ACE Hardward Corporation v. Marn, Inc. et al Doc. 99

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

ACE HARDWARE CORPORATION,	)	
	)	
Plaintiff/Counter-Defendant,	)	**Case No. 06 CV 5335**
	)	
v.	)	**Hon. Judge Dow**
	)	
MARN, INC. d/b/a ARNOLD'S ACE HARDWARE and MICHAEL R. ARNOLD,	)	**Magistrate Judge Brown**
	)	
	)	
Defendants/Counter-Plaintiffs.	)	

ACE'S MOTION FOR ENTRY OF A FINAL
JUDGMENT ORDER AND TO TERMINATE CASE

Ace Hardware Corporation ("Ace") requests that the Court enter a Final Judgment in this case in the amount of $168,757.83 against Defendants and that this case be terminated. In support thereof, Ace states as follows:

1. On September 16, 2008, this Court entered a Memorandum Opinion and Order [docket #95] which, *inter alia*, entered summary judgment in favor of Ace and against Defendant Marn, Inc. in the amount of $161,598.03. The Court also entered summary judgment against Defendant Arnold in his individual capacity for $161,598.03 pursuant to a guaranty of credit.

2. The Court further ordered that Ace was entitled to recover its reasonable attorney's fees and costs for Defendants' violation of the signage provision in the parties' contract and for Defendant Arnold's violation of the guaranty of credit.

3. To avoid the delay that would be associated with briefing the amount of attorney's fees to which Ace is entitled, Ace will waive its right to attorney's fees if a final judgment is entered upon presentment of this Motion. In the event that Defendants oppose this Motion, Ace will request the right to withdraw it and to recover those attorney's fees to which it is entitled.

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4. Pursuant to the Court's order, prejudgment interest was awarded. Ace is entitled to 5% per annum interest on $71,598.03 (the portion of the judgment attributable to unpaid merchandise/services) pursuant to 735 ILCS 205/2. Although Plaintiff is entitled to go back to the date the debts were incurred, for simplicity, Plaintiff has only calculated interest from the date of the filing of this lawsuit, which was on October 2, 2006. Thus, interest is calculated as follows:

Two year of Interest is owed: Determined by taking the filing Date (October 2, 2006) through October 2, 2008 = **2 years of interest at 5% each, for a total interest to be assessed at 10%.** (Plaintiff will not seek to compound the interest owed to it).

Total Interest Owed: 10% x $71,598.03 (portion of judgment attributable to merchandise/services) = $7,159.80

Judgment Amount: $161,598.03 + $7,159.80 = **$168,757.83**

Wherefore, Ace respectfully requests that judgment be entered in favor of it and against Defendants in the amount of $168,757.83 and that this Court enter a final judgment against Defendants in that amount and that this Court terminate this case.

Dated: September 29, 2008

Respectfully submitted,
ACE HARDWARE CORPORATION

By: _____/s/ David Fish_____
One of Its Attorneys

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