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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAJUDITH WHITWORTH,
Plaintiff,

vs.

FIDELITY MORTGAGE COMPANY,
JOEL ATWATER, et al.,
Defendant.No.C-05-4725 MHP
(MEJ)**ORDER ADOPTING
REPORT AND
RECOMMENDATION
GRANTING MOTION
FOR DEFAULT
JUDGMENT AND
JUDGMENT THEREON**

This matter was referred to Chief Magistrate Judge Maria-Elena James to conduct an evidentiary hearing for the purposes of determining damages, costs and attorneys' fees and such other relief as may be proper, this court having found that plaintiff was entitled to a default judgment against defendant Atwater. The referral, pursuant to Federal Rule of Civil Procedure 72(b) and Civil Local Rule 72-3 in accordance with 28 U.S.C. section 636(b)(1)(B) and (C), requested Judge James to make a Report and Recommendation on these matters. Judge James filed her Report and Recommendation on December 15, 2009, and no timely objection has been filed. Therefore, in accordance with the Report and Recommendation,


IT IS HEREBY ORDERED AND ADJUDGED that the foregoing Report and Recommendation is adopted in its entirety and default judgment is hereby entered as follows:

Plaintiff JUDITH WHITWORTH shall recover from the defendant JOEL ATWATER, the amount of \$34,137.06 as and for compensatory damages with prejudgment and post-judgment

1 interest thereon at the rate of 0.39 %. Plaintiff's further request for damages, including punitive
2 damages, along with costs of action and attorneys' fees is denied as recommended by the Chief
3 Magistrate Judge. Plaintiff's request for punitive damages is further denied because she was
4 afforded by the Chief Magistrate Judge an opportunity to come forward with evidence to support her
5 claim and has failed to do so as of this date, over two months later. Therefore, her claim for punitive
6 damages is denied with prejudice.

7 The Clerk of Court shall close the file.

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9 Date: February 24, 2010



MARILYN HALL PATEL
United States District Court Judge
Northern District of California