

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CUMIS INSURANCE SOCIETY, INC.,

Plaintiff,

v.

**6:12-CV-1070
(FJS/ATB)**

JASON J. LAPIERRE,

Defendant.

APPEARANCES

OF COUNSEL

**MCNAMEE, LOCHNER, TITUS
& WILLIAMS, P.C.**

KENNETH L. GELLHAUS, ESQ.

677 Broadway
Albany, New York 12207-2503
Attorneys for Plaintiff

JASON J. LAPIERRE
Defendant

NO APPEARANCE

SCULLIN, Senior Judge

ORDER

In a Memorandum-Decision and Order dated April 8, 2013, the Court concluded that Plaintiff was entitled to entry of a default judgment in the amount of **\$410,998.45** against Defendant. *See* Dkt. No. 13 at 10. However, the Court reserved decision with respect to Plaintiff's request for prejudgment interest and instructed Plaintiff to file an affidavit and the necessary documentation to indicate the date on which it believed that prejudgment interest started to accrue, why it chose that particular date, and the amount of prejudgment interest to which it claimed it was due from that date through April 26, 2013. *See id.* at 10-11. Finally, the Court reserved decision with respect to Plaintiff's Bill of Costs and instructed Plaintiff to file a

new Bill of Costs, together with an affidavit and other documentation necessary to demonstrate that it had expended the funds for which it sought reimbursement in its Bill of Costs. *See id.* at 11 (footnote omitted).

On April 17, 2013, Plaintiff filed the required documentation. *See* Dkt. No. 14. Based on the Court's review of this documentation as well as its own calculations, the Court concludes that prejudgment interest began to accrue on May 6, 2011, the date on which Plaintiff transmitted the funds to the Bank. Furthermore, the Court finds that the prejudgment interest rate is 9 per cent per annum or \$101.34 per day ($\$410,998.45 \times 9\% / 365$). Therefore, the Court concludes that Plaintiff is entitled to prejudgment interest in the amount of **\$72,356.76** ($\101.34×714 days, which is the number of days between May 6, 2011, and April 19, 2013).

Furthermore, Plaintiff has filed a new Bill of Costs, which seeks costs in the amount of \$435.00, comprised of \$350.00 for "Fees of the Clerk" and \$85.00 for "Fees for service of summons and complaint," and provided the documentation to support these costs. *See* Dkt. No. 14-1. Therefore, the Court concludes that Plaintiff is entitled to taxation of costs against Defendant in the amount of **\$435.00**.

Accordingly, having reviewed the entire file in this matter, Plaintiff's submissions and the applicable law, and for the above-stated reasons, the Court hereby

ORDERS that the Clerk of the Court shall enter a default judgment in favor of Plaintiff and against Defendant in the amount of **\$410,998.45** plus prejudgment interest on that sum in the amount of **\$72,356.76**, calculated using New York's statutory rate of 9% per annum, from May 6, 2011, until the date that judgment is entered, i.e., April 19, 2013; and post-judgment interest on the award of \$410,998.45 at the rate of 0.12 per cent per year pursuant to 28 U.S.C. § 1961; and

the Court further

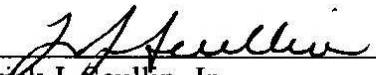
ORDERS that the Clerk of the Court shall tax costs against Defendant in the amount of **\$435.00**, which shall be added to the judgment; and the Court further

ORDERS that the Clerk of the Court shall serve a copy of this Order and the Judgment on Defendant by regular mail at the following address:

Jason LaPierre
11-A-3150
Mid-State Correctional Facility
Marcy, New York 13403

IT IS SO ORDERED.

Dated: April 19, 2013
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge