

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Case No. 10-cv-01108-WJM-MJW

BENTLEY L. THOMAS,
JOHN N. LAWSON,
BARBARA A. LAWSON, and
AILEEN J. SERBENIUK, Trustee of the Frank Peter Serbeniuk Trust,

Plaintiffs,

v.

JAMES PETER "JIM" BURG, a/k/a Jim Burg,
SUZANNE M. CARDIN BURG, a/k/a Suzanne M. Carden, individually and d/b/a Blue
Moon Ranch, LLC, d/b/a Superior Discount Coins, LLC, d/b/a Agape Endeavors, LLC,
S. CARDIN & ASSOCIATES, LLC, and
GOLD RUN INVESTMENTS,

Defendants.

ORDER FOR SUPPLEMENTAL BRIEFING

This matter is before the Court on Plaintiffs Bentley L. Thomas, John N. Lawson, Barbara A. Lawson and Aileen J. Serbeniuk's Motion for Default Judgment and Request for Hearing. (ECF No. 42.)

In the Motion for Default Judgment, Plaintiffs request sum certain and equitable damages as well as injunctive relief in the form of orders enjoining Defendants from operating web sites and advertising Defendants' business, appointing a Receiver over Defendants' property, and freezing Defendants' bank accounts. However, Plaintiffs offer no legal authority in support of their request that these remedies be made available to them pursuant to a Fed. R. Civ. P. 55(b)(2) motion for default judgment.

This Court therefore requests supplemental briefing by Plaintiffs on the following issues:

- 1) Whether and to what extent the Court has the authority to grant the following relief requested by Plaintiffs through and in the context of a Rule 55(b)(2) motion for default judgment proceeding:
 - a) An injunction to shut down Defendants web sites;
 - b) Appointment of a Receiver to take possession over Defendants' real and personal property; and
 - c) Freezing Defendants' bank accounts;
- 2) Whether Plaintiffs' Complaint, ECF No. 1, puts Defendants on sufficient notice of the relief sought in Plaintiffs' Motion for Default Judgment; and
- 3) What is the appropriate measure of damages under the claims asserted against Defendants for monetary damages. Specifically, Plaintiffs should address whether, given the nature of their claims and their evidence in support of same, monetary damages which give them the "benefit of the bargain" they allegedly made with Defendants should be available to them, or whether they are limited to their out of pocket losses.

It is, therefore,

ORDERED that Plaintiffs shall submit, no later than April 25, 2011, a supplemental brief directed to the issues of this Court's authority to grant the requested relief in a motion for default judgment proceeding; whether Defendants were put on sufficient notice regarding the relief requested; and what the appropriate measure of

damages is for those claims seeking monetary damages.

Dated this 4th day of April, 2011.

BY THE COURT:



William J. Martínez
United States District Judge