

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

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|--|---|-----------------------|
| ROBERTA S. WILLIS, |) | |
| |) | |
| Plaintiff, |) | 09 C 873 |
| |) | Judge Lefkow |
| vs. |) | Magistrate Judge Cole |
| |) | |
| COMMONWEALTH FINANCIAL SYSTEMS, INC., |) | |
| |) | |
| Defendant. |) | |

**PLAINTIFF’S RENEWED MOTION FOR ENTRY OF JUDGMENT
AND AWARD OF DAMAGES**

On April 21, 2009, the Court entered a Default Judgment against Defendant Commonwealth Financial Systems, Inc. for Defendant’s failure to timely appear, answer or otherwise plead to the complaint. (Exhibit A). Plaintiff respectfully requests that final judgment be entered against Defendant, and in favor of Plaintiff in the amount of \$1,000.00 plus attorney’s fees and costs in the amount of \$3,509.06. In support of this motion, Plaintiff states as follows:

1. On February 11, 2009, Plaintiff filed a complaint against defendant to secure redress for unlawful collection practices engaged in by Commonwealth Financial Systems, Inc. (“CFS”). Plaintiff alleged that on April 28, 2008 Defendant filed suit against Plaintiff on a time barred debt and further that the collection lawsuit sought to collect additional interest which was not authorized by law or agreement. *See Kimber v. Federal Financial Corp.*, 668 F.Supp. 1480 (M.D.Ala. 1987).
2. As stated above, Defendant has been found to be in default, admitting the allegations.
3. Under 15 U.S.C. § 1692k, an individual Plaintiff can receive as statutory damages a maximum of \$1,000.00. A person who is successful on a FDCPA claim can also be awarded actual damages suffered on account of the violation; however, Plaintiff did not allege that she suffered actual damages.

4. Plaintiff alleged that on “April 28, 2008, CFS filed a lawsuit in the Circuit Court of Cook County, Illinois, 08 M1 133676, seeking to collect an alleged Discover credit card account which it claimed to have purchased...The complaint demanded interest at a rate of 6%, a rate authorized by neither Illinois law nor any agreement.” (Cmplnt. ¶¶ 11-14). Plaintiff further alleged that “Any default on the account in question would have occurred more than 5 years prior to the filing of the collection action, and the action would have been time-barred. Parkis v. Arrow Financial Services, 07 C 410, 2008 U.S. Dist. LEXIS 1212 (N.D.Ill., Jan. 8, 2008); Ramirez v. Palisades Collection, LLC, 1:07-cv-3840, 2008 U.S. Dist. LEXIS 48722 (N.D.Ill., June 23, 2008).” (Cmplnt. ¶15). These allegations unequivocally state facts which show a violation of the FDCPA. Plaintiff requests that she be awarded the maximum \$1,000.00 damage award.

5. Plaintiff requests that this Court find that the collection lawsuit was barred by the five-year statute of limitations. 735 ILCS 5/13-205.

6. 15 U.S.C. 1692k also provides for the award of attorney’s fees and costs if a plaintiff prevails on his or her claim.

7. Plaintiff also seeks an award of \$2,964 in attorney’s fees and \$545.06 in costs of suit. Plaintiff believes that the fees and costs sought are reasonable, and has attached as Exhibit B the Declaration of Daniel A. Edelman in support of her request, including a detailed statement of her counsel’s time and expenses incurred in this case.

WHEREFORE, Plaintiff respectfully requests that judgment be entered in favor of Plaintiff and against Defendant, in the amount of \$1,000.00 to Plaintiff in statutory damages, and \$3,509.06 in attorney’s fees and costs. A draft order is attached hereto as Exhibit C.

Respectfully submitted,

s/ Cassandra P. Miller
Cassandra P. Miller

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Cathleen M. Combs
James O. Lattuner
Cassandra P. Miller
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120 S. LaSalle Street, Suite 1800
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CERTIFICATE OF SERVICE

I, Cassandra P. Miller, hereby certify that on June 30, 2009, a copy of the foregoing PLAINTIFF'S MOTION FOR ENTRY OF JUDGMENT AND AWARD OF DAMAGES was filed electronically, and was served on the following via Certified Mail:

Commonwealth Financial Systems, Inc.
c/o Illinois Corporation Service Company
801 Adlai Stevenson Drive
Springfield, IL 62703

s/ Cassandra P. Miller
Cassandra P. Miller

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