

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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AHRENBERG MECHANICAL CONTRACTING,  
INC.,

UNPUBLISHED  
September 17, 1996

Plaintiff-Appellee,

v

No. 194680  
LC No. 92-425312-CK

HUGH HOWLETT, d/b/a BLOOMFIELD  
CONSULTING AND INSPECTIONS CO.,

Defendants/Cross Plaintiff-  
Appellee,

and

SID MOSS & ASSOCIATES and AMERICAN AUTO  
VILLAGE OF FARMINGTON HILLS,

Defendants/Cross Defendants-  
Appellants.

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Before: Michael J. Kelly, P.J., and Hoekstra and E.A. Quinnell,\* JJ.

PER CURIAM.

Cross-defendants Sid Moss & Associates and American Auto Village appeal as of right the trial court orders denying their motions to set aside default and default judgments entered in favor of plaintiff Ahrenberg Mechanical Contracting, Inc. and cross-plaintiff Hugh Howlett d/b/a Bloomfield Consulting Inspections. This Court originally affirmed the lower court orders on the ground that Sid Moss' approval of one order as to form and content operated as a consent decree which could not be appealed (prior Court of Appeals Number 153416). In lieu of granting leave to appeal, the Michigan Supreme Court reversed this Court's order and remanded for reconsideration on the merits. We affirm in part, reverse in part and remand for proceedings consistent with this opinion.

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\* Circuit judge, sitting on the Court of Appeals by assignment.

The trial court erroneously determined that it lacked jurisdiction to modify or rescind the default and default judgment entered in favor of plaintiff Ahrenberg. MCR 4.002(E); *Huber v Frankenmuth Mutual Ins Co*, 160 Mich App 568, 575; 408 NW2d 505 (1987). Remand for reconsideration of Sid Moss' motion on the merits is therefore required.

Next, the trial court properly denied Sid Moss' motion to set aside the default and default judgment entered in favor of cross-plaintiff Bloomfield Consulting and Inspections Co. Sid Moss failed to demonstrate good cause, *Gavulic v Boyer*, 195 Mich App 20, 24-25; 489 NW2d 124 (1992); *Alycekay Co v Hasko Construction Co, Inc*, 180 Mich App 502, 506; 448 NW2d 43 (1989), and failed to present in his affidavit a statement of proofs or even allegations of fact showing a meritorious defense, *Miller v Rondeau*, 174 Mich App 483, 488; 436 NW2d 393 (1988); *Novi Construction, Inc v Triangle Excavating Co*, 102 Mich App 586, 590; 302 NW2d 244 (1980). The denial of Sid Moss' motion was not an abuse of discretion. MCR 2.603(D)(1); *Harvey Cadillac Co v Rahain*, 204 Mich App 355, 358; 514 NW2d 257 (1994).

Affirmed in part, reversed in part and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Michael J. Kelly

/s/ Joel P. Hoekstra

/s/ Edward A. Quinnell