

to file a responsive answer, he is in default, and an entry of default may be made by either the clerk or the judge). Then, if no hearing is needed to ascertain damages, judgment by default may be entered. Rule 55(b). United Coin Meter Co., Inc. v. Seaboard Coastline RR., 705 F.2d 839, 844 (6th Cir. 1983) (citing Meehan v. Snow, 652 F.2d 274 (2nd Cir. 1981).

When a court determines that a defendant is in default, the factual allegations of the Complaint, except those relating to the amount of damages, will be taken as true. Geddes v. United Financial Group, 559 F.2d 557, 560 (9th Cir. 1977); Fed. R. Civ. P. 8(d); Wright, Miller & Kane, *Federal Practice and Procedure: Civil 2d* 2688. Therefore, after receiving a default, plaintiff must still establish the extent of damages to which he is entitled. Kelley v. Carr, 567 F. Supp. 831, 841 (W.D. Mich.1983). However, if the damages sought by the plaintiff are a sum certain or a sum that can be made certain by computation, judgment will generally be entered for that amount without an evidentiary hearing. Wright, Miller & Kane, *Federal Practice and Procedure: Civil 2d* 2688.

Here, the Magistrate Judge recommends that the Plaintiff's Motion for Default Judgment be GRANTED. As to the issue of damages, Plaintiff in this case seeks the Twenty-Six Thousand Three Hundred Forty-Seven Dollars and Thirty-Five Cents (\$26,347.35) owed the Plaintiff. The damages sought here are of a sum certain, as they are an amount contractually agreed to by the parties, and thus, the Magistrate recommends that the Plaintiff be awarded Twenty-Six Thousand Three Hundred Forty-Seven Dollars and Thirty-Five Cents (\$26,347.35).

Additionally, the Magistrate Judge recommends that Plaintiffs' attorney's fees of One Thousand Eight Hundred Sixty Dollars and Fifty Cents (\$1,860.50) be awarded

along with court costs of \$350, pre-judgment interest of \$203.30, and post-judgment interest. Plaintiffs have provided their attorney's Affidavit attesting to the expenses incurred. The Magistrate Judge finds the fees and costs sought to be fair and reasonable.

Furthermore, it is ORDERED that the Clerk shall serve this Report and Recommendation upon the Defendant, Marcus Meekins, at the address listed on his Summons [D.E. 4].

Respectfully submitted,

s/Edward G. Bryant
EDWARD G. BRYANT
UNITED STATES MAGISTRATE JUDGE

Date: **September 29, 2010**

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.