

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NASHVILLE WIRE PRODUCTS : CIVIL ACTION
v. :
FILE SAFE, INC., ET AL. : NO. 93-3433

MEMORANDUM AND ORDER

HUTTON, J.

February 17, 1998

Presently before this Court is the Uncontested Motion by Plaintiff Nashville Wire Products to Enforce the Settlement Agreement (Docket No. 14). For the reasons set forth below, the Plaintiff's Motion is **GRANTED in part and DENIED in part.**

I. BACKGROUND

The plaintiff filed its complaint with this Court on June 25, 1993. On March 7, 1997, the plaintiff and defendant File Safe, Inc. ("File") entered into a settlement agreement. The parties agreed that File would pay ten monthly installments of \$5,000, commencing on April 1, 1997. Pl.'s Mot. Exs. A & B. Moreover, the parties agreed that "judgment shall be entered in the full amount of \$68,674.26, so that upon a breach of the settlement agreement, [the plaintiff] shall execute upon the judgment for the remaining balance due and owing." Id. At the time the parties entered into the agreement, the plaintiff failed to request that this Court enter the agreed upon judgment amount.

File made payments for the months of April, May, June and September. Pl.'s Mot. ¶ 3. However, File failed to make payments for the months of July and August. Id. ¶¶ 4, 5. Accordingly, the plaintiff filed the instant motion requesting that the Court enter judgment against File in the amount of \$68,674.26.

II. DISCUSSION

"The law is well settled that a district court has jurisdiction to enforce a settlement agreement entered into by litigants in a case pending before it." Rosso v. Foodsales, Inc., 400 F. Supp. 274, 276 (E.D. Pa. 1980). "[A]n agreement to settle a lawsuit, voluntarily entered into, is binding upon the parties, whether or not made in the presence of the Court." Green v. John H. Lewis & Co., 436 F.2d 389, 390 (3d Cir. 1970).

On January 16, 1998, the plaintiff served this motion on the defendant. As of the date of this Order, the defendant had not yet responded. Because the defendant in this case failed to make a timely response to this motion, the Court treats the motion as uncontested pursuant to Rule 7.1(c) of the Local Rules of Civil Procedure of the United States District Court for the Eastern District of Pennsylvania. E.D. Pa. R. Civ. P. 7.1(c). Rule 7.1(c) states that, except for summary judgment motions, "any party opposing the motion shall serve a brief in opposition, together with such answer or other response which may be

appropriate, within fourteen (14) days after service of the motion and supporting brief. In the absence of a timely response, the motion may be granted as uncontested" Id.

However, the plaintiff is only entitled to "execute upon the judgment for the remaining balance due and owing." Pl.'s Mot. Ex. A. The plaintiff admits that File made payments totaling \$20,000. Pl.'s Mot. ¶ 3. Although the parties initially agreed that the plaintiff was permitted a judgment of \$68,674.26, currently the plaintiff is only entitled to \$68,674.26 less the \$20,000 File has already paid. Accordingly, this Court enters judgment in the amount of \$48,674.26.

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O R D E R

AND NOW, this 17th day of February, 1998, upon consideration of the Uncontested Motion by Plaintiff Nashville Wire Products to Enforce the Settlement Agreement (Docket No. 14), IT IS HEREBY ORDERED that Plaintiff's Motion is **GRANTED in part and DENIED in part.**

IT IS FURTHER ORDERED that **JUDGMENT** is entered in **FAVOR** of the Plaintiff and **AGAINST** Defendant File Safe, Inc. in the amount of \$48,674.26.

BY THE COURT:

HERBERT J. HUTTON, J.