

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

DEBBIE SHOEMAKER,)
)
Plaintiff,)
)
vs.)
)
PINNACLE ASSET GROUP, LLC,)
)
Defendant.)
_____)

CV 12-42-M-DLC-JCL

ORDER

FILED

OCT 01 2012

PATRICK E. DUFFY, CLERK
By _____
DEPUTY CLERK, MISSOULA

Plaintiff Debbie Shoemaker's Fed. R. Civ. P. 55(b)(2) Motion for Default Judgment is pending in this matter. United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on July 11, 2012, and recommended granting Shoemaker's motion and entering judgment. Defendant did not timely object to the Findings and Recommendation, and so has waived the right to de

novo review of the record.¹ 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

After conducting an evidentiary hearing on June 21, 2012, Judge Lynch found that the court has jurisdiction over this matter and that the Plaintiff’s service of this action on Defendant was sufficient. Judge Lynch concluded that Defendant Pinnacle’s conduct in attempting to collect a debt owed by Plaintiff violated various provision of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., thereby subjecting Pinnacle to liability for Plaintiff Shoemaker’s damages that it caused. Further, Judge Lynch concluded that Plaintiff is entitled to an award of \$3,000 under 15 U.S.C. § 1692k(a)(1) to compensate her for her emotional distress, \$1,000 pursuant to 15 U.S.C. § 1692k(a)(2)(A), and her attorney’s fees and costs of this litigation in the amount of \$3,635.05 under 15 U.S.C. § 1692k(a)(3), for a total judgment in the amount of \$7,635.05. After a

¹Defendant filed a notice of appearance by counsel Bruce M. Spencer (doc. 13) on August 13, 2012, but filed no accompanying answer, motion to set aside default, or objections to the Findings and Recommendation. A notice of appearance alone, with no explanation of Defendant’s failure to appear, is not enough to set aside the default in this matter.

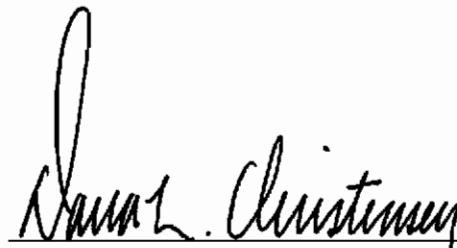
review of Judge Lynch's Findings and Recommendation, I find no clear error.

Accordingly,

IT IS HEREBY ORDERED that Judge Lynch's Findings and Recommendation (dkt #12) are adopted in full. Plaintiff's Motion (doc. 7) is GRANTED.

IT IS FURTHER ORDERED that judgment is entered in favor of Plaintiff Shoemaker and against Defendant Pinnacle in the total amount of \$7,635.05 as itemized above.

Dated this 1st day of October, 2012.



Dana L. Christensen, District Judge
United States District Court