

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO.: 4:07-CV-57-H

EASTERN AVIATION FUELS, INC.,)
d/b/a EASTERN RACE FUELS)
)
Plaintiff,)
)
)
v.)
)
)
TORCO RACING FUELS, INC.)
d/b/a TORCO RACE FUELS; EVAN)
KNOLL; and KNOLL GAS MOTOR)
SPORTS, INC.,)
)
Defendants.)

ORDER

This matter is before the court on plaintiff's motion to strike the Answer and Counterclaim filed by defendants Torco Racing Fuels, Inc., and Knoll Gas Motor Sports, Inc., and for entry of default as to those defendants [DE #34]. Magistrate Judge William A. Webb filed a Memorandum and Recommendation ("M&R") on July 23, 2008, recommending that plaintiff's motion be granted. Defendants have filed no objections to the M&R, and the time for doing so has expired. This matter is ripe for adjudication.

Under Rule 72(b) of the Federal Rules of Civil Procedure, a District Judge "shall make a de novo determination . . . of any portion of [the M&R] to which specific written objection has been made. . ." Fed. R. Civ. P. 72(b); see, also Local Rule

72.4(b)(1). Defendants failed to file timely written objections to the M&R, forgoing their rights to de novo review on any issue covered in the M&R. Nevertheless, this court has conducted a full and careful review of the M&R and other documents of record, and having done so hereby finds that the recommendation of the magistrate judge is, in all respects, in accordance with the law and should be approved.

Accordingly, the court adopts the recommendation of the magistrate judge as its own. For the reasons stated in the M&R, plaintiff's motion [DE #34] is GRANTED. The Answer and Counterclaim filed by defendants Torco Racing Fuels, Inc., and Knoll Gas Motor Sports, Inc., is STRICKEN, and the Clerk is DIRECTED to ENTER DEFAULT as to those defendants.

This 29th day of September 2008.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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