

**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.)

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.¹ 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

¹Lawrence 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.**



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 18th day of May, 2016.