

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00395-WYD-KLM

JOSEPH VILLANUEVA,

Plaintiff,

v.

ACCOUNT DISCOVERY SYSTEMS, LLC.,

Defendant.

**ORDER AFFIRMING AND ADOPTING RECOMMENDATIONS OF UNITED STATES
MAGISTRATE JUDGE**

THIS MATTER is before the Court on the Plaintiff's Motion for Default Judgment (ECF No. 11), filed August 13, 2014. The motion requests that default judgment be entered in the amount of \$1,000 for statutory damages, \$15,000 in actual damages, and \$3,018 for attorneys' fees and costs. This motion was referred to Magistrate Judge Mix, who issued a Recommendation of United States Magistrate Judge (ECF No. 13), filed December 12, 2014, and is incorporated herein by reference. See 28 U.S.C. sec 636(b)(1), Fed. R. Civ. P. 72(b), D.C.COLO.LCivR. 72.1.

Magistrate Judge Mix recommended therein that the Plaintiff's Motion for Default Judgment be granted in part and denied in part. Specifically, Magistrate Judge Mix recommended that default judgment be entered in favor of the Plaintiff and against the Defendant in the amount of \$3,535.00, which is comprised of \$1,000 for statutory damages; \$1,000 in compensatory damages for emotional distress; \$150 in compensatory damages for the Plaintiff's out-of-pocket losses; and \$1,385.00 for

reasonable attorneys' fees.

Magistrate Judge Mix advised the parties that written objections were due within fourteen (14) days after service of a copy of the Recommendation. Despite this advisement, no objections were filed to the Magistrate Judge's Recommendation. No objections having been filed, I am vested with discretion to review the Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). Nonetheless, though not required to do so, I review the Recommendation to "satisfy [my]self that there is no clear error on the face of the record."² See FED. R. CIV. P. 72(b) Advisory Committee Notes.

Having reviewed the Recommendation (ECF No. 13), I am satisfied that there is no clear error on the face of the record. I find that the Recommendation is thorough, well-reasoned, and sound.

CONCLUSION

After careful consideration of the matters before the Court, it is ORDERED that Magistrate Judge Mix's Recommendation (ECF No. 13) is **AFFIRMED** and **ADOPTED**. As such, the Plaintiff's Motion for Default Judgment (ECF No. 11) is **GRANTED in part** and **DENIED in part**. Default judgment shall be entered in

² Note, this standard of review is something less than a "clearly erroneous or contrary to law" standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a *de novo* review, Fed. R. Civ. P. 72(b).

favor of the Plaintiff and against the Defendant in the amount of \$3,535.00, which is comprised of \$1,000 for statutory damages; \$1,000 in compensatory damages for emotional distress; \$150 in compensatory damages for the Plaintiff's out-of-pocket losses; and \$1,385.00 for reasonable attorneys' fees.

Dated: January 12, 2015.

BY THE COURT:

s/ Wiley Y. Daniel
WILEY Y. DANIEL,
SENIOR UNITED STATES DISTRICT JUDGE