

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Moxie Cycling Company, LLC,

Case No. 16-cv-2809 (PAM/FLN)

Plaintiff,

v.

ORDER

Color Tex Customs, Inc.,

Defendant.

This matter is before the Court on Plaintiff's Motion for Default Judgment. For the following reasons, Plaintiff's Motion is granted.

On December 17, 2013, Plaintiff and Defendant entered into a manufacturing agreement (the "Agreement"). The Agreement provides that Plaintiff would pay Defendant to produce, manufacture, and package a variety of women's cycling apparel according to samples, tech packs, and purchase orders provided by Plaintiff. In exchange, Defendant agreed to manufacture and deliver the apparel in accordance with the delivery terms of the Agreement and production schedules set forth in each purchase order. Plaintiff sent an initial wire transfer to Defendant in the amount of \$61,124.50, pursuant to the payment schedule in the Agreement. After receiving payment from Plaintiff, Defendant failed to produce, manufacture, package, and deliver the apparel in accordance with the terms of the Agreement. Due to Defendant's failure to produce, manufacture, package, and deliver the apparel in concert with the Agreement, Plaintiff

was unable to delivery approximately forty shipments of apparel to its dealers on time. As a result, Plaintiff experienced significant financial damage totaling \$73,799.84.

Plaintiff's damages are comprised of:

- a. \$29,293.92 in lost sales from product lines cancelled;
- b. \$12,517.00 in loss from the purchase price of the material to the difference in the sale price of the same material incurred by Plaintiff's efforts to offset its losses;
- c. \$12,221.42 in increased production costs;
- d. \$2,500.00 in increased shipping costs;
- e. \$7,528.00 in lost sales from cancelled orders;
- f. \$7,7122.00 in late fees assessed by Plaintiff's clients; and
- g. \$2,617.50 in loss of materials used to manufacture the goods.

Plaintiff filed this lawsuit on August 19, 2016. Plaintiff served its complaint on Defendant on September 14, 2016. The time for Defendant to Answer or otherwise serve a responsive pleading has passed. Plaintiff filed its Application for Entry of Default (Docket No. 6) on November 2, 2016. The Clerk of Court subsequently entered default on November 4, 2016. (Docket No. 9). Defendant has not appeared in this matter. Defendant is therefore in default.

Accordingly, **IT IS HEREBY ORDERED that:**

1. Plaintiff's Motion for Default Judgment (Docket No. 11) is **GRANTED**;
2. The Clerk of Court shall enter default judgment against Defendant in the sum of \$73,799.84;
3. Pursuant to Minn. Stat. § 549.09, the Clerk of Court shall calculate the statutory interest at a rate of 10% per annum based on the judgment amount of \$73,799.84 from August 19, 2016, and include the statutory interest as part of the above-described judgment amount;

4. Plaintiff may apply for taxation of costs and disbursements, in accordance with Rule 54(d)(1) of the Federal Rules of Civil Procedure and Local Rule 54.3(c).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 26, 2017

s/ Paul A. Magnuson

Paul A. Magnuson

United States District Court Judge