

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Case No: 09-CV-1182 (RHK/JJK)

Michael Warren,

Plaintiff,

v.

Pistorius Machine Co., Inc.,

Defendant.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER FOR JUDGMENT**

This matter was heard before the Honorable Richard H. Kyle, in Courtroom 7A, United States District Court, 316 North Robert Street, St. Paul, Minnesota, on the 9th day of August 2010 at 8:00 a.m. Howard L. Bolter, Esq. appeared for and on behalf of Plaintiff. There was no appearance on behalf of Defendant.

FINDINGS OF FACT

1. On or about May 5, 2009, Plaintiff commenced a lawsuit against Defendant for various claims of strict liability and negligence which Defendant initially answered. However, on or about February 4, 2010, Defendant's former counsel filed a Motion to Withdraw Answer and a Motion for Withdrawal of Counsel [Docket No. 20].
2. On or about February 25, 2010, this Court granted Defendant's Motions and a copy of the Court's Order was mailed to Robert Pistorius, President of Defendant [Docket No. 25].
3. Since that date, there has been no appearance by any counsel for Defendant nor any new Answer served and filed.

4. On June 18, 2010, Plaintiff filed a Motion for Entry of Default Judgment [Docket No. 29] and properly served the motion and supporting documents on Defendant's last known address.
5. Plaintiff incurred \$773,276.65 in medical expenses associated with injuries caused by Defendant's product and paid for by Defendant's workers' compensation insurer.
6. Plaintiff lost wages in the amount of \$38,816.00 between January 31, 2008, and June 15, 2010.
7. Plaintiff will lose future wages from June 15, 2010, until May 6, 2015,¹ in the amount of \$164,800.00.
8. Plaintiff is now receiving Social Security Disability and has been since July 1, 2008.
9. State Fund Mutual, the workers' compensation carrier, has a subrogation claim, the amount to be determined.
10. Based on Plaintiff's injuries, his damages for past pain and suffering are \$300,000.00.
11. Based on Plaintiff's injuries, his damages for future pain and suffering are \$600,000.00.
12. Plaintiff's total damages are \$1,876,892.65.

CONCLUSIONS OF LAW

1. Defendant having not answered the Complaint or otherwise appeared in this matter is in default, and Plaintiff is entitled to Entry of Default Judgment.

¹ Plaintiff was born on May 6, 1955.

2. Defendant owes Plaintiff \$773,276.65 for medical expenses associated with injuries caused by Defendant's product and paid for by Defendant's workers' compensation insurer.
3. Defendant owes Plaintiff \$38,816.00 for lost wages between January 31, 2008, and June 15, 2010.
4. Defendant owes Plaintiff \$164,800.00 for future lost wages from June 15, 2010, until his 65th birthday.
5. Defendant owes Plaintiff \$300,000.00 for damages related to past pain and suffering.
6. Defendant owes Plaintiff \$600,000.00 for damages related to future pain and suffering.

ORDER

IT IS ORDERED:

1. Plaintiff's Motion for Entry of Default Judgment [Docket No. 29] is **GRANTED**.
2. That judgment in the amount of \$1,876,892.65 plus interest accruing from the date of judgment shall be entered against Defendant and in favor of Plaintiff.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 8/10/10

s/Richard H. Kyle
Richard H. Kyle
United States District Judge