

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

---

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

Michael Warren,

Plaintiff,

v.

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

Pistorius Machine Co., Inc.,

Defendant.

---

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 9<sup>th</sup> 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,<sup>1</sup> 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.

---

<sup>1</sup> 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 65<sup>th</sup> 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