

THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MARYLAND

*

VICTOR STANLEY, INC.

*

Civil No. MJG-06-2662

Plaintiff,

*

v.

*

CREATIVE PIPE, INC., ET AL.

*

Defendants.

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ORDER AND RECOMMENDATION

1. ORDER

For the reasons stated in the Memorandum, Order and Recommendation issued this same date, on this 9th day of September, 2010, it is hereby ORDERED that

- (1) Pursuant to Fed. R. Civ. P. 37(b)(2)(C), Defendant shall pay monetary sanctions equivalent to Plaintiff's attorney's fees and costs, which will be awarded after further briefing by the parties, and which will include fees and costs associated with all discovery that would not have been untaken but for Defendants' spoliation, as well as the briefings and hearings regarding Plaintiff's Motion for Sanctions;
- (2) To that end, Plaintiff shall submit a bill of costs within thirty (30) days of the Court's Order, with Defendants' response, if any, to be submitted within thirty (30) days thereafter; and
- (3) Pursuant to Fed. R. Civ. P. 37(b)(2)(A)(vii), Defendant Pappas's acts of spoliation shall be treated as contempt of this Court, and as a sanction, he shall be imprisoned for a

period not to exceed two (2) years, unless and until he pays to Plaintiff the attorney's fees and costs that will be awarded, as provided in Paragraphs (1) and (2) above.

2. RECOMMENDATION

On this 9th day of September, 2010, it is hereby RECOMMENDED that

- (1) Pursuant to Fed. R. Civ. P. 37(b)(2)(A)(vi), the Court enter a default judgment as to liability on Count I (copyright infringement) only, as a sanction for Defendants' willful spoliation;
- (2) Pursuant to Fed. R. Civ. P. 37(b)(2)(A), the Court grant Plaintiff's motion for injunctive relief as to Count I (copyright infringement), as a sanction for Defendants' willful spoliation; and
- (3) The Court deny without prejudice Plaintiff's motion for default judgment as to liability on the remaining counts and as to damages on all counts.

Any objections to this Order and Recommendation shall be filed within fourteen (14) days.

_____/S/_____
Paul W. Grimm
Chief United States Magistrate Judge

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