

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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YAMA SEIKI USA, INC.,

Plaintiff,

v.

Case No. 16-C-252

PROGRESSIVE MACHINERY, INC.,

Defendant.

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**ORDER**

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On January 18, 2017, the Plaintiff filed an untimely motion for summary judgment along with a motion seeking leave to file said motion. In a subsequent telephonic hearing, this court allowed the motion to be filed. At that hearing, the court was also informed that the Defendant would not be filing any opposition to the motion in light of the Defendant's intent to file for bankruptcy.

The motion arises from the request for admissions served on the Defendant in November 2016. The Defendant did not respond to the request for admissions within the allotted time. Under Fed. R. Civ. P. 36(a)(3), a failure to respond means that the matters are admitted. By virtue of these admissions, the Defendant has conceded that it owes the Plaintiff \$169,900 balance for a CNC Machining Center, plus agreed-upon interest, plus repair costs of \$12,642.05. In addition, the admissions also eviscerate the basis for the Defendant's counterclaims. It has conceded that it did not have a "dealership" and that there were no manufacturing defects in the machine in question.

Based on these admissions, the motion for summary judgment is **GRANTED**. Plaintiff is entitled to judgment in the amount of \$182,542.05. The Defendant's counterclaims are **DISMISSED**. The clerk will enter judgment accordingly.

**SO ORDERED** this 26th day of January, 2017.

/s William C. Griesbach  
William C. Griesbach, Chief Judge  
United States District Court