

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOSHUA HALL, **3:14-CV-00006-AC**

Plaintiff, **ORDER**

v.

**COLUMBIA COLLECTION SERVICE,
INC., and DAVID SCHUMACHER,**

Defendants.

BROWN, Judge.

Magistrate Judge John V. Acosta issued Findings and Recommendation (F&R) (#33) on July 14, 2014, in which he recommends the Court grant Plaintiff Joshua Hall's Motion (#25) for Sanctions Against Defendant Columbia Collection Service, Inc.,¹ and enter Plaintiff's proposed judgment as to Defendant Columbia Collection Service, Inc., which is attached to the June 23, 2014, Declaration (#24) of Michael Fuller. Defendant

¹ On May 30, 2014, Magistrate Judge Acosta entered a Stipulated Partial Judgment (#20) dismissing Plaintiff's claims against Defendant David Schumacher with prejudice without fees or costs to any party.

Columbia Collection Service, Inc., filed timely Objections (#35) to the F&R. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's F&R, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*).

I. Sanctions

The Magistrate Judge recommends granting Plaintiff's Motion for Sanctions and awarding to Plaintiff attorneys' fees of \$1,267.50 incurred in compelling Defendant to perform under the terms of the Offer of Judgment and Rule 68 for the period between the time the parties agreed to the settlement amount on June 3, 2014, and the date that Defendant paid those amounts on June 11, 2014. Defendant objects to the Magistrate Judge's recommendation that this Court impose sanctions. In its Objections, however, Defendant merely reiterates the arguments in its Response (#27) in Opposition to Motion for Imposition of Sanctions.

This Court has carefully considered Defendant's Objections to the Magistrate Judge's recommendation that this Court impose

sanctions against Defendant and concludes Defendant's Objections do not provide a basis to modify the F&R.

II. Proposed Judgment

The Magistrate Judge recommends this Court enter Plaintiff's proposed judgment. Defendant objects to the Magistrate Judge's recommendation.

After Plaintiff accepted Defendant's Offer of Judgment on April 17, 2014, Plaintiff submitted a proposed judgment that stated Plaintiff dismisses the action with prejudice and provided in part: "Columbia Collection Service, Inc. shall pay Joshua Hall \$2,500 compensatory damages and \$8,355.45 attorney fees and costs." Defendant, however, objected to Plaintiff's April 17, 2014, proposed judgment. At the request of the parties and to resolve the issue of the proper form of judgment, the Magistrate Judge set a telephone status conference for June 13, 2014. On June 11, 2014, Defendant complied with the accepted Offer of Judgment and paid to Plaintiff \$2,500 compensatory damages and \$8,355.45 attorneys' fees and costs. At the status conference on June 13, 2014, the Magistrate Judge directed the parties to file simultaneous briefs as to the appropriate form of judgment. In its Brief (#23) in Opposition to Entry of a Money Judgment, Defendant argued the Court did not have the authority to enter a money judgment and instead must

enter only a judgment dismissing the case because Defendant's satisfaction of the Offer of Judgment eliminated any case or controversy before the Court and mooted any dispute between the parties. Plaintiff, in turn, submitted a revised proposed judgment that dismisses this action with prejudice and provides: "Columbia Collection Service, Inc. *has satisfied* its obligation pursuant to the offer of judgment in full by tendering payment to [Plaintiff] Joshua Hall of \$2,500 compensatory damages and \$8,355.45 attorneys' fees and costs." Decl. Michael Fuller, Ex. C (Pl.'s Proposed J.) at 2 (emphasis added).

Defendant contends in its Objections that the Offer of Judgment (#15) rather than the Complaint is now the operative document in this case; that this action became moot on June 11, 2014, when Defendant satisfied the Offer of Judgment in its entirety; that the Court does not have the authority to enter a money judgment against Defendant; and that the Court must, therefore, enter only a judgment of dismissal. Although Defendant objects to the general form of judgment proposed by Plaintiff and recommended by the Magistrate Judge, Defendant does not elaborate on the underlying reasons for its Objections nor provide any new authorities that support its Objections.

In the F&R the Magistrate Judge finds all of Plaintiff's claims were not mooted when Defendant tendered the amounts agreed

to in the Offer of Judgment because those amounts did not satisfy all remedies sought by Plaintiff in his Complaint. *See Knox v. Serv. Emps. Int'l Union*, 132 S.Ct. 2277, 2287 (2012) ("A case becomes moot only when it is impossible for a court to grant any effectual relief whatever to the prevailing party."). The Magistrate Judge, therefore, recommends this Court enter Plaintiff's revised proposed judgment.

In any event, in his proposed judgment Plaintiff dismisses "this action . . . with prejudice as to Defendant Columbia Collection Service, Inc." Pl.'s Proposed J. at 2. On this record, therefore, the Court adopts the Magistrate Judge's recommendation that Plaintiff's proposed form of judgment should enter.

This Court has carefully considered Defendant's remaining Objections and concludes they do not provide a basis to modify the F&R. This Court has also reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's F&R.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Acosta's Findings and Recommendation (#33), **GRANTS** Plaintiff's Motion (#25) for Sanctions and **AWARDS** to Plaintiff attorneys' fees in the amount

of \$1,267.50, **ENTERS** the Judgment proposed by Plaintiff, and
DISMISSES this action **with prejudice**.

IT IS SO ORDERED.

DATED this 29th day of September, 2014.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge