

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

FIRSTMERIT BANK N.A.,

Plaintiff,

v.

DOUGLAS WEINKAUF, DIXIE WEINKAUF,
RANDY RIEHLE and KRISTINE RIEHLE,

Defendants.

ORDER

13-cv-626-slc

In an order entered on April 14, 2014, this court found that plaintiff FirstMerit Bank, N.A. was entitled to judgment as a matter of law on its claims that defendants Douglas and Dixie Weinkauf and Randy and Kristine Riehle breached the guaranties they made with respect to the debt of Wisconsin Rapids Grain, LLC (WRG). Dkt. 29. In that order, I also required FirstMerit to submit a final accounting of the principal, interest and late fees due under the note, taking into account any payments it has received from WRG's liquidated assets.

On April 15, 2014, the Weinkaufs notified the court that on February 21, 2014, they had filed a Chapter 7 bankruptcy petition in the U.S. Bankruptcy Court for the Western District of Wisconsin, Case No. 1-14-10645-cjf, which triggered an automatic stay on creditors' further collection activities. *See* dkts. 30 and 33. Because the summary judgment order was entered after the stay took effect, the Weinkaufs correctly note that the order should be vacated as to the judgment against them. Although FirstMerit's response to the Weinkauf's notice is not due until May 5, 2014, it does not appear to oppose this request because it now seeks judgment solely against the Riehles. *See* dkt. 31.

With respect to the Riehles, FirstMerit submits that as of April 21, 2014, the amount due under the note was \$3,697,405.50 in principal, \$202,881.38 in interest and \$9,109.22 in late

charges, resulting in a total of \$3,909,396.10. For each day after April 21, 2014, interest accrues at a rate of \$616.23 per day, resulting in a total of \$6,162.30 as of the date of this order (May 1, 2014). In addition, FirstMerit is entitled to recover its costs of collection, including reasonable attorneys' fees and costs under the guaranty. As of April 14, 2014, FirstMerit avers that it has incurred attorneys' fees totaling \$128,190.50 and costs totaling \$51,784.06. As a result, I find that FirstMerit is entitled to a total award of \$4,095,532.96 against the Riehles.

Accordingly, IT IS ORDERED that:

- (1) The court's April 14, 2014 order granting plaintiff FirstMerit bank, N.A. summary judgment is VACATED with respect to the claims against defendants Douglas and Dixie Weinkauf. The order remains in place in all other respects.
- (2) The clerk of court is directed to enter judgment for plaintiff in the amount of \$4,095,532.96 against defendants Randy and Kristine Riehle and close this case.

Entered this 1st day of May, 2014.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge