

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

GERALD D. MCALVEY,

Plaintiffs,

vs.

ATLAS COPCO COMPRESSORS, L.L.C.,  
ET AL.,

Defendants.

Case No. 14-cv-00064-SMY-SCW

**MEMORANDUM AND ORDER**

This matter comes before the Court on Defendant Johnson Controls, Inc.’s Motion for Summary Judgment (Doc. 279). Defendant filed a Motion for Summary Judgment on January 30, 2015. Plaintiff’s Response was due on March 5, 2015, and no Response has been filed. The Court may, in its discretion, construe a party’s failure to file a timely response as an admission of the merits of the motion, and the Court will do so in this case. See Local Rule 7.1(c) (requiring a response to a motion for summary judgment be filed 30 days after service of the motion and stating a failure to timely respond may be deemed an admission of the merits of the motion); see also *Tobel v. City of Hammond*, 94 F.3d 360, 362 (7th Cir.1996) (“[T]he district court clearly has authority to enforce strictly its Local Rules, even if a default results.”).

Defendant Johnson Controls, Inc. has presented evidence that it is not a successor in interest to York International, Inc. as alleged in the complaint, and there is no evidence that Defendant Johnson Controls, Inc. is liable for any products manufactured or sold by York International or that Plaintiff was exposed to any asbestos-containing products manufactured or distributed by Defendant Johnson Controls, Inc. Accordingly, the Court **GRANTS** Defendant Johnson Controls, Inc. Motion for Summary Judgment (Doc. 279). As no Counts remain

pending against Defendant, the Clerk of Court is directed to enter judgment accordingly at the close of the case.

**IT IS SO ORDERED.**

**DATED: March 9, 2015**

/s/Staci M. Yandle  
**STACI M. YANDLE**  
**DISTRICT JUDGE**