

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

TERRY M. NELSON, RENEE BALL,  
JOHN W. FISCHER, SCOTT BYRNE,  
KEN STRICKER, MIKE GOULD,  
ALBERT BOND, ROBERT CALHOUN,  
KEVIN HAMILTON, MICHAEL T.  
THUSTON, DONALD BRUSSEL, JR.,  
BIAN PALUCH, KEVIN BYRNE, in their  
representative capacities as trustees of the  
Carpenters Pension Trust Fund of St. Louis;  
CARPENTERS PENSION TRUST FUND  
OF ST. LOUIS,

Plaintiffs,

v.

ACORN STAIR & WOODWORK, INC.,  
LAWRENCE E. PECOR, IV, and  
AS & W, LLC,

Defendants.

No. 4:15-CV-1200 CAS

**ORDER OF PARTIAL DISMISSAL**

Upon review of the Court file, the Court finds that plaintiffs have failed to comply with the Court's Order dated December 1, 2015, which directed plaintiffs to file, on or before December 15, 2015, a motion for default judgment as to defendants AS & W, LLC and Acorn Stair & Woodwork, Inc.<sup>1</sup> Plaintiffs were warned that failure to comply would result in dismissal of these parties without prejudice. Plaintiffs requested and were granted three extensions of time to file for default judgment, until April 11, 2016. On April 12, 2016, defendant AS & W, LLC filed an unopposed motion for leave to file its answer out of time, which the Court granted. Plaintiffs, however, never filed a motion for default judgment as to defendant Acorn Stair & Woodwork, Inc. Rule 41(b) of the

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<sup>1</sup>Lawrence E. Pecor, IV was not named as a defendant in plaintiffs' First Amended Complaint. He is no longer a party to this suit.

Federal Rules of Civil Procedure permits the Court to dismiss a case for failure to prosecute or to comply with a Court Order.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiffs' claims against defendant Acorn Stair & Woodwork, Inc. are **DISMISSED without prejudice**.

A handwritten signature in cursive script, reading "Charles A. Shaw", written in black ink.

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**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 18th day of May, 2016.