.

FILED
2015 FEB 17 AM 9:45
Houston, Texas

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

IN THE DISTRICT COURT OF THE TWENTY-FOURTH JUDICIAL DISTRICT OF THE STATE OF OKLAHOMA SITTING IN AND FOR OKMULGEE COUNTY

THE STATE OF OKLAHOMA,)
)
 Plaintiff,)
)
 vs.)
)
 NICHOLAS P YUKICH)
)
 [REDACTED])
)
 Defendant(s).)

FILED IN DISTRICT COURT
OKMULGEE COUNTY, OKLA
OKMULGEE DIVISION

Case No. CM-2014-499

JUN - 3 2015

LINDA BEAVER, COURT CLERK
By _____ Deputy

JUDGMENT AND SENTENCE

Now, on this 20th day of May, 2015, this matter comes on before the undersigned Judge for sentencing and the Defendant, NICHOLAS P YUKICH, appears personally and by his attorney, Anthony Allen, the State of Oklahoma represented by David K Pierce, and the Defendant, having ENTERED A PLEA OF GUILTY:

to/of the crime(s) of:

COUNT 1: OBSTRUCTING OFFICER, a MISDEMEANOR, 21 O.S. § 540, committed on or about the 8th day of May, 2014.

COUNT 2: TRANSPORTING OPENED CONTAINER OF BEER, a MISDEMEANOR, 21 O.S. § 1220, committed on or about the 8th day of May, 2014.

(X) IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Defendant, NICHOLAS P YUKICH, is guilty of the above described offenses and is sentenced as follows:

TERM OF IMPRISONMENT WITH EXECUTION OF SENTENCE SUSPENDED

Count 1: Sentenced to a term of 1 year under the direction and control of O.C.C.J.A., with said sentence suspended.

All of said term(s) of imprisonment suspended pursuant to the rules and conditions of probation entered by the court

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT that in addition to the preceding terms, the Defendant is also sentenced to:

FINE

- (X) The defendant shall pay a fine of: \$200.00
- (X) Report to the Cost Administrator May 20, 2015 to set up a payment plan.

COSTS, VCA AND RESTITUTION

- (x) Defendant ordered to pay all Court Costs.
- (x) Defendant ordered to pay Victims Compensation \$100.00.

SPECIAL RULES AND CONDITIONS OF PROBATION

Defendant placed on DA Supervision for one (1) year. Defendant to report to DA Supervision Office by May 26, 2015 and to pay \$40.00 per month to DA's Office for one (1) year. *Mail in is ok, if paid in full up from



SEE RULES AND CONDITIONS OF PROBATION EXECUTED IN THIS CASE.

IT IS FURTHER ORDERED that judgment is hereby entered against the Defendant as to the fines, costs, and assessments set forth above.

The Court further advised the Defendant of his rights and procedure to appeal to the Court of Criminal Appeals of the State of Oklahoma, and of the necessary steps to be taken by him to perfect such appeal, and that if he desired to appeal and was unable to afford counsel and a transcript of the proceedings, that the same would be furnished by the State subject to reimbursement of the cost or representation in accordance with Title 22 O.S. § 1355.14. The Court further advised the Defendant that, in the event the above sentence is for a crime involving domestic violence where the Defendant is or was a spouse, intimate partner, parent, or guardian of the victim, or is or was involved in another similar relationship with the victim, it may be unlawful for him or her to possess, purchase, receive, transport or ship a firearm including a rifle, pistol or revolver or ammunition pursuant to federal law under Title 18 U.S.C. § 992(g)(8) or (9), or state law or both.

In the event the above sentence is for incarceration in the Okmulgee County Jail and leave therewith a copy of this Judgment and Sentence to serve as warrant authority of the Sheriff for the transportation and the imprisonment of the Defendant as herein before provided. The Sheriff to make due return to the clerk of this Court, with his proceedings endorsed thereon.

WITNESS my hand the day and year first above mentioned


Pardee Ramirez
Judge of the District Court

(SEAL)

ATTEST: Linda Beaver, Court Clerk

Deputy Clerk

CLERK'S CERTIFICATION OF COPIES

I, Linda Beaver, Clerk of the District Court of Okmulgee County, State of Oklahoma, do hereby certify the foregoing to be a true, correct, full and complete copy of the original Judgment and Sentence in the case of Oklahoma v. NICHOLAS P YUKICH as the same appears of record in my office.

WITNESS my hand and official seal this _____ day of May, 2015.

Linda Beaver, Court Clerk

(SEAL)

By: _____
Deputy Clerk

SHERIFF'S RETURN

I received this Judgment and Sentence the _____ day of May, 2015, and executed it by delivering the Defendant to the Okmulgee County Jail, on the _____ day of May, 2015.

I also certify the above prisoner has served _____ days in the County Jail on the present charge or charges.

Eddy Rice, Sheriff

Deputy Sheriff

NEO, and as a result all of the material allegations of Plaintiffs' Original Petition were deemed admitted as to each of the Defendants.

The Plaintiffs appeared by their attorney of record and announced ready for trial. The Defendants SFEP, Hank Resources, NEO and Yukich failed to appear at trial. Plaintiffs Merritt, LLC, SKJV and James Merritt announced that they have abandoned their claims related to the Hoover leases, as set forth in Plaintiffs' Original Petition and First Amended Original Petition, and that such claims are proceeding in the United States District Court for the Northern District of Oklahoma.

The Court has considered the testimony, exhibits and evidence submitted by Plaintiffs, and the arguments of counsel, and finds as follows:

Defendant Hank Resources has materially breached its Sedan Kansas Joint Venture Agreement with Plaintiff Merritt, LLC ("Joint Venture") concerning the acquisition of the Sedan Kansas leases and equipment, and has breached its fiduciary duties and duties of loyalty and care owed to Merritt, LLC as a joint venturer. Because Yukich and Hank Resources have failed to provide Merritt, LLC with any financial information related to the Joint Venture or its interests, have made an offer to sell an interest in the Joint Venture without the consent of Merritt, LLC, in violation of the Joint Venture Agreement, have permitted Joint Venture property to be used for the benefit of third parties without the consent of or review by Merritt, LLC (including transferring significant sums to Yukich or business entities owned by Yukich), and have failed to make the books and records of the Joint Venture available for examination by Merritt, LLC, and because Merritt, LLC has received no benefit or thing of value from the Joint Venture, the Court finds that Merritt, LLC is entitled to rescission of the Joint Venture Agreement between Merritt

LLC and Hank Resources and is entitled to restitution in the amount of \$709,244.00, representing the sums invested by Merritt, LLC in the Joint Venture.

Defendant Yukich fraudulently induced Merritt, LLC to enter into the Joint Venture Agreement, committed fraud on Merritt, LLC in connection with the acquisition of the Sedan Kansas leases, committed fraud by secretly using money deposited by Merritt, LLC to acquire the Kansas leases in his own entities' names, and committed fraud on Merritt, LLC in connection with the offering for sale of an interest in the Joint Venture without Merritt, LLC's consent. To further his scheme, Yukich transferred funds provided by Merritt, LLC between Yukich's various corporate entities. Yukich's fraudulent conduct has caused Merritt, LLC to suffer damages in the amount of its investment of \$709,244.00 in the Joint Venture, which Merritt, LLC is entitled to recover from Defendants SFEP, NEO, and Yukich, jointly and severally.

Defendants SFEP and Yukich committed fraud with respect to their solicitation of monies from Merritt, LLC for the purpose of creating a joint venture to construct a pipeline to service the Hoover leases, fraudulently misrepresented the pipeline's projected return-on-investment, fraudulently misrepresented the construction costs for the pipeline, fraudulently misrepresented that they, or some other entity owned by Yukich would pay for 50% of the construction cost of the pipeline. Instead, Merritt, LLC paid not only 100% of the construction costs for the pipeline, but also paid substantial additional monies to SFEP and/or Yukich based on their inflated and fraudulent representations as to the cost of construction of the pipeline. SFEP and Yukich have refused to provide Merritt, LLC with information concerning the pipeline's construction costs and operating costs. SFEP and Yukich have breached their fiduciary duties and duties of loyalty and care owed to Merritt, LLC as a joint venturer. SFEP and Yukich have been unjustly enriched as a result of their ownership interest in the pipeline despite having paid no portion of

the construction cost of the pipeline. The Court finds that Merritt, LLC is entitled to (i) a constructive trust on the pipeline, and (ii) out-of-pocket damages in the amount of the \$260,756.00 against Defendants SFEP, Hank Resource, NEO, and Yukich, jointly and severally.

Plaintiff Merritt, LLC is also entitled to recover from Defendants Hank Resources, SFEP, and Yukich its expenses in the amount of \$2,015.30 and reasonable attorneys' fees in the amount of \$82,904.80 for work performed through trial, as well as attorneys' fees in the event of an unsuccessful appeal by Hank Resources, as detailed below.

Plaintiff Merritt, LLC is also entitled to recover from Defendants SFEP, Hank Resources, NEO and Yukich exemplary damages in the amount of \$250,000.00.

Plaintiff Merritt, LLC is also entitled to recover pre-judgment interest at the lawful rate on the damages awarded and post-judgment interest at the lawful rate on all awarded amounts, as well as taxable costs.

Pursuant to motion brought by the Plaintiffs, on February 10, 2016 the Court entered its Order Granting Plaintiff's Motion to Implead Disputed Funds Motion to Implead Disputed ("Order"). There is a litigation pending in the United States District Court for the Northern District of Oklahoma, styled *Brian Allen, et al. v. Semper Fidelis Oil & Gas, LLC, et al.*, Case No. 4:16-CV-00200-GKF-TLW. The Court determines that all funds deposited into the Registry of the Court pursuant to the Order should be transferred to the Client Trust account for Levinson, Smith & Huffman, PC, 1743 E. 71st Street, Tulsa, Oklahoma 74136-5108.

Accordingly, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff Merritt, LLC have and recover the following:

- (1) \$709,244.00 from Defendants Hank Resources, SFEP, NEO, and Yukich, plus prejudgment interest on such amount at the rate of five percent (5%) per annum from the time of filing this suit until judgment, which is \$17,585.00;
- (2) \$260,756.00 from Defendants SFEP, NEO and Yukich, plus prejudgment interest on such amount at the rate of five percent (5%) per annum from the time of filing suit until judgment, which is \$6,465.00;
- (3) A constructive trust on 100% of the ownership interest in the pipeline paid for by Plaintiff Merritt, LLC and constructed to transport gas from the Hoover leases, and as further identified in Plaintiffs' First Amended Original Petition.
- (4) \$80,000.00 from Defendants Hank Resources, SFEP, and Yukich as reasonable attorneys' fees through trial, and the following appellate attorneys' fees in the event of an unsuccessful appeal by them:
 - (a) For appeal to the Fifth District court of Appeals: \$50,000.00;
 - (b) To respond to a Petition for Review in the Texas Supreme Court: \$20,000.00;
 - (c) To respond to briefs on the merits in the Texas Supreme Court: \$10,000.00;
- (5) Exemplary damages in the amount of \$250,000 against Defendants SFEP, Hank Resources, NEO and Yukich, jointly and severally;
- (6) Post-judgment interest on all amounts awarded herein at the lawful rate of five percent (5%), which accrues from the date the judgment is signed and stops on the day the judgment is paid;

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all costs of court are adjudged against Defendants Semper Fidelis Exploration & Production, LLC, Hank Resources, LLC, and Nicholas P. Yukich.

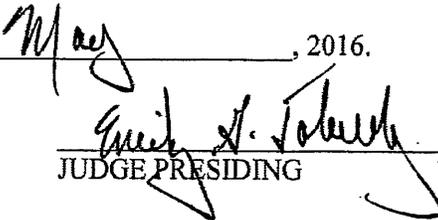
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants Hank Resources, LLC, Semper Fidelis Exploration & Production, LLC, NEO Oilfield Services, LLC, and Nicholas P. Yukich are jointly and severally liable for the \$709,244.00 award, plus pre-judgment interest, but that Plaintiff Merritt, LLC may recover only a total of \$709,244.00, plus pre-judgment interest, with respect to this award.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants Semper Fidelis Exploration, LLC, Hank Resources, LLC and Defendant Nicholas P. Yukich are jointly and severally liable for the \$260,756.00 award, plus pre-judgment interest, but that Plaintiff Merritt, LLC may recover only a total of \$260,756.00, plus pre-judgment interest, with respect to this award.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all funds deposited into the Registry of the Court pursuant to the Court's February 10, 2016 Order Granting Plaintiff's Motion to Implead Disputed Funds shall be transferred to the Client Trust account for Levinson, Smith & Huffman, PC, 1743 E. 71st Street, Tulsa, Oklahoma 74136-5108.

All writs and processes for the enforcement and collection of this judgment or the costs of court may issue as necessary. This is a final judgment which disposes of all claims and parties to this action, and is appealable.

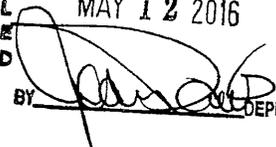
Signed this 3 day of May, 2016.



JUDGE PRESIDING

**IN THE DISTRICT COURT IN AND FOR WASHINGTON COUNTY
STATE OF OKLAHOMA**

**SMITH OILFIELD SERVICES, INC., a)
domestic for-profit corporation, and)
)
**MICHAEL H. SMITH, and)
)
**DEBORA SMITH,)
)
Plaintiffs,)
)
vs.)
)
**NICHOLAS P. YUKICH, III,)
)
Defendant.)********

DISTRICT COURT WASHINGTON CO OK
JILL L. SPITZER, COURT CLERK
MAY 12 2016
FILED
BY  DEPUTY

**Case No.: CJ-2015-245
Judge Russell Vaclaw**

MOTION FOR DEFAULT JUDGMENT

COME NOW, Plaintiff Smith Oilfield Services, Inc., a domestic for profit corporation, and Plaintiff Michael H. Smith and Plaintiff Debora Smith, husband and wife (collectively “Plaintiffs”) by and through their attorneys of record Johnny P. Akers and Frederick S. Esser, Law Center of Akers & Esser, and pursuant to Title 12 O.S. 2004 and Rule 10 of the Rules for Districts Courts, moves for this Court to award Default Judgment in favor of the Plaintiff and against the Defendant, Nicholas P. Yukich, III (“Defendant”), his known and unknown heirs, trustees, devisees and assigns.

In support of this request, Plaintiff would state that the answer date in this matter of November 2015 has passed and no Answer, as required by law, has been filed with the Court and/or served on Plaintiff.

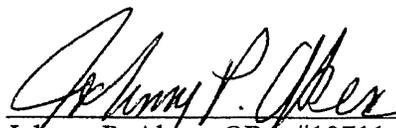
On the 3rd and 17th days of December 2015 for hearing the Plaintiffs appeared on the temporary restraining order and the Defendant appeared not.

WHEREFORE Plaintiff Smith Oilfield Services, Inc., a domestic for profit corporation, and Plaintiff Michael H. Smith and Plaintiff Debora Smith, husband and wife (collectively

**EXHIBIT
I**

"Plaintiffs") prays for Default Judgment against the Defendant, Nicholas P. Yukich, III ("Defendant"), his known and unknown heirs, trustees, devisees and assigns, such judgment to declaring the sales contract void order immediate return of all personal property including, but not limited to, all vehicles and equipment, a judgment in the amount of \$180,000.00 as damaged to the property previously returned and court costs, attorney fees, and interest to be assessed by the Court in addition to the principal sum, all as requested in Plaintiff's Petition on file herein.

Respectfully submitted,



Johnny P. Akers, OBA #10711
Fredrick S. Esser, OBA #2761
Law Center of Akers & Esser, PLLC
401 SE Dewey Ave. Suite 214
Bartlesville, Oklahoma 74003
Tel: (918) 336-1818
Fax: (918) 338-0888
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF MAILING

I, Johnny P. Akers, do hereby certify that on the 12th of May 2016, I mailed a true and correct copy of the above and foregoing instrument with first class postage prepaid thereon to:

Nicholas P. Yukich, III
316 North Main
Bristow, Oklahoma 74010

BY:



Law Center of Akers & Esser



OKLAHOMA
State Courts Network

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IN THE DISTRICT COURT IN AND FOR WASHINGTON COUNTY, OKLAHOMA

No. CJ-2015-00245

(Civil relief more than \$10,000: BREACH OF CONTRACT)

SMITH OILFIELD SERVICES INC, ET. AL. V.
NICHOLAS P YUKICH III

Filed: 11/04/2015

Judge: VACLAW, RUSSELL C

PARTIES

YUKICH III, NICHOLAS P, Defendant
SMITH OILFIELD SERVICES INC, Plaintiff
SMITH, MICHAEL H, Plaintiff
SMITH, DEBORA, Plaintiff

ATTORNEYS

Attorney

AKERS, JOHNNY P
401 SE DEWEY #214
BARTLESVILLE , OK 74003

Represented Parties

ESSER, FREDERICK S
401 S DEWEY, STE 213
BARTLESVILLE , OK 74003-3537

Attorney

JONES GOTCHER & BOGAN PC
 15 E 5TH ST/3800 FIRST PLACE TOWER
 TULSA , OK 74103-4309

Represented Parties

LAW CENTER OF AKERS & ESSER
 401 S DEWEY, STE 214
 BARTLESVILLE , OK 74003-3537

BROWN, BRADLEY J
 15 EAST 5TH STREET, SUITE 3800
 TULSA , OK 74103

EVENTS

Event	Party	Docket	Reporter
Thursday, December 3, 2015 at 9:00AM MOTION DOCKET			
Thursday, December 17, 2015 at 9:00AM MOTION (CIVIL)			
Thursday, January 7, 2016 at 9:00AM CIVIL DAILY DOCKET			
Tuesday, June 7, 2016 JOURNAL ENTRY AND ORDER			
Tuesday, June 7, 2016 COURT ORDER			

ISSUES

1. BREACH OF CONTRACT

DOCKET

Date	Code	Description	Count	Party	Amount
11-04-2015		FILE AND ENTER PETITION (GP) Document Available at Court Clerk's Office			\$ 163.00

Date	Code	Description	Count	Party	Amount
		OKLAHOMA COURT INFORMATION SYSTEM FEE - EFFECTIVE 07/01/04			\$ 25.00
		(Entry with fee only)			\$ 6.00
		(Entry with fee only)			\$ 2.00
		LENGTHY TRIAL FUND			\$ 10.00
		OK COURT APPOINTED SPECIAL ADVOCATES			\$ 5.00
		10% OF CASA TO COURT CLERK REVOLVING FUND			\$ 0.50
		OK COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND			\$ 1.55
		10% OF COJC TO COURT CLERK REVOLVING FUND			\$ 0.16
		COURTHOUSE SECURITY FEE			\$ 10.00
		10% OF CHSC TO COURT CLERK REVOLVING FUND			\$ 1.00
		STATE JUDICIAL REV. FUND INTERPRETER & TRANSLATOR SERVICES			\$ 0.45
11-04-2015		SUMMONS, ISSUED (1 ORIG/1 NAME)(RET'D TO ATTY FOR Document Available at Court Clerk's Office SVC)(GP)			\$ 5.00
11-13-2015		ENTRY OF APPEARANCE(JOHNNY AKERS)(JAD) Document Available at Court Clerk's Office			
11-13-2015		ENTRY OF APPEARANCE(FREDERICK ESSER)(JAD) Document Available at Court Clerk's Office			
11-13-2015		AMENDED PETITION(JAD) Document Available at Court Clerk's Office			
11-13-2015		PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER Document Available at Court Clerk's Office (JAD)			
11-13-2015		TEMPORARY RESTRAINING ORDER W/HEARING 12-3-15 @9AM(JAD) Document Available at Court Clerk's Office			
11-17-2015		ORDER OF ASSIGNMENT (JUDGE VACLAW) Document Available at Court Clerk's Office			

Date	Code	Description	Count	Party	Amount
12-03-2015		COURT REPORTER FEE			\$ 20.00
12-03-2015		CONTINUED TEMPORARY RESTRAINING ORDER(JAD) Document Available at Court Clerk's Office			
12-03-2015		CM:VACLAW-PLTFS W/ATTY B BROWN & J AKERS-DEFT APPEARS NOT. J AKERS ADVISES SERVICE ON DEFT WAS OBTAINED LAST NIGHT AND REQUESTS TO PASS. J AKERS REQUESTS CRT ISSUE EMERGENCY TRO. CRT GRANTS. MATTER CONTINUED TO 12/17/15 @ 9:00AM. (HDL)			
12-04-2015		SUMMONS, RTD SERVED NICHOLAS YUKICH III 12-2-15 (JAD) Document Available at Court Clerk's Office			
12-17-2015		CM:VACLAW-PLTF BY ATTY J AKERS-DEFT APPEARS NOT. MR AKERS ADVISES SERVICE HAS BEEN MADE ON DEFT AND PARTIES ARE WORKING ON A SETTLEMENT. CRT CONTINUES MATTER TO 1/7/16 @ 9:00AM. (HDL)			
01-07-2016		CM:VACLAW-PLTF BY ATTY J AKERS AND R ESSER- DEFT APPEARS NOT. MATTER IS STRICKEN TO BE RESET UPON APPLICATION. (HDL)			
05-12-2016		MOTION FOR DEFAULT JUDGMENT(JAD) Document Available (#CJ-2015-00245~37)  TIFF  PDF			

following or harassment of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested and actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed or molested. Stalking also means a course of conduct composed of a series of two or more separate acts over a period of time, however short, evidencing a continuity of purpose or unconsented contact with a person that is initiated or continued without the consent of the individual or in disregard of the expressed desire of the individual that the contact be avoided or discontinued. Unconsented contact or course of conduct includes, but is not limited to: (a.) following or appearing within the sight of that individual, (b.) approaching or confronting that individual in a public place or on private property, (c.) appearing at the workplace or residence of that individual, (d.) entering onto or remaining on property owned, leased, or occupied by that individual, (e.) contacting that individual by telephone, (f.) sending mail or electronic communications to that individual, or (g.) placing an object on, or delivering an object to, property owned, leased or occupied by that individual; 22 O.S. §60.1(2). **If you are seeking a protective order as a victim of Stalking, and you do not meet one of the above relationship tests, you must have filed a complaint against the defendant with the proper law enforcement agency before filing this Petition (a copy of the complaint must be attached or provided at the hearing).**

Victim of Stalking

2. Statement of Jurisdiction

INSTRUCTION: Check all that apply

- Petitioner is a resident of the county wherein this Petition is filed.
- Defendant is a resident of the county wherein this Petition is filed.
- The domestic abuse occurred in the county wherein this Petition is filed.

3. Actions of the Defendant

INSTRUCTION: Check and complete one or more of the following. Fill in the blank lines of checked items.

- The Defendant has caused or attempted to cause physical harm to: _____ (Name(s))

The Defendant has threatened* imminent physical harm to: Deborah^{p.b.} & Mike Smith
(Name(s))

* According to 22 O.S. §60.1(1), "Threat" means a threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor, or minor child who are family or household members or who are or were in a dating relationship.

The Defendant has harassed* Deborah^{p.b.} & Mike Smith (Name(s))

* According to 22 O.S. §60.1(3), "Harassment" means a knowing and willful course or pattern of conduct by a family or household member or an individual who is or has been involved in a dating relationship with the person, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of 21 O.S. §1172 and fear of death or bodily injury.

The Defendant has stalked* _____ (Name(s))

*If the Petitioner is a victim of stalking, but is not a family or household member or an individual who is or has been in a dating relationship with the Defendant, you must file a complaint against the Defendant with the proper law enforcement agency before filing a petition for a protective order with the District Court. The Petitioner shall attach a copy of the complaint to the petition or present the complaint to the court at the time of the hearing. (See definition of "stalking" in section 1, above)

4. Description of Incident(s)

The incident(s) which caused the filing of the petition occurred on or about 11/5/15.
(Date(s))

Describe what happened, when and where the event(s) occurred. List all actions or behaviors you intend to present to the Court at the hearing.

Phone calls started on Mike's phone then Debra's phone with him leaving messages on each phone with threats to take us out and the Dewey Police Officer Dunkle also heard threats towards Mike Smith, the Sheriffs also heard the threats from Nick on telephone. Officers advised a protective order. Deborah Jay Smith 11-6-15

ATTACH ADDITIONAL PAGES IF NECESSARY

5. Type of Order Requested

INSTRUCTION: Check either A or B

A. Petitioner does not request an Emergency Ex Parte Protective Order but does request the following relief, checked below, after notice and hearing, in a Final Order;

OR

B. Petitioner does request an Emergency Ex Parte Order because it is necessary to protect the petitioner(s) from immediate and present danger of domestic abuse, stalking, or harassment (22 O.S. §60.3). Petitioner requests the following relief, checked below, in the Ex Parte Order and, after notice and hearing, requests the same relief in a Final Order.

RELIEF REQUESTED

INSTRUCTION: Check EACH item which you are requesting from the Court

1. Defendant should be prohibited from attempting or having **ANY CONTACT** whatsoever with the Petitioner, either in person, through others or by telephone, mail, electronic means, or any other manner, at any time or place unless specifically authorized by the Court.

2. Defendant should be prohibited from injuring, abusing, sexually assaulting, molesting, harassing, stalking or threatening the Petitioner, and from use, attempted use or threatened use of physical force against the Petitioner that would reasonably be expected to cause bodily injury.

3. Defendant should be prohibited from engaging in other conduct that would place the Petitioner in reasonable fear of bodily injury to the Petitioner or the Petitioner's household members or relatives.
4. Defendant should be ordered to leave and remain away from the residence located at: _____, _____, Oklahoma, on or before the ____ day of _____, 20__ at _____ a.m./p.m., and take no action to change utilities or telephone service.
5. The Court should order Law Enforcement Officers to accompany the **Defendant** to the above residence to remove necessary clothing and personal effects, and remain in attendance until Defendant leaves the premises, and the Court should further order Defendant NOT to go to the above residence to remove necessary clothing and personal effects unless Law Enforcement Officers are present.
6. The Court should Order Law Enforcement Officers to accompany the **Petitioner** (i.e. provide a "civil standby") to the current or recent past residence to remove necessary clothing and personal effects, and remain in attendance until Petitioner leaves the premises. Such residence is located at the following address:

Oklahoma.
7. Order Defendant, who is a minor, to leave the residence located at _____

(address, city, state) by immediately placing Defendant in any type of care authorized for children taken into custody pursuant to 10A O.S. §2-2-101(A).
Circle Age of Minor Defendant: 13 14 15 16 17
8. There is an existing child visitation order and the Court should suspend or modify child visitation to protect from threats of abuse or physical violence by the Defendant or a threat to violate a custody order. 22 O.S. §60.4(I)(1).
9. The Defendant should be ordered to obtain domestic abuse counseling or treatment. 22 O.S. §60.4(C)(1) and (E)(1).
10. To protect an animal(s) owned by either of the parties or any child living in the household, the Court should order Defendant to have no contact with said animal(s) and order possession and exclusive care of said animal(s) to the Petitioner.
11. Pursuant to 22 O.S. §60.17, Petitioner makes application to monitor the location of the Defendant by computer or cellular inquiry. The Defendant should be ordered to use an active, real-time, twenty-four-hour GPS monitoring device pursuant to 22 O.S. §60.17, and costs of the GPS device and monitoring should be paid by Defendant.

PLW

- 12. Defendant should immediately surrender all firearms and other dangerous weapons within the Defendant's possession or control and any concealed carry license to _____.
- 13. The Defendant should be ordered to pay the court costs and service of process fees (pursuant to 22 O.S. §60.2(C)(1), no fees or costs shall be charged to the petitioner except if the Court finds this petition has been filed frivolously).
- 14. The Defendant should be ordered to pay the Petitioner's attorney's fees in the amount of \$_____.

PETITIONER REQUESTS THE COURT TO ORDER THE FOLLOWING ADDITIONAL RELIEF:

6. Warnings To Petitioner:

M.H.S. OOKS A. Whoever makes a statement or allegation in this Petition for Protective Order but does not believe that the statement or allegation is true, or knows that it is not true, or intends thereby to avoid or obstruct the ascertainment of the truth, may be found guilty of perjury. Pursuant to 21 O.S. §§500 and 504, the penalty for perjury, or subornation of perjury, is a felony punishable by imprisonment for not more than five (5) years.

M.H.S. OOKS B. If the court makes specific findings that a petition for a protective order has been filed frivolously and no victim exists, the court may assess attorney fees and court costs against the plaintiff pursuant to 22 O.S. §60.2 (C)(2).

M.H.S. OOKS C. It is against the law to file a petition for a protective order against a spouse or former spouse for the purposes of harassment, undue advantage, intimidation or limitation of child visitation rights in any divorce proceeding or separation action without justifiable cause. Violators may be subject to criminal penalties pursuant to 22 O.S. §60.4(H).

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7. Sworn Statement/Affirmation of Truth

Petitioner, being first duly sworn on oath states: I have read the above and foregoing document, understand the meaning thereof, and declare, under penalty of perjury, that the facts and statements contained herein are true to the best of my knowledge and belief.

Alchona Kay Smith
Michelle L. Smith 11-6-15

PETITIONER



Subscribed and sworn to before me this 6th day of November, 2015.

Deanna R. Long

Deputy Court Clerk, Judge or Notary

Petitioner requests the following law enforcement agencies receive a copy of any Protective Order entered herein:

Name of Agency or Agencies (use additional pages if necessary)

WCH, WESD, BFD, Dewey PD

Creek Co

IN THE DISTRICT COURT OF CREEK COUNTY
STATE OF OKLAHOMA

APR 18 2016

TIME 1:14 pm
Amanda VanOrsdol, Court Clerk

MAJEL SHATTUCK, Trustee of Dub Bolin)
Trust and the William Bolin Trust)

Plaintiffs,)

vs.)

Case No. CJ-2015-00036

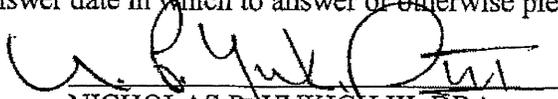
Judge Joe Sam Vassar

NICHOLAS P. YUKICH III, Individually and)
DBA SEMPER FIDELIS EXPLORATION &)
PRODUCTION,)

Defendants.

ENTRY OF APPEARANCE AND RESERVATION OF TIME

NICHOLAS P. YUKICH III, DBA SEMPER FIDELIS EXPLORATION &
PRODUCTION hereby enters his appearance in the above-captioned case and reserves an
additional twenty (20) days from the current answer date in which to answer or otherwise plead.



NICHOLAS P. YUKICH III, DBA
SEMPER FIDELIS EXPLORATION &
PRODUCTION
316 N. Main Street
Bristow, Oklahoma 74010
(918) 367-9012

CERTIFICATE OF SERVICE

I certify that on the 18th day of April, 2016, a copy of the above and foregoing was
mailed, via U.S. Mail to the following:

Mike Jones, P.C. OBA #4821
116 N. Elm
Bristow, Oklahoma 74010
(918) 367-3303

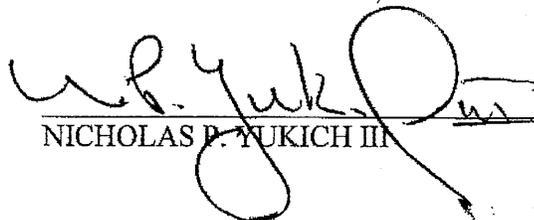

NICHOLAS P. YUKICH III

EXHIBIT
K

**IN THE DISTRICT COURT IN AND FOR CREEK COUNTY
BRISTOW DIVISION
STATE OF OKLAHOMA**

FILED IN DISTRICT COURT
CREEK COUNTY BRISTOW OK

AUG 03 2016

TIME 4:24 PM
Amanda VanOrsdol, Court Clerk

MAJEL SHATTUCK, Trustee of the Dub Bolin)
Trust and the Wilma Bolin Trust,)

Plaintiff,)

vs.)

NICHOLAS P. YUKICH, III, Individually and)
DBA SEMPER FIDELIS EXPLORATION &)
PRODUCTION,)

Defendant .)

Case No. CJ-2015-00036

JOURNAL ENTRY OF JUDGMENT

Now on this 2nd day of August, 2016, the above captioned matter comes on for trial. Plaintiff appears by and through Majel Shattuck, Trustee of the Dub Bolin and Wilma Bolin Trust and by Mike Jones of Mike Jones, P.C. Defendant Nicholas P. Yukich, III appears not but appears through Janelle Yukich, his wife. Upon the parties announcing ready, the Court proceeded to hear the testimony of one witness sworn and being well and sufficiently advised in the premises, finds orders, adjudges and decrees as follows, to wit:

The Court finds that plaintiff and defendant entered into a Contract for Sale of Real Estate on the 19th day of May, 2015 which provided for the sale Lots 1, 2, 3 and 4 in Block 43, Original Town of Bristow, Creek County, State of Oklahoma. The court finds that the defendant is in default by non-payment of the amounts agreed upon in said Contract for Sale of Real Estate and plaintiff is entitled to judgment thereon. The Court further finds that plaintiff is entitled to interest at 6.25% from the date of default to the date of judgment and continuing until paid in full.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that plaintiff have and recover judgment against the defendant in the total sum of \$115,208.39 which represents the following, to wit:

- A. Principal and interest to August 2, 2016 totaling \$104,729.06;
- B. Ad valorem taxes for 2015 \$1,302.85;
- C. Insurance incurred to August 2, 2016 \$4,905.17; and
- D. Attorney's fees and cost through August 2, 2016 \$4,271.34

For all of which let execution issue.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Contract for Sale of Real Estate sued upon herein is a constructive mortgage pursuant to the Laws of the State of Oklahoma. Said Contract for Sale of Real Estate is duly filed in the Office of the County Clerk of Creek County and appears in Book 1041 at page 46-49 and mortgage tax has been properly paid thereon.

The Court further finds that said Contract for Sale of Real Estate constituting a mortgage is a valid mortgage against the following described real property situated in Creek County, State of Oklahoma, to wit:

Lots, 1, 2, 3 and 4 in Block 43 Original Town of Bristow, Creek County, State of Oklahoma.

The Court further finds that the purpose of said Contract for Sale of Real Estate was to secure payment of the aforementioned and described amounts due and payable in said Contract for Sale of Real Estate.

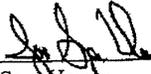
The Court further finds and adjudges that said Contract for Sale of Real Estate constitutes a first and prior lien on the real property therein described for the purposes of securing payment obligations contained therein.

IT IS THEREFORE, ORDERED that upon the failure of the defendant, Nicholas P. Yukich, III, Individually and DBA Semper Fidelis Exploration & Production, to satisfy said judgment, interest, attorney's fees and costs, that the sheriff shall levy upon the described real property, and shall proceed to advertise and sell the same according to law and apply the proceeds arising from said sale as follows:

1. In payment of the aforesaid costs of this action and cost of said sale, attorney's fees and costs to date in the sum of \$4,271.34;
2. In payment of the judgment of plaintiff in the sum of \$110,937.05, said sum including interest accrued to August 2, 2016, together with interest thereon at the rate of 6.25% per annum from August 2, 2016 until paid; and
3. That the residue, if any be paid to the Court Clerk to await further order of this Court.

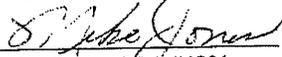
IT IS FURTHER ORDERED AND ADJUDGED by this Court, that from and after the sale of said property, under and by virtue of this Judgment and Decree, that said defendant, Nicholas P. Yukich, III, Individually and DBA Semper Fidelis Exploration & Production, and all persons claiming under him, be and are forever barred and foreclosed of and from all lien upon, right, title, interest, or any other estate either at law or in equity, of, in or to said property or any

part thereof.



Joe Sam Vassar
Judge of the District Court

Approved As to Form:



Mike Jones, OBA #4821
Mike Jones, P.C.
116 N. Elm
Bristow, Oklahoma 74010
Attorney for Plaintiff

Dated: April 6, 2016

The following is ORDERED:



A handwritten signature in black ink that reads "Tom R. Cornish".

TOM R. CORNISH
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF OKLAHOMA

In Re:

Nicholas Philip Yukich, III
dba Semper Fidelis Exploration & Production
dba Nick's Oil & Gas

Case No. 16-80028-TRC
Chapter 7

Debtor(s).

ORDER DISMISSING CASE

On the 6th day of April, 2016, the Court conducted a Show Cause Hearing for Debtor's failure to file Credit Counseling Certificate, List of all creditors, Employee Income Payment Advices-Indv, Payment Advices Certification-Indv Local Form 1007-I-H, Means Test Calculation Form B122A-2, Schedules C, E/F, G, H, Statement of Financial Affairs, Summary of Assets and Liabilities, and Declaration About an Individual Debtors Schedules-B106 due 3/4/2016, and Statement of Intent due 3/20/16. Appearances were entered at the hearing by Gerald Miller, Chapter 7 Trustee, and Luke Gaither, attorney for Majel Shattuck, Trustee of The Dub Bolin Trust and The Wilma Bolin Trust. The Debtor did not appear.

Based upon the record and after review of the case file, the Court finds that the Debtor has not filed the required documents as previously noticed or ordered by this court. As a result, this case shall be dismissed for the failure of the Debtor to comply with Rule 1007, Fed. R. Bankr. P.

IT IS THEREFORE ORDERED that the above-referenced case is hereby DISMISSED for will failure of the Debtor to comply with this court's order and to aid in the proper prosecution of the case by filing the above-referenced documents in compliance with Rule 1007, Fed. R. Bankr. P. which will prejudice the Debtor should a case be refiled within 180 days. 11 U.S.C. Sec 109(g)(1)

IT IS FURTHER ORDERED that the Trustee file a Final Report and Account for a dismissed case in accordance with the U.S. Trustee's procedures, if required in a dismissed case.

IT IS FURTHER ORDERED that the Motion to Modify Stay/Motion to Abandon filed by Majel Shattuck, Trustee of The Dub Bolin Trust and The Wilma Bolin Trust (Docket Entry 44) and the Objection thereto filed by the Trustee (Docket Entry 55), are **moot**.

IT IS FURTHER ORDERED that the Debtor(s) shall immediately pay all fees due and owing to this Court. Non-payment of any fees constitutes wilful failure to abide by an Order of this Court and may prejudice the Debtors(s) should they refile within 180 days. The court will decline to entertain a Motion to reconsider any dismissal unless all fees are paid in full prior to the Motion being made. Any future bankruptcy case that includes an Application to pay the filing fee in installments shall be denied.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

BRIAN ALLEN ET AL,

Plaintiff(s),

vs.

Case Number: 16-CV-200-GKF-TLW

SEMPER FIDELIS OIL & GAS, LLC ET AL,
Defendant(s).

CLERK'S ENTRY OF DEFAULT

It appearing from the files and records of this Court as of May 19, 2016, and the affidavit of EVAN MCLEMORE, that the defendant(s), Nicholas P. Yukich, III, NEO Oilfield Services, and Semper Fidelis Oil & Gas, LLC against whom judgment for affirmative relief is sought in this action, has/have failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure;

Now, therefore, I, Phil Lombardi, Clerk of said Court, pursuant to the requirements of Rule 55(a) of said rules, do hereby enter the default of said defendant(s).

Phil Lombardi,
Clerk of Court, United States District Court

s/ S. Turner
By: S. Turner, Deputy Clerk



**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

BRIAN ALLEN, an individual;)
MASA ENERGY, LLC, a Texas)
limited liability company;)
MICHAEL E. & CAROLE-PETERSON)
BAKER, husband and wife;)
DAN BUSHMAN, an individual;)
QUAIL TRUST, DATED 11/1/1995,)
TRAVIS C. CARR, TRUSTEE;)
RON COOPER, an individual;)
DARYL GORDON, an individual;)
HALTER, LLC;)
ANNE HUMEN, an individual;)
MONTE & ROBYN JOHNSON,)
husband and wife;)
CHUCK KAYE, an individual;)
JERRY LOPEZ, an individual;)
RANDALL MARKUM, an individual;)
MERRITT, LLC;)
LARRY & JUDITH MEYERS;)
husband and wife;)
ALLEN RAFERT, an individual;)
INTREPID RESOURCES, LLC;)
KYRON RAMOO, an individual;)
ROBERT SEGULJA, an individual;)
JOHN TEIGE, an individual;)
MARK TIENSVOLD, an individual)

Plaintiffs,)

vs.)

SEMPER FIDELIS OIL & GAS, LLC,)
a Texas limited liability company;)
NUCO ENERGY, LLC, a Nevada limited)
liability company;)
NICK'S OIL AND GAS;)
NEO OILFIELD SERVICES;)
NICHOLAS P. YUKICH, III, an individual;)
and)
JERRY GRIGGS, an individual)

Defendants.)

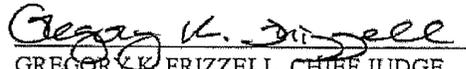
Case No. 16-CV-00200-GKF-TLW

**ORDER GRANTING DEFENDANTS' UNOPPOSED MOTION FOR
EXTENSION OF TIME TO ANSWER OR OTHERWISE PLEAD TO
PLAINTIFFS' AMENDED COMPLAINT**

On motion of Defendants [Dkt. #25], and without objection of Plaintiffs, and for good cause shown,

IT IS HEREBY ORDERED that Defendants, Semper Fidelis Oil & Gas, LLC, Nuco Energy, LLC, Nick's Oil and Gas, NEO Oilfield Services, and Nicholas P. Yukich, III, are granted until June 10, 2016 within which to answer or otherwise plead to Plaintiffs' Amended Complaint.

DATED this 26th day of May, 2016.


GREGORY K. FRIZZELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT