

*SAIKLEY GARRISON COLOMBO & BARNEY, LLC
208 WEST NORTH P. O. BOX 6
DANVILLE, IL 61834-0006
Telephone: 217/442-0244
Facsimile: 217/442-0582*

*William Garrison
Gilbert Saikley
Kevin M. Colombo
Edwin Barney*

TELECOPIER COVER SHEET

DATE: 12/9/13

RE: AC 14-17

THE FOLLOWING PAGES ARE BEING TRANSMITTED FOR:

NAME: _____

COMPANY Il Pollution Control Board

FROM: Ed Barney

THERE ARE 5 PAGES INCLUDING THIS SHEET

IF THERE IS A PROBLEM, CALL 217/442-0244
DURING TRANSMISSION, IF POSSIBLE.

YOUR OPERATOR IS: Nelle

UPON RECEIPT OF THIS TRANSMISSION,
PLEASE CONTACT _____

MESSAGE: Attached please find Motion to Vacate Default Judgment
and a copy of the previously filed Answer to Administrative
Citation. Please contact me with any questions.

THE PAGES COMPRISING THIS FACSIMILE TRANSMISSION CONTAIN CONFIDENTIAL INFORMATION FROM SAIKLEY, GARRISON COLOMBO & BARNEY, LLC. THIS INFORMATION IS INTENDED SOLELY FOR USE BY THE INDIVIDUAL ENTITY NAMED AS THE RECIPIENT HEREOF. IF YOU ARE NOT THE INTENDED RECIPIENT, BE AWARE THAT ANY DISCLOSURE, COPYING, DISTRIBUTION, OR USE OF THE CONTENTS OF THIS TRANSMISSION IS PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY US BY TELEPHONE IMMEDIATELY SO WE MAY ARRANGE TO RETRIEVE THIS TRANSMISSION AT NO COST TO YOU.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

COUNTY OF VERMILION, ILLINOIS,) CASE NO.: AC:14-17
Complainant,)
)
vs.)
)
Marian and Russell Herbold,)
Respondent)

MOTION TO VACATE DEFAULT JUDGMENT

Now comes Respondent, Marian and Russell Herbold, by Edwin C. Barney, its attorney, and moves the Court to set aside and vacate the default judgment in the above-entitled cause pursuant to 735 ILCS 5/2-1301 and to set the above-encaptioned matter for trial. In support of this Motion, Respondent represents to the Court as follows:

1. Respondent, Marian and Russell Herbold, received by mail on or about November 11, 2013 Orders of Default.
2. On November 7, 2013, the Court entered a default order against the Respondent.
3. Respondent has filed their Motion to Vacate the Default Judgment within 30 days of receiving notice of the judgment.
4. Respondent, Marian and Russell Herbold, filed an Answer to Administrative Citation on November 11, 2013 and previously informed Plaintiff that an answer would be forthcoming and Plaintiff did not object.
5. Plaintiff would not be prejudiced by an allowance of the Motion; however, Respondent would be denied substantial justice and face great hardship by not being afforded an opportunity to be heard on the merits.

Wherefore, Respondent prays that this Court vacate the Default Judgment entered against it in the above-entitled cause and set this matter for trial.

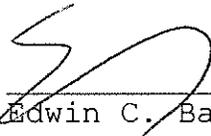
Dated this 9th day of December, 2013.

Marian and Russell Herbold,
Respondent

By: 
Their Attorney

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the above and foregoing Motion to Vacate Default Judgment was served upon the Vermilion County Health Department, 200 South College, Suite A, Danville, IL 61832, by enclosing the same in an envelope so addressed, with first class postage fully prepaid, and by depositing the envelope in the United States Mail on December 9, 2013.


Edwin C. Barney

Edwin C. Barney, Attorney at Law
Saikley, Garrison, Colombo & Barney, LLC
208 West North St., P.O. Box 6
Danville, IL 61834-0006
Telephone: 217/442-0244

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

COUNTY OF VERMILION, ILLINOIS,) CASE NO.: AC:
Complainant,)
)
vs.)
)
Marian and Russell Herbold,)
Respondent)

ANSWER TO ADMINISTRATIVE CITATION

Now comes the Respondents, Marian and Russell Herbold, individually and by and through their attorney, Edwin C. Barney of Saikley, Garrison, Colombo & Barney, LLC, and in answer to Plaintiffs' ADMINISTRATIVE CITATION, state as follows:

FACTS

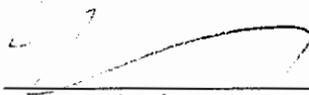
1. Respondents admit the allegations contained in paragraph 1 of the Facts.
2. Respondents neither admit nor deny the allegations contained in paragraph 2 of the Facts.
3. Respondents deny the allegations contained in paragraph 3 of the Facts.

VIOLATIONS

1.
 - A. Respondents deny the allegations contained in paragraph 1A of the Violations and affirmatively state that Respondents did not place said waste on the property but have removed the substance. Respondent have also placed No Trespassing signs on the property.
 - B. Respondents deny the allegations contained in paragraph 1A of the Violations and affirmatively state that Respondents did not and do not allow dumping on the property and have placed No Trespassing signs on the property.

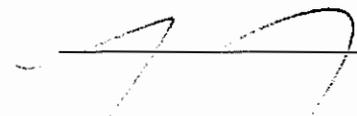
WHEREFORE, Respondent pray that Plaintiffs' Administrative Citation be denied and for such other relief deemed proper and equitable by the Court.

MARIAN and RUSSELL HERBOLD,
Respondents,

By: 
Their Attorney

CERTIFICATE OF SERVICE

The Undersigned hereby certifies that on November 11, 2013, he served upon Vermilion County Health Department, 200 South College, Suite A, Danville, IL 61832, a copy of the foregoing Answer by depositing a copy thereof in a United States Post Office Box, enclosed in an envelope, certified mail to the above named person, at the above address, with postage fully prepaid.


Edwin C. Barney
Saikley, Garrison, Colombo & Barney, LLC
208 W. North Street, P.O. Box 6
Danville, IL 61834-0006
Telephone: 217-442-0244
Fax: 217-442-0582