FILED
AUG 30 1990
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-154 / 89-917

CAROLE LIEB and LARRY LIEB, Individually and as Parents and Next Friend of CHRISTOPHER LIEB and HEATHER LIEB, Minors,

Appellants,

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vs.

ISOTROL SYSTEMS, a/k/a ISOTROL SYSTEMS, INC.,
Defendant,

and

CASLER ELECTRIC COMPANY,

Appellee.

Appeal from the Iowa District Court for Woodbury County, Phillip S. Dandos, Judge.

The Liebs appeal a district court ruling setting aside a default judgment against Casler. **AFFIRMED.**

R. VanDyke of VanDyke & Werden, P.C., Carroll, for appellants.

T.M. Whicher, Sioux City, for appellee.

Heard by Oxberger, C.J., and Schlegel and Habhab, JJ.

OXBERGER, C.J.

In January 1983, Carole Lieb was seriously injured by an electrical shock she received from an electrical alarm system. Isotrol manufactured the system. Casler installed the system. Lieb and her family members filed a lawsuit against Isotrol and Casler.

The Liebs served Casler with the notice and petition. Casler failed to enter an appearance or file a motion or answer. On February 12, 1985, the district court granted a motion for entry of judgment by default against Casler. On February 26, 1985, following a hearing to determine the Lieb's damages, the court entered judgment in favor of the Liebs for $229,367.26.

On March 6, 1985, Casler filed a motion to set aside the default judgment. The court granted the motion after concluding good cause existed to set aside the default on grounds of excusable neglect or inadvertence. In further support of its decision, the court found that Casler carried its burden of establishing a potentially meritorious defense.

The case proceeded to trial. At the conclusion of all the evidence, the court sustained Casler's motion for directed verdict.

On appeal the Liebs' contend that the district court erred by setting aside the default judgment. The Liebs claim that the transmittal letter, original notice and

petition never reached Casler's insurance carrier, Aetna, because they were either never prepared, lost in the mail room, or lost by the postal service. The Liebs argue that none of these reasons constitute grounds to set aside a default judgment.

Rule 236 of the Iowa Rules of Civil Procedure states:

> On motion and for good cause shown, and upon such terms as the court prescribes, but not ex parte, the court may set aside a default or the judgment thereon, for mistake, inadvertence, surprise, excusable neglect or unavoidable casualty.

Iowa R. Civ. P. 236.

In Flexsteel Ind., Inc. v. Mobern Ind. LTD., 239 N.W.2d 593 (Iowa 1976) the Court discussed the rules of review in this type of action:

> A proceeding under rule 236 is at law. A trial court has wide discretion in making its ruling. The burden is on the movant to plead and prove good cause to set aside the default or judgment thereon. Good cause is shown only if one of the grounds in the rule is proved. We are bound by trial court findings of fact if supported by substantial evidence . . . [citing authority]. We view the evidence in its light most favorable to the court's ruling.

Id. at 596 (citing Williamson v. Casey, 220 N.W.2d 638, 639 (Iowa 1974)).

The trial court enjoys broad discretion in ruling on a rule 236 motion; its orders will not be interfered with, absent a showing of abuse of discretion. Id. Precedents aid little in proceedings of this kind because of differing facts in the various cases. The facts in each case must rule its decision. Id.

The original notice was served on Commonwealth Electric Co., parent company of Casler Electric Co. Gary Lee, the risk manager for Commonwealth, drafted a transmittal letter to Aetna Insurance Company, the insurance carrier for Casler. Lee gave the draft to his secretary who testified she typed the transmittal letter and deposited it in the mailroom. Aetna did not receive the letter. After default, Casler promptly took measures to defend. Casler had a meritorious defense to the petition.

The trial court found:

> This court finds good cause herein for setting aside the default judgment on grounds of excusable neglect or inadvertence. The court believes that the procedures taken by Commonwealth should have been sufficient to insure a defense in this case and do not show negligence, want or ordinary care or attention, or carelessness. Somewhere along the way the system failed, as systems are want to do. Nevertheless, Commonwealth personnel, and especially Leech, took the necessary measures to see the case was defended. Commonwealth had a policy of defending lawsuits, and not one of ignoring them and letting default be taken. This is the first time something like this had happened. Once the default was discovered shortly after the damage judgment was entered, prompt action was taken to set aside the default. These are circumstances which go toward the establishment of "good cause" in this case.

Substantial evidence in the record supports the decision to set aside the default judgment entered against Casler. Accordingly we affirm the trial court's order.

Because we affirm the trial court's order to set aside the default judgment we need not address Casler's motion to dismiss based upon the doctrine of laches.

AFFIRMED.