

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

DAVOR TERIHAIJ, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 09 C 4865
	)	
NATIONWIDE CREDIT, INC.,	)	
	)	
Defendant.	)	

MEMORANDUM ORDER

After this Court issued its December 9, 2009 memorandum order, urging counsel for both parties to take a more reasonable approach to the issue of attorneys' fees stemming from the accepted Fed. R. Civ. P. ("Rule") 68 offer of judgment in this Fair Debt Collection Practices Act case, its hoped-for expectation was that the parties would reach a peaceful accommodation without having to return for a judicial decision. Now, nearly two months later, counsel for defendant Nationwide Credit, Inc. ("Nationwide") has explained that the parties have reached an impasse and has noticed up a motion for presentment on February 8, seeking an evidentiary hearing.

This Court of course recognizes that the motion represents just one side's version of events, and nothing said here should be viewed as an expression on the merits--a subject on which this Court will of course retain an open mind if a judicial determination were indeed to prove necessary. But this Court would be remiss if it did not reinforce its December 9

admonitions with a reference to such cases as Vocca v. Playboy Hotel of Chicago, Inc., 686 F.2d 605 (7th Cir. 1982) (per curiam)--cases that teaches that a party's substantial overreaching in the pursuit of attorneys' fees can be very costly indeed. Decisions such as that reached in Vocca seem to be the legal equivalent of the occasionally-heard aphorism that discourages unwise speculation in the securities or commodities markets:

Bulls may sometimes make money, and bears may sometimes make money, but hogs get slaughtered.

This Court renews its December 9 urging of reasonableness on the part of both sides' counsel. Absent such a prior resolution, at the time of the February 8 presentment it plans to discuss the appropriate procedure for resolving the parties' dispute.



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Milton I. Shadur  
Senior United States District Judge

Date: February 1, 2010