

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

COMM 2000, LLC, d/b/a COMM ONE SYSTEX
OF OHIO, LLC, an Illinois limited liability
company and WIRELESS CENTRAL, INC.,
d/b/a COMM ONE, an Illinois corporation,

Plaintiffs,

v.

CINGULAR WIRELESS, a successor to
SOUTHWESTERN BELL MOBILE SYSTEMS,
INC., d/b/a CELLULAR ONE - CHICAGO and
AMERITECH WIRELESS
COMMUNICATIONS, INC.,

Defendant.

No. 05 C 457

Judge James B. Zagel

MOTION FOR ENTRY OF JUDGMENT

Defendant-Counterplaintiff AT&T Mobility LLC f/k/a Southwestern Bell Mobile Systems LLC d/b/a Cingular Wireless (“Cingular”), by its attorneys, and pursuant to Federal Rule of Civil Procedure 58(d), respectfully moves this Honorable Court to enter final judgment on Cingular’s counterclaim against plaintiffs in the amount of \$404,718.64, plus 1.5% interest per month since May 17, 2004, and enter judgment awarding costs and fees, consistent with the Court’s Memorandum Opinion and Order dated June 29, 2009.

1. On February 16, 2007, Cingular answered plaintiffs’ Second Amended Complaint and filed its Counterclaim against both plaintiffs seeking payment for an outstanding balance under the parties’ Equipment Agreement of \$404,718.64. [Docket 60]

2. On April 24, 2009, Cingular filed its motion for summary judgment both on the plaintiffs’ claims and on its Counterclaim. Regarding its Counterclaim, Cingular sought a judgment against plaintiffs for the outstanding debt in the amount of \$404,718.64. (Cingular’s

Memorandum of Law in Support of its Motion for Summary Judgment [Docket 119-3].) Cingular also sought interest at the rate of 1.5% per month (18% per year) since May 17, 2004, as specifically provided for in the Equipment Agreement. (*Id.*; Cingular's Statement of Uncontested Facts, ¶ 24 [Docket 120].) In support of its motion for summary judgment, Cingular provided an affidavit from Laren Whiddon attesting that plaintiffs have had an outstanding debt due to Cingular in the amount of \$404,718.64 since at least May 17, 2004. (Cingular's Statement of Uncontested Facts, Ex. 4 [Docket 120].) The Whiddon affidavit was not contested by plaintiffs.

3. In its summary judgment motion, Cingular also sought attorneys' fees and costs pursuant to Section 24 of the Illinois Agreement.¹ (Cingular's Memorandum of Law in Support of its Motion for Summary Judgment, p. 15; Cingular's Statement of Uncontested Facts, ¶ 42.)

4. On June 29, 2009, the Court issued its Memorandum Opinion and Order granting Cingular's motion for summary judgment in its entirety. [Docket 129] On the same day, Judgment was entered in favor of Cingular and stating that "Plaintiffs take nothing from defendants." [Docket 130]

5. Cingular now seeks the entry of judgment against plaintiffs specifying the amount due Cingular jointly and severally from plaintiffs. Cingular also seeks entry of judgment awarding fees and costs to be determined pursuant to Federal Rule of Civil Procedure 54 and Northern District of Illinois Local Rule 54.3.

WHEREFORE, Defendant-Counterplaintiff Cingular Wireless respectfully requests that this Honorable Court enter judgment in its favor and against plaintiffs in the amount of \$775,036.20, comprised of the \$404,718.64 of the original debt and prejudgment interest of

¹ Cingular has initiated contact with plaintiffs' counsel, in compliance with Northern District of Illinois Local Rule 54.3, to confer regarding the amount of fees and costs to be awarded. Cingular will file a fee petition once the parties have conferred and created a joint statement, as prescribed by the local rule.

\$370,317.20, accumulated at the rate of 1.5% per month from May 17, 2004 through June 29, 2009. Cingular also seeks judgment awarding it fees and costs to be paid by plaintiffs in an amount to be determined pursuant to Federal Rule of Civil Procedure 54 and Northern District of Illinois Local Rule 54.3.

Respectfully Submitted,

AT&T MOBILITY LLC F/K/A
SOUTHWESTERN BELL MOBILE
SYSTEMS LLC, D/B/A CINGULAR
WIRELESS

By: s/ Meredith D. Schacht (ARDC #6290682)
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Dated: July 13, 2009