

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

Ryan Babjak, *et al.*,

Plaintiffs,

v.

ArcelorMittal USA, LLC, *et al.*,

Defendants.

Case No. 2:15-CV-40 JVB

ORDER

The Court referred to Magistrate Judge Paul Cherry for report and recommendation Plaintiffs' motion for default judgment (DE 71) and Defendant Arcelormittal USA's motion for leave to file a motion for summary judgment (DE 75). Judge Cherry issued his recommendations to which Plaintiff objects.

Plaintiff's motion for default judgment---a drastic one---or the alternative request that Defendant be prohibited from filing a motion for summary judgment---less drastic but still severe---arise out of Defendant's failure to comply with the Court's order to designate witnesses and available dates for depositions under Federal Rule of Civil Procedure 30(b)(6). But as Judge Cherry aptly stated "[i]t appears that the issue between the parties could have been resolved without the Court's involvement if Plaintiffs had conferred with Defendants as a first step instead of filing the instant motion." (DE 78, Rep. & Rec. at 4.) And it still can, especially since "Defendant's failure to comply with the Court's deadline "though ill-advised and improper, does not appear to be the result of willfulness or bad faith." (Id.)

Plaintiffs' objections to Judge Cherry's recommendations amount to no more than repeating the arguments in the original motion, which Judge Cherry thoughtfully considered. In

fact, the Court has nothing to add or take away and fully adopts Judge Cherry's recommendations as its own. Accordingly, the Court---

- Denies Plaintiffs' Motion for Default Judgment (DE 71);
- declines to award reasonable expenses under Federal Rule of Civil Procedure 37(b)(2)(C);
- Sets the deadline for the Rule 30(b)(6) depositions for 30 days after today's date;
- Orders Plaintiffs to file, within 7 days after the Rule 30(b)(6) depositions, either a motion to reopen discovery for the limited purpose of conducting discovery on newly learned matters that arose in the depositions or a status report indicating that no additional discovery is needed;
- Grants ArcelorMittal's motion for leave to file Rule 56 summary judgment motions (DE 75) except that, consistent with this Court's practice, no such motion may be filed until the Court holds a dispositive motions and trial scheduling conference.

SO ORDERED on August 14, 2017.

s/ Joseph S. Van Bokkelen
JOSEPH S. VAN BOKKELEN
UNITED STATES DISTRICT JUDGE