Mahn, Michelle v. Nationwide Debt Management Solutions, LLC Doc. 14

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHELLE MAHN,

Plaintiff,

v.

NATIONWIDE DEBT MANAGEMENT SOLUTIONS, LLC,

Defendant.

OPINION AND ORDER

13-cv-468-wmc

A hearing on plaintiff's motion for default judgment Dkt. #9) was held today; plaintiff appeared by local counsel Robert Ruth; defendant failed to appear.

Plaintiff Michelle Mahn alleges that defendant Nationwide Debt Management Solutions LLC violated provisions of the Fair Debt Collection Act ("FDCA"), 15 U.S.C. § 1692 *et seq.* (Compl. (dkt. #1).) Specifically, Mahn alleges that Nationwide contacted her repeatedly by telephone with the intent to annoy and harass, threatened to file a lawsuit against her, contacted her employer about the debt, and contacted Mahn at her place of employment after she had asked that defendant not do so, all in violation of the FDCA. (*Id.* at ¶¶ 15-20.) Nationwide was served on August 29, 2013, with an answer due on September 19, 2013. (Dkt. #5.) Nationwide failed to answer or otherwise appear. Default was entered on November 8, 2013. (Dkt. #7.)

In her motion for default judgment, Mahn seeks (1) actual damages pursuant to 15 U.S.C. § 1692k(a)(1); (2) statutory damages in the amount of $1,000 pursuant to § 1692k(a)(2)(A); and (3) reasonable attorney's fees pursuant to § 1692k(a)(3). Unfortunately, Mahn fails to provide *any* support for actual damages -- she does not submit an affidavit, or even request a specific amount. *In re Catt*, 368 F.3d 789, 793

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(7th Cir. 2004) ("Even when a default judgment is warranted based on a party's failure to defend, the allegations in the complaint with respect to the amount of the damages are not deemed true. The district court must instead conduct an inquiry in order to ascertain the amount of damages with reasonable certainty." (internal citation and quotation marks omitted)).

Similarly, Mahn's attorney has provided no specific request for attorney's fees, much less provide any support for such a request. Based on plaintiff's wafer-thin submission, the court can do no more than award statutory damages in the amount of $1,000, but in light of Mr. Ruth's request this morning during the hearing for an opportunity to submit a fee request, plaintiff's counsel may have seven (7) days to do so.

Accordingly,

ORDER

IT IS ORDERED that:

1) plaintiff Michelle Mahn's motion for default judgment is GRANTED as to her request for statutory damages and denied in all other respects;

2) the clerk of court is directed to enter a default judgment in the total amount of $1,000.00 against defendant Nationwide Debt Management Solutions LLC; and

3) Counsel for plaintiff may have until December 18, 2013, to file a motion for reasonable fees and defendant may have until December 30, 2013, to object. Absent objection or question concerning the amount requested, the court will proceed to rule on the motion without further hearing.

Entered this 11th day of December, 2013.

BY THE COURT:
/s/

WILLIAM M. CONLEY
District Judge