

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE MICHIGAN DEPARTMENT OF)
ENVIRONMENT, GREAT LAKES, AND)
ENERGY, et al.,)
)
Plaintiffs,)
)
v.)
)
LEE MUELLER, et al.,)
)
Defendants.)
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No. 1:20-cv-528
Honorable Paul L. Maloney

ORDER RESOLVING MOTION FOR DEFAULT JUDGMENT

This matter comes before the Court on Plaintiffs’ motion for default judgment and final declaratory relief. (ECF No. 264). Counsel for some of the Defendants responded, (ECF No. 267) and Plaintiffs replied. (ECF No. 268). As explained below, the Court grants in part Plaintiffs’ motion.

I. Background

This case concerns the Edenville dam collapse in May of 2020. Plaintiffs brought an action against Lee Mueller and several of his entities alleging violations of Michigan’s Natural Resource and Environmental Protection Act (“NREPA”) along with claims for conversion, public nuisance, and unjust enrichment. (ECF No. 1-1 at PID 46–52). This Court entered default against Defendants Lee Mueller and Edenville Hydro Property, LLC on February 8,

2023. (ECF Nos. 225 & 226). The Court withheld entering default judgment until the remaining Defendants were tried on the merits.

On May 5, 2023, Plaintiffs moved for summary judgment against Defendants Boyce Michigan, LLC, Boyce Hydro Power LLC, Boyce Hydro, LLC, WD Boyce Trust 2350, WD Boyce Trust 3649, and WD Boyce Trust 3650. (ECF Nos. 247, 248). Those Defendants conceded the case considering their bankruptcy status. (ECF No. 249). The Court granted Plaintiffs' motion for summary judgment. (ECF No. 263).

II. Legal Standard

Once a default is entered against a defendant, that party is deemed to have admitted all of the well pleaded allegations in the Complaint, including jurisdictional averments. *Visioneering Construction v. U.S. Fidelity and Guaranty*, 661 F.2d 119, 124 (6th Cir. 1981). Default judgment, which must be applied for, is governed by Federal Rule of Civil Procedure 55. The rule allows for either the clerk or court to enter default judgment. Fed. R. Civ. P. 55. A court “may conduct hearings . . . to enter or effectuate judgment.” *Id.* “It is a familiar practice and an exercise of judicial power for a court upon default, by taking evidence when necessary or by computation from facts of record, to fix the amount which the plaintiff is lawfully entitled to recover and to give judgment accordingly.” *Pope v. United States*, 323 U.S. 1, 12 (1944).

III. Analysis

First, Plaintiffs seek another final judgement against the Defendants that were subject to their motion for summary judgment: Defendants Boyce Michigan, LLC, Boyce Hydro Power LLC, Boyce Hydro, LLC, WD Boyce Trust 2350, WD Boyce Trust 3649, and WD

Boyce Trust 3650. In particular, Plaintiffs seek an order stating that these Defendants’ “decisions led to the failure of the Edenville Dam and the violation of Parts 17, 31, 301, and 315” of NREPA. (ECF No. 265 at PID 7166). The Court will deny this request because it is redundant. The Court’s prior order granting Plaintiffs’ motion for summary judgment concluded with the following:

Defendants owned and controlled the Edenville dam beginning in 2006 and up to and including the date its east embankment failed on May 19, 2020. Defendants violated Parts 315, 17, 31, and 301 of Michigan’s Natural Resource and Environmental Protection Act.

(ECF No. 263 at PID 7148). “[A] grant of partial summary judgment becomes a final judgment when a district court thereafter disposes of all remaining claims and parties.” *Bonner v. Perry*, 564 F.3d 424, 427 (6th Cir. 2009). Therefore, upon entry of this order, Plaintiffs’ request is satisfied by virtue of the order on summary judgment. (*See* ECF No. 263). This portion of Plaintiffs’ motion is denied as redundant.

Second, Plaintiffs request that this Court enter a default judgment against Edenville Hydro Property, LLC in the form of declaratory relief. This portion of the motion is granted. Edenville Hydro Property, LLC violated Parts 17, 31, 301, 303, and 315 of Michigan’s Natural Resources and Environmental Protection Act.

Finally, Plaintiffs request this Court issue a default judgment against Lee Mueller for \$119,825,000.00 for violations of NREPA Parts 31, 301, 303, and 315 as well as Plaintiffs’ conversion claim.¹ Lee Mueller filed a notice of bankruptcy with the Court a few weeks before Plaintiffs’ filed their motion for default judgment. (*See* ECF Nos. 259 & 264).

¹ The Court did need to hold a hearing on this issue because Plaintiffs have indicated to the Court that Mr. Mueller will not contest the judgment. It would be of no value to hold a hearing and only hear from the Plaintiffs.

Plaintiffs attached to their motion for summary judgment a declaration from Dr. Jeff Jolley, who is a Fisheries Supervisor within the Fisheries Division of the Michigan Department of Natural Resources. (ECF No. 248-9 at PID 6626). Dr. Jolley's report estimates that the Edenville dam collapse caused over \$21,000,000.00 in damage to Michigan's fisheries. (*Id.* at PID 6635). Additionally, a DNR Fisheries Analyst, Elle Gulotty, estimates at least \$90,000,000.00 in damages to Michigan's freshwater mussel ecosystem. (ECF No. 248-40 at PID 6667). These calculations serve as a basis for the damages calculation relating to Plaintiffs' conversion claim. The remaining \$8,825,000.00 in relief stems from violations of NREPA Parts 31, 301, 303, and 315. The Court finds Plaintiffs' testimony credible as to the damages. Relying on the record and expert declarations, the Court grants Plaintiffs' request. *See Pope*, 323 U.S. at 12.

IV. Conclusion

IT IS HEREBY ORDERED that Plaintiffs' motion for default judgment (ECF No. 264) is **GRANTED** in part.

IT IS FURTHER ORDERED that Plaintiffs' request for declaratory relief against Defendants Boyce Michigan, LLC, Boyce Hydro Power LLC, Boyce Hydro, LLC, WD Boyce Trust 2350, WD Boyce Trust 3649, and WD Boyce Trust 3650 is **DENIED** as redundant.

IT IS FURTHER ORDERED that Edenville Hydro Property, LLC violated Parts 17, 31, 301, 303, and 315 of Michigan's Natural Resources and Environmental Protection Act.

IT IS FURTHER ORDERED that Plaintiffs are entitled to damages in the amount of \$119,825,000.00 and that Defendant Lee Mueller is liable.

IT IS SO ORDERED.

Date: November 27, 2023

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge