

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

STANISLAW WALCZAK,)
)
Plaintiff,)
)
vs.)
)
US BANK NATIONAL)
ASSOCIATION ND; FIFTH THIRD)
BANK; CITIBANK (SOUTH DAKOTA),)
N.A.; DG MOTORS INC., d/b/a)
SAAB DOWNERS GROVE;)
CITIFINANCIAL AUTO CREDIT,)
INC.; PATELCO CREDIT UNION;)
and GE MONEY BANK,)
)
Defendants.)

Case No. 09cv4615
Judge Matthew F. Kennelly
Magistrate Judge Keys

**PLAINTIFF’S MOTION FOR ENTRY OF JUDGMENT
AND AWARD OF COSTS**

On September 29, 2009, the Court entered a default against Defendant Patelco Credit Union (“Patelco” or “Defendant”) for Patelco’s failure to timely appear, answer or otherwise plead to Plaintiff’s Complaint. (Exhibit A). Plaintiff respectfully requests that final judgment be entered against Patelco, and in favor of Plaintiff for: (1) a declaration that the Patelco account with the last four digits -0173 regarding a 2008 BMW X5 is not an obligation of Plaintiff, (2) an injunction enjoining Patelco from treating or dealing with Patelco account with the last four digits -0173 regarding a 2008 BMW X5 as an obligation of Plaintiff, (3) costs in the amount of \$395, and (4) such other or further relief as the Court deems proper.

In support of this motion, Plaintiff states as follows:

DEFAULT

1. Patelco is a corporation with offices at 156 Second Street, San Francisco, CA 94105. Patelco does business in Illinois. On information and belief, Patelco extends

financing to consumers in Illinois.

2. On July 30, 2009, Plaintiff filed a complaint against Patelco to secure declaratory and equitable relief due to the controversy as to whether Patelco account with the last four digits -0173 regarding a 2008 BMW X5 identified in the Complaint is an obligation of Plaintiff.

3. Plaintiff alleged that on or about December 12, 2008, SAAB Downers Grove contracted to sell a 2008 BMW X5 to one or more individuals (“imposter”) posing as plaintiff, the exact identities of which are not known to plaintiff. This transaction was without the knowledge of or any benefit to Plaintiff. Plaintiff alleged that SAAB Downers Grove knew or should have known or recklessly disregarded the fact that the imposter was not Plaintiff because there were numerous irregularities in the transactions.

4. SAAB Downers Grove assigned the contract for the purchase of the BMW to Patelco Credit Union, and so Patelco is subject to all claims and defenses good against SAAB Downers Grove. Patelco assigned account number the last four digits of which are -0173 to the transaction. As of the date of filing the Complaint, Patelco was still sending statements to Plaintiff showing a past due balance even though this transaction was without the knowledge of or any benefit to Plaintiff.

5. Patelco was served with a summons and a copy of the Complaint on August 11, 2009 and was to file its answer or otherwise plead by August 31, 2009.

6. Not having received an answer to the Complaint, Plaintiff filed a motion for default against Patelco on September 24, 2009.

7. On September 29, 2009, the Court found Patelco in default. See Exhibit A.

8. As of the date of filing this motion, to Plaintiff’s knowledge, Patelco has not retained an attorney, filed an appearance, or answered or otherwise pled to Plaintiff’s Complaint.

RELIEF AND COSTS

9. Plaintiff seeks (1) a declaration that the Patelco account with the last four digits -0173 regarding a 2008 BMW X5 is not an obligation of Plaintiff, and (2) an injunction enjoining Patelco from treating or dealing with Patelco account with the last four digits -0173 regarding a 2008 BMW X5 as an obligation of Plaintiff. See Exhibit B, the Declaration of Stanislaw Walczak. See Exhibit C, the Declaration of Michael Walczak.

10. Plaintiff also seeks costs in the amount of \$395. Plaintiff believes that costs sought are reasonable, and has attached as Exhibit D, the receipts of the filing fee and the service fee in support of his request.

11. Plaintiff also seeks such other or further relief as the Court deems proper.

WHEREFORE, Plaintiff respectfully requests that judgment of default be entered in favor of Plaintiff and against Defendant Patelco for: (1) a declaration that the Patelco account with the last four digits -0173 regarding a 2008 BMW X5 is not an obligation of Plaintiff, (2) an injunction enjoining Patelco from treating or dealing with Patelco account with the last four digits -0173 regarding a 2008 BMW X5 as an obligation of Plaintiff, (3) costs in the amount of \$395, and (4) such other or further relief as the Court deems proper. A draft order is attached hereto as Exhibit E.

Respectfully submitted,

s/ Tara L. Goodwin
Tara L. Goodwin

Daniel A. Edelman
Cathleen M. Combs
James O. Lattuner
Tara L. Goodwin
Rupali R. Shah
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120 S. LaSalle Street, Suite 1800
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CERTIFICATE OF SERVICE

I, Tara L. Goodwin, hereby certify that on October 27, 2009 I caused to be electronically filed the foregoing PLAINTIFF'S MOTION FOR ENTRY OF JUDGMENT AND AWARD OF DAMAGES with the Clerk of the Court using the CM/ECF system which will send notice to the following:

Lisa C. Ellison
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David F Cutter
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I, Tara L. Goodwin, further certify that on October 27, 2009 the foregoing PLAINTIFF'S MOTION FOR ENTRY OF JUDGMENT AND AWARD OF DAMAGES was sent via certified U.S. Mail to the following party:

Patelco Credit Union
156 Second Street
San Francisco, CA 94105

s/ Tara L. Goodwin
Tara L. Goodwin

Daniel A. Edelman
Cathleen M. Combs
James O. Lattuner
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