

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

NOLAN LEGEAUX ET AL.

CIVIL ACTION

VERSUS

No. 16-13773

BORG-WARNER CORPORATION ET AL.

SECTION I

ORDER AND REASONS

Defendant BorgWarner Morse TEC LLC has filed a motion¹ for partial dismissal pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. BorgWarner asks the Court to dismiss the plaintiffs' claims for pre-death loss of consortium, punitive damages, and attorney's fees, and to dismiss any claims asserted under the theories of market share liability, enterprise liability, and/or concert of actions.

The motion is substantively identical to a previous motion to dismiss filed by defendant Huntington Ingalls, Inc. which was granted by the Court. Although BorgWarner's motion was filed as an opposed motion, as with Huntington Ingalls's motion the plaintiffs have not filed an opposition. Further, plaintiffs failed to file anything into the record with respect to this motion notwithstanding that the Court's law clerk left a voicemail on plaintiffs' counsel's machine directing him to either file an opposition to the motion or a statement of no opposition.

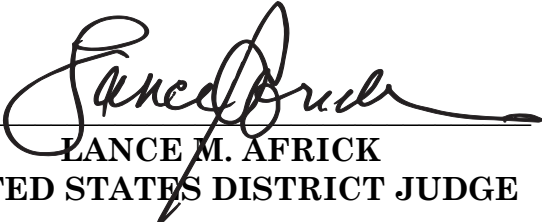
¹ R. Doc. No. 92.

Plaintiff's counsel's conduct has delayed the disposition of this matter and increased costs for all parties. It has also resulted in this case consuming a disproportionate amount of the Court's time. Accordingly, in order to deter further non-compliance with deadlines, the Federal Rules of Civil Procedure, and the local rules, as well as to "secure the just, speedy, and inexpensive determination" of this action, Fed. R. Civ. P. 1, plaintiffs' counsel are **CAUTIONED** that a further disregard for deadlines and Court directives may result in sanctions or other reprimands. *See, e.g.,* Fed. R. Civ. P. 16; Fed. R. Civ. P. 37.

For the reasons set forth in this Court's previous order and reasons,²

IT IS ORDERED that the motion for partial dismissal is **GRANTED** and that all of plaintiffs' claims against BorgWarner for pre-death loss of consortium, market share liability, enterprise liability, concert of action, punitive damages, and attorneys' fees are **DISMISSED WITH PREJUDICE**.

New Orleans, Louisiana, February 8, 2017.



LANCE M. AFRICK
UNITED STATES DISTRICT JUDGE

² R. Doc. No. 79.