

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

GARY C. EVANS, et al.,	)	
	)	
Plaintiffs,	)	<b>Civil ACTION</b>
	)	
v.	)	No. 09-CV-1245-MLB
	)	
ORION ETHANOL, INC.,	)	
	)	
Defendant.	)	
	)	

**MEMORANDUM AND ORDER**

On October 24, 2011, the Court called this case for evidentiary hearing on plaintiffs' damages, following the Court's granting of plaintiffs' Motion for Summary Judgment June 23, 2011, with respect to liability. Neither defendant nor any counsel or representative from defendant appeared.

**I. EVIDENCE**

Plaintiff Gary Evans appeared and, duly sworn, offered testimony as to plaintiffs' damages. Mr. Evans testified that no payment on the promissory notes at issue in this case has been made. Mr. Evans further testified that the principal and interest due and owing as of October 24, 2011, is as follows: \$1,523,029.77 on Mr. Evans' note, and \$152,301.94 on Mr. Krueger's note. The Court finds Mr. Evans' testimony credible and unopposed.

Mr. Evans further requested attorneys' fees be awarded in the amounts of \$13,275 for counsel Jack C. Myers, and \$5,000 for counsel Andrew B. Protzman, all fees incurred in

the prosecution of this action. The Court finds these attorney fees to be reasonable under the circumstances.

## II. CONCLUSION

After hearing plaintiffs' evidence and for good cause shown, the Court takes the following action:

1. The Court enters judgment in favor of plaintiff Gary C. Evans in the amount of \$1,523,029.77; and

2. The Court enters judgment in favor of plaintiff David S. Krueger in the amount of \$152,301.94; and

3. The Court further enters judgment in favor of plaintiffs Gary C. Evans and David S. Krueger jointly in the amount of \$18,275 for their attorneys' fees incurred.

IT IS SO ORDERED.

Dated this 26th day of October, 2011, at Wichita, Kansas.

s/ Monti Belot

Monti L. Belot

UNITED STATES DISTRICT JUDGE