

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

GRAMMER INDUSTRIES, INC.,

Plaintiff,

Case No. 15-cv-12694

v.

Paul D. Borman  
United States District Judge

BEACH MOLD AND TOOL, INC.  
*et al.*,

R. Steven Whalen  
United States Magistrate Judge

Defendants.

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ORDER (1) ADOPTING MAGISTRATE JUDGE WHALEN'S JUNE 3, 2019  
REPORT AND RECOMMENDATION (ECF NO. 179) AND (2) DENYING  
DEFENDANT/CROSS-DEFENDANT AMERICAN INDUSTRIAL  
ACQUISITION CORP.'S MOTION TO DISMISS  
PLAINTIFF'S SECOND AMENDED COMPLAINT (ECF NO. 91)

On June 3, 2019, Magistrate Judge R. Steven Whalen issued a Report and Recommendation to DENY Defendant/Cross-Defendant American Industrial Acquisition Corp.'s ("AIAC") Motion to Dismiss Plaintiff's Complaint and Cross-Claimant's Cross-Complaint Pursuant to Fed. R. Civ. 12(b)(6). (ECF No. 179.) Having reviewed the Report and Recommendation, and there being no timely objections from either party under 28 U.S.C. § 636(b)(1) and E.D. Mich L. R. 72.1(d), the Court ADOPTS the Report and Recommendation and DENIES AIAC's motion to dismiss (ECF No. 91).

The Court notes, as Magistrate Judge Whalen also observed, that although the Court has entered a clerk's entry of default against AIAC, neither the Plaintiff nor the Cross-Claimant has yet moved for entry of a default judgment, an entirely distinct concept.

Accordingly, AIAC's motion to dismiss is DENIED.

IT IS SO ORDERED.

s/Paul D. Borman  
PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

Dated: June 21, 2019