

STEPHEN C. VINCENTI and
VALERIE FOUCART VINCENTI,
Plaintiffs

vs.

DEBORAH SHULTZ,
Defendant

: IN THE COURT OF COMMON PLEAS OF
: LYCOMING COUNTY, PENNSYLVANIA
:
:
: NO. 03-00,646
:
: CIVIL ACTION - LAW
: MOTION TO RECONSIDER/
: OPEN/STRIKE DEFAULT JUDGMENT

Date: August 5, 2004

OPINION and ORDER

Before the Court is the Motion to Reconsider Order, Open/Strike Default Judgment of Defendant Deborah Schultz filed February 6, 2004. Argument and decision was deferred due to the illness of Plaintiff's counsel. Argument was held on June 29, 2004.

On November 12, 2003, Plaintiffs filed a Motion for Sanctions and Entry of Default Judgment because Schultz had failed to respond to discovery requests and had disobeyed a Court Order dated October 21, 2003 directing her to furnish the requested discovery. This Court issued an Order on December 8, 2003 granting the Motion. The Court gave Schultz ten days to furnish the requested discovery or an affidavit stating the reasons why she did not have the information. The Order further stated that if Schultz failed to comply with this directive by January 31, 2004, then Plaintiffs could enter judgment against her upon the filing of a praecipe for entry of judgment. On February 4, 2004, Plaintiffs filed an Affidavit of Non-Compliance averring that Schultz had failed to comply with the December 8, 2003 Order. Plaintiffs filed a Praecipe for Default Judgment on February 4, 2004. Judgment was entered against Schultz the same day.

The Motion for Reconsideration will be denied. The Court believes that the entry of judgment against Shultz, as drastic as it is, is well justified. The reasons for this serious measure are adequately set forth in the following documents: Plaintiffs' Motion for Sanctions with Entry of Default Judgment and attached supporting documentation filed November 12, 2003; Plaintiffs' Affidavit of Non-Compliance filed February 4, 2004; and Plaintiffs' Response to Motion for Reconsideration filed February 17, 2004. These documents contain factual allegations that are supported by the evidentiary record of the December 8, 2003 hearing and also confirmed at the time of argument on the Motion for Reconsideration. The documents and evidentiary record support the conclusion that Schultz has failed to supply discovery information in support of her asserted defenses and that which is otherwise relevant to Plaintiffs' claims. Furthermore, this failure was willful, intentional, and designed to frustrate Plaintiffs' prosecution of the case. The Court is not at all satisfied that even if the judgment were stricken that Schultz would comply with discovery requests and produce the necessary information or at least offer a good-faith reason as to why the information would not otherwise be available.

Accordingly, the following Order is entered.

ORDER

It is hereby ORDERED and DIRECTED that Motion to Reconsider Order, Open/Strike Default Judgment of Defendant Deborah Schultz filed February 6, 2004 is DENIED.

BY THE COURT:

William S. Kieser, Judge

cc: Elliott B. Weiss, Esquire
Scott T. Williams, Esquire
Judges
Christian J. Kalas, Esquire
Gary L. Weber, Esquire (Lycoming Reporter)