UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SCOTT. R SANDERS,

Plaintiff,

vs.

FIDELITY MORTGAGE COMPANY, JOEL ATWATER, et al.,

Defendant.

/

No.C-05-4990 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 January 7, 2010, 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 SCOTT R. SANDERS shall recover from the defendant JOEL ATWATER, the amounts of $76,025.49 as and for compensatory damages with prejudgment and post-judgment

interest thereon at the rate of 0.39 % and $1,313.98 in costs. Plaintiff's further request for damages, including punitive damages, is denied as recommended by the Chief Magistrate Judge. Plaintiff's request for punitive damages is further denied because he was afforded by the Chief Magistrate Judge an opportunity to come forward with evidence to support his claim and has failed to do so as of this date, nearly two months later. Therefore, his claim for punitive damages is denied with prejudice.

The Clerk of Court shall close the file.

Date: February 25, 2010

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