

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 08-cv-00867-WJM-KLM

MEDCORP, INC., an Ohio corporation,

Plaintiff,

v.

PINPOINT TECHNOLOGIES, INC., a Delaware corporation, and
ZOLL DATA SYSTEMS, INC., a Delaware corporation,

Defendant(s).

ORDER

This matter is before the Court on the February 18, 2011 Recommendation by Magistrate Judge Kristen L. Mix (ECF No. 416) that Defendant's Motion for Order Compelling MedCorp to Name Counsel and State Intent to Pursue Matter¹ (ECF No. 389) be GRANTED and that Plaintiff's claims against Defendant² be DISMISSED with prejudice pursuant to FED. R. CIV. P. 41(b) for Plaintiff's failure to prosecute. The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B); FED. R. CIV. P. 72(b).

The Recommendation advised the parties that specific written objections were due within fourteen (14) days after being served with a copy of the Recommendation.

¹ Despite the motion's title, the Magistrate Judge appropriately treated same as a motion for involuntary dismissal pursuant to FED. R. CIV. P. 41(b). (ECF No. 416 at 1.)

² Defendant Zoll Data Systems, Inc. was formerly known as Pinpoint Technologies, Inc. (See ECF No. 386 at 1). As such, the Court refers to a single Defendant throughout this Order.

(ECF No. 416 at 11-12.) Despite this advisement, no objections to the Magistrate Judge's Recommendation were filed by either party. "In the absence of timely objection, the district court may review a magistrate . . . [judge's] report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings").

The Court concludes the Magistrate Judge's analyses and recommendations are correct and "there is no clear error on the face of the record." FED. R. CIV. P. 72 Advisory Committee's Note. Therefore, the Court ADOPTS the Recommendation of the United States Magistrate Judge as the findings and conclusions of this Court.

Accordingly, it is:

ORDERED that the Recommendation of the United States Magistrate Judge (ECF No. 416), filed February 18, 2011, is ACCEPTED, and, for the reasons cited therein,

- Defendant's Motion for Order Compelling MedCorp to Name Counsel and State Intent to Pursue Matter (ECF No. 389) is deemed a motion for involuntary dismissal, and as such is GRANTED. Plaintiff's claims against Defendant are DISMISSED with prejudice pursuant to FED. R. CIV. P. 41(b).
- It is further ORDERED that Defendant shall have its costs by the filing of a Bill of Costs with the Clerk of the Court within 14 days of the entry of judgment.
- In light of this ruling, the following motions, identified by the CM/ECF docket

number, are DENIED AS MOOT:

- ECF No. 285
- ECF No. 318
- ECF No. 325
- ECF No. 326
- ECF No. 329
- ECF No. 336
- ECF No. 337
- ECF No. 412

Dated this 16th day of March, 2011.

BY THE COURT:

s/ William J. Martínez
United States District Judge