

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

EMILY C. OTOSKI, Individually and  
as Personal Representative of the  
Estate of Richard E. Otoski,  
for the benefit of EMILY C.  
OTOSKI, surviving wife of the  
deceased and NATHAN OTOSKI,  
MATTHEW OTOSKI, AND  
SHANNON LEE, surviving  
children of the deceased,

Plaintiff,

Civil No. 09-3041-PK

v.

ORDER

AVIDYNE CORPORATION,  
a Delaware corporation;  
CESSNA AIRCRAFT COMPANY,  
a Kansas corporation,

Defendants.

MARSH, Judge.

Magistrate Judge Paul Papak filed his Findings and Recommendation (#90) on October 6, 2010. The matter is now before me. See 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ P. 72(b). No objections have been timely filed. This relieves me of my obligation to give the factual findings de novo review. See §636(b)(1)(C); Simpson v. Lear Astronics Corp., 77 F.3d 1170, 1174-75 (9th Cir. 1996). Having reviewed the legal principles de novo, I find no error.

Accordingly, I ADOPT Magistrate Judge Papak's Findings and

Recommendation #90. Cessna's motion (#50) for summary judgment is GRANTED because Otoski's claims against it are precluded as a matter of law by the bankruptcy court's November 28, 2007 Order. Otoski's motion (#65) for leave to conduct destructive examination is GRANTED because Cessna is no longer a party to the action, rendering its objections moot.

IT IS SO ORDERED.

DATED this 15 day of November, 2010.

/s/ Malcolm F. Marsh  
Malcolm F. Marsh  
United States District Judge