

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Grizzly Auto Transports, *et al.*,

Plaintiffs,

v.

Case No. 08-11832

Tran Tech, Inc.,

Honorable Sean F. Cox

Defendants.

OPINION GRANTING
DEFENDANT’S “MOTION TO DISMISS PLAINTIFF JAGODZINSKI’S CLAIMS AND
FOR ENTRY OF DEFAULT AGAINST PLAINTIFF JAGODZINSKI”

After Plaintiff/Counter-Defendant Tim Jagodzinski (“Jagodzinski”) failed to appear for several scheduled depositions, Defendant/Counter-Plaintiff Tran Tech, Inc. (“Tran Tech”) filed a motion seeking sanctions. That motion was referred to Magistrate Judge Michael Hluchaniuk.

Following briefing and oral argument, Magistrate Judge Hluchaniuk issued an order providing that “Jagodzinski shall appear for his discovery deposition on or before September 18, 2009” and that if he fails to appear for his deposition on or before September 18, 2009, “this Court shall dismiss Jagodzinski’s claims and enter a default in favor of Defendant, with respect to Defendant’s counter-claims against Jagodzinski, allowing Defendant to prove its claims without testimony or evidence from Jagodzinski.” (Docket Entry No. 68).

On September 24, 2009, Tran Tech filed a “Motion to Dismiss Plaintiff Jagodzinski’s Claims and for Entry of Default Against Plaintiff Jagodzinski for Failure to Comply with the Court’s Order.” In that motion, Tran Tech states that despite Magistrate Judge Hluchaniuk’s Order and Tran Tech’s repeated attempts to schedule Jagodzinski’s deposition, Jagodzinski failed to appear for his deposition on or before September 18, 2009.

On September 29, 2009, this Court issued an Order requiring Tran Tech to submit a proposed order by October 2, 2009, and requiring Jagodzinski to show cause, in writing, no later than October 9, 2009, why the Court should not grant Tran Tech's motion and issued the proposed order.

On October 2, 2009, Tran Tech submitted its proposed order. On October 7, 2009, Tran Tech filed a separate motion requesting entry of its proposed order. (Docket Entry No. 74). Tran Tech attached its proposed order as an exhibit to that motion.

To date, Jagodzinski has not filed a brief in opposition to Tran Tech's September 24, 2009 "Motion to Dismiss Plaintiff Jagodzinski's Claims and for Entry of Default Against Plaintiff Jagodzinski for Failure to Comply with the Court's Order," has not filed any response to this Court's September 29, 2009 Order or any objections to Tran Tech's proposed order, and has not responded to Tran Tech's October 7, 2009 motion.

Accordingly, **IT IS ORDERED** that Tran Tech's September 24, 2009 "Motion to Dismiss Plaintiff Jagodzinski's Claims and for Entry of Default Against Plaintiff Jagodzinski for Failure to Comply with the Court's Order" is **GRANTED**.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: October 20, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 20, 2009, by electronic and/or ordinary mail.

S/Jennifer Hernandez
Case Manager