

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN J. DUPONT and RANDY MOSELEY,

Plaintiffs,

v.

FREIGHT FEEDER AIRCRAFT CORPORATION,
INC., L. DAVID BRIDGES, R. DARBY BOLAND,
STEPHEN CARMICHAEL, H. CLIFF SAYLOR,
EDWARD F. EATON, WILL WEEKS and KIM
LITTLEFIELD,

Defendants.

Case No. 13-cv-256-JPG-DGW

MEMORANDUM AND ORDER

This matter comes before the Court on the motion filed by plaintiffs John J. Dupont and Randy Mosely for summary judgment on Count 1 of the Second Amended Complaint (Doc. 103). Count 1 is a breach of contract claim against defendant Freight Feeder Aircraft Corporation (“Freight Feeder”). In this litigation, Freight Feeder has been served with process and has appeared, but counsel has withdrawn and no new counsel has appeared. The plaintiffs served their summary judgment motion on Freight Feeder’s chief executive officer, but Freight Feeder has not responded to the motion. In light of Freight Feeder’s failure to appear through counsel and failure to respond to the plaintiffs’ motion for summary judgment, the Court finds it appropriate to construe the failure to respond to the motion as an admission of the merits of the motion pursuant to Local Rule 7.1(c). Accordingly, the Court **GRANTS** the motion for summary judgment (Doc. 103) and **DIRECTS** the Clerk of Court to enter judgment on Count 1 in favor of the plaintiffs and against Freight Feeder at the close of this case. There remains outstanding the question of the amount of the judgment that should be entered against Freight Feeder. The Court **ORDERS** that the plaintiffs shall have up to and including May 13, 2016, to submit proof of their

damages from Freight Feeder's breach. The Court further **VACATES** the final pretrial conference and trial dates in light of the foregoing disposition of the only remaining claim in this case.

IT IS SO ORDERED.
DATED: April 27, 2014

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE