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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 Luis Virata, an individual,
10 Plaintiff,
11 vs.
12 Eric Zemke, an individual, et al.,
13 Defendants.

No. CV11-0988 PHX DGC

ORDER AND JUDGMENT

14 On May 24, 2012, the Court entered default judgment against ACLS Pegasus,
15 LLC in the total amount of \$349,590.14: \$127,500 in the actual amount that Mr. Virata
16 provided to the defendants; \$82,290 in attorney's fees; \$12,300.14 in legal costs; and
17 \$127,500 in punitive damages. Doc. 97. At the time, the case was stayed against
18 defendant Steven Wallace, the sole owner and employee of ACLS Pegasus, who had filed
19 a personal bankruptcy action. *See* Doc. 92. Subsequently, the personal bankruptcy
20 action was dismissed. *See* Doc. 100. On June 15, 2012, this Court lifted the stay against
21 Mr. Wallace and ordered that Mr. Wallace respond to the amended complaint by July 3,
22 2012, or have a "default judgment entered against him if he fails to respond to the
23 amended complaint." Doc. 100. Despite the Court's clear instruction, Mr. Wallace has
24 failed to respond to the complaint. On July 23, 2012, Plaintiff filed a motion for default
25 judgment. Doc. 103. Mr. Wallace has not filed a response. The Court will grant the
26 motion.

27 On July 12, 2012, Plaintiff filed a Declaration in Support of Order Entering
28 Default Judgment and Damages against Steven Wallace. Doc. 101-1 at 1-6. This sworn

1 declaration – as well as deposition testimony and other evidence attached to it – provides
2 evidentiary support for Plaintiffs claim that he suffered damages in the amount of amount
3 of \$127,500, attorneys’ fees in the amount of \$82,290, and costs in the amount of
4 \$12,300. Accordingly, the Court will order Mr. Wallace to compensate Plaintiff for the
5 claimed damages, attorneys' fees, and costs totaling \$222,090. The Court also finds that
6 Plaintiffs request for \$127,500 in punitive damages is appropriate in this case.¹ The
7 Court therefore orders Mr. Wallace to pay punitive damages to Plaintiff in the amount of
8 \$127,500, for a total award of \$349,590. Judgment shall bear interest as provided in 28
9 U.S.C § 1961.

10 **IT IS ORDERED THAT:**

11 1. Default judgment is entered in favor of Plaintiff Luis Virata and against
12 Steven Wallace as to Counts 2, 3, 5, 6, and 7.

13 2. Plaintiff Luis Virata shall recover from Defendant Wallace all damages,
14 attorneys’ fees and costs set forth in this order in the total amount of \$349,590.14:
15 \$127,500 in the actual amount that Mr. Virata provided to Defendant Wallace; \$82,290 in
16 attorney's fees; \$12,300.14 in legal costs; and \$127,500 in punitive damages. Interest
17 shall accrue at the rate provided in 28 U.S.C § 1961 per month from the date of entry of
18 this order.

19 Dated this 28th day of August, 2012.

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David G. Campbell
24 United States District Judge

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¹ The Court discussed Plaintiff’s request for punitive damages in its prior order of
28 default judgment against ACLS Pegasus and determined that a 1:1 ratio between actual
and punitive damages was appropriate. Doc. 97 at 2.