

COURT OF APPEALS  
FAIRFIELD COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

CLAYCRAFT MOTORS, LLC	:	JUDGES:
	:	Hon. William B. Hoffman, P.J.
Plaintiff-Appellant	:	Hon. Sheila G. Farmer, J.
	:	Hon. John W. Wise, J.
-vs-	:	
	:	
BULLDOG AUTO SALES, INC., ET AL.	:	Case No. 12-CA-29
	:	
Defendants-Appellees	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Appeal from the Court of Common Pleas, Case No. 11 CV 1002

JUDGMENT: Reversed and Remanded

DATE OF JUDGMENT: March 20, 2013

APPEARANCES:

For Plaintiff-Appellant

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JOHN C. RIDGE  
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For Defendants-Appellees

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*Farmer, J.*

{¶1} On October 5, 2011, appellant, Claycraft Motors, LLC, filed a complaint against appellees, Bulldog Auto Sales, Inc. and its owner, Theodore Johnson, for monies due and owing over the sale of motor vehicles to appellees. Because appellees failed to answer or otherwise plead, appellant filed a motion for default judgment on November 17, 2011. By judgment entry filed same date, the trial court granted the motion and found in favor of appellant in the amount of \$39,800.00.

{¶2} After judgment debtor examinations had been scheduled, appellees filed a motion to vacate judgment pursuant to Civ.R. 60(B) on April 20, 2012. A hearing was held on May 7, 2012. By entry filed May 8, 2012, the trial court granted the motion and vacated the default judgment.

{¶3} Appellant filed an appeal and this matter is now before this court for consideration. Assignments of error is as follows:

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{¶4} "THE TRIAL COURT ERRED IN GRANTING THEODORE JOHNSON AND BULLDOG AUTO SALES, INC.'S MOTION TO VACATE JUDGMENT BECAUSE CIV.R. 60(B)(5) WAS USED BY THE TRIAL COURT TO GRANT RELIEF EVEN THOUGH APPELLEES FAILED TO PROTECT THEIR INTERESTS OR PARTICIPATE IN THE LEGAL POCES, NO EXTRAORDINARY CIRCUMSTANCES WERE ALLEGED AND THE MOTION TO VACATE WAS NOT TIMELY FILED."

{¶5} In order to review this assignment of error, we have reviewed the trial court's May 8, 2012 entry granting the motion for relief from judgment. The entry grants relief to "defendant" not defendants, and does not name whether the "defendant" is

appellee Johnson or appellee Bulldog Auto Sales. The Civ.R. 60(B) motion was filed on behalf of both parties. We are unable to determine which defendant was granted relief. As a result, there is no final order in this case pursuant to R.C. 2505.02.

{¶6} Upon review, we reverse the trial court's decision and remand the matter to the trial court to clarify which "defendant(s)" was granted relief.

{¶7} The judgment of the Court of Common Pleas of Fairfield County, Ohio is hereby reversed.

By Farmer, J.

Hoffman, P.J. and

Wise, J. concur.

s/ Sheila G. Farmer

s/ William B. Hoffman

s/ John W. Wise

JUDGES

IN THE COURT OF APPEALS FOR FAIRFIELD COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

CLAYCRAFT MOTORS, LLC	:	
	:	
Plaintiff-Appellant	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
BULLDOG AUTO SALES, INC., ET AL.	:	
	:	
Defendants-Appellees	:	CASE NO. 12-CA-29

For the reasons stated in our accompanying Memorandum-Opinion, the judgment of the Court of Common Pleas of Fairfield County, Ohio is reversed, and the matter is remanded to said court to clarify which "defendant(s)" was granted relief. Costs to appellant.

s/ Sheila G. Farmer

s/ William B. Hoffman

s/ John W. Wise

JUDGES