

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LYNN SHIRLEY MORGAN

Plaintiff,

v.

Case No. 08-15027

HON. LAWRENCE P. ZATKOFF

BLUST & DRISCOLL HOLDINGS, LLC,
f/k/a TOUCH AUTOMATION, LLC, and
DYNAPACE ACQUISITION, LLC,
f/k/a DYNAPACE CORP.,

Defendants.

ORDER

This matter arises from Plaintiff's motion for imposition of sanctions [dkt 30] for Defendant's alleged failure to deliver discovery documents. Defendants have not filed a response, and the time to do so has lapsed. The Court finds that the facts and legal arguments are adequately presented in Plaintiff's papers such that the decision process would not be significantly aided by oral argument. Therefore, pursuant to E.D. Mich. LR 7.1(e)(2), it is hereby ORDERED that the Motion be resolved on the brief submitted. For the reasons set forth below, Plaintiff's Motion is GRANTED IN PART and DENIED IN PART.

Plaintiff served her first set of interrogatories on Defendant Dynapace on April 28, 2009. Plaintiff served her request for production of documents on Defendant Dynapace on May 13, 2009. Defendant failed to answer the subject interrogatories in a timely fashion, prompting Plaintiff to file a motion to compel discovery on July 10, 2009. On July 21, 2009, the Court ordered Defendant Dynapace to file a response to Plaintiff's motion by August 4, 2009. Defendant did not respond by

August 4, 2009. On August 12, 2009, the Court ordered Defendant Dynapace to provide full and complete responses to Plaintiff's discovery requests by August 30, 2009. Defendant has failed to provide full, complete and signed responses to Plaintiff's discovery requests—specifically, documents relating to the machine that allegedly injured Plaintiff. Plaintiff requests that a default judgment be entered against Defendant Dynapace for its failures to provide discovery and for an award of attorney's fees in connection with bringing this motion.

Since this cause of action arises out of Plaintiff's injuries that allegedly occurred while servicing Defendants' automated entertainment media merchandising machine, Plaintiff is severely compromised in her ability to prepare her case without documents related to the machine in question. Therefore, IT IS HEREBY ORDERED that Defendant Dynapace deliver to Plaintiff by January 16, 2010, Plaintiff's requested documents relating to the automated entertainment media merchandising machine from which Plaintiff's injuries derive. Accordingly, the Court DENIES Plaintiff's request for a default judgment against Defendant Dynapace, but GRANTS Plaintiff's request for reasonable attorney's fees in connection with bringing this motion.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: December 21, 2009

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on December 21, 2009.

S/Marie E. Verlinde

Case Manager

(810) 984-3290