

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Glenn Herr,)	
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
Cornhusker Farms; James Husby,)	
individually; and Zylstra Investigations,)	
LLC,)	Case No. 1:15-cv-174
)	
Defendants.)	

Before the court is Glenn Herr’ Motion for Summary Judgment, (Docket No. 34), wherein Herr seeks summary judgment as to Defendants Cornhusker Farms and James Husby’s counterclaim for conversion. (Docket No. 9). In the current motion, Herr argues summary judgment is appropriate because the undisputed material facts of this case show the allegedly misappropriated truckload of soybeans have been accounted for. (Docket No. 35).

The Local Rules provide, in relevant part, that the adverse party has 21 days after service of a dispositive motion to file a response. See D.N.D. Civ. L.R. 7.1(A)(1). Failure to do so may subject the motion to summary ruling and may be deemed an admission that the motion is well taken. See D.N.D. Civ. L.R. 7.1(A)(3) and (F). More than four months has lapsed since Herr filed his motion. Defendants Cornhusker Farms and James Husby have yet to file a response. Their failure to timely respond is deemed an admission under the Local Rules that the motion is well taken.

Accordingly, Herr’s motion (Docket No. 34) is **GRANTED**. Defendant Cornhusker Farms and James Husby’s counterclaim is **DISMISSED** with prejudice.

IT IS SO ORDERED.

Dated this 27th day of March, 2017.

/s/ Charles S. Miller, Jr. _____
Charles S. Miller, Jr., Magistrate Judge
United States District Court