

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

CATHERINE HERROD and ALAN
PARKINSON as guardians ad litem for
SCOTT HERROD, et al.,

Plaintiffs,

vs.

METAL POWDER PRODUCTS, INC., et
al.,

Defendants.

MEMORANDUM DECISION AND
ORDER GRANTING SUMMARY
JUDGMENT

Case No. 1:07-CV-23 TS

On August 20, 2009, the Court issued a Memorandum Decision and Order granting summary judgment to Defendants Metal Powder Products (“MPP”), Inc. Timpte, Inc., and Timpte Industries. On August 24, 2009, the Court issued an Order to Show Cause, noting that the two remaining Defendants, Burrand, Inc. (“Burrand”) and Ceromet, Inc. (“Ceromet”), had never been served, and directing Plaintiffs to respond informing the Court why all claims against Burrand and Ceromet should not be dismissed for failure of service.

Plaintiffs respond that Ceromet and its wholly owned subsidiary, Burrand, were the companies which initially manufactured the Pro-Torq product line, including the product at issue in this case. Plaintiff argues that all assets and liabilities of Ceromet and Burrand were assumed by


MPP, and that all claims against Ceromet and Burrand should be dismissed pursuant to the Court's August 20, 2009 grant of summary judgment, rather than for failure to serve. The Court agrees.

It is therefore

ORDERED that summary judgment is hereby GRANTED to Defendants Burrand, Inc. and Ceromet, Inc. for the same reasons as expressed in the Court's August 20, 2009 Memorandum Decision granting summary judgment to Defendants Metal Powder Products, Inc., Timpte, Inc., and Timpte Industries. The Clerk of the Court is directed to close the case forthwith.

DATED September 4, 2009.

BY THE COURT:



TED STEWART
United States District Judge