

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

BYRON ORIGINALS, INC.,

Plaintiff,

v.

Civil Action No. 5:05CV82
(STAMP)

IRON BAY MODEL CO.,
JOHN E. CRAIG and
CHRISTINA L. CRAIG,

Defendants.

DEFAULT JUDGMENT ORDER

On November 8, 2005, the clerk entered a default against defendants, Iron Bay Model Co., John E. Craig and Christina L. Craig, pursuant to Federal Rule of Civil Procedure 55(a). On November 16, 2005, the plaintiff, Byron Originals, Inc., appeared before this Court for a hearing on its motion for default judgment. Based upon the evidence presented at the hearing, this Court granted the plaintiff's motion for default judgment in the amount of \$184,521.91. This sum was calculated based upon the contract between the parties in the above-styled civil action. As counsel for the plaintiff explained, the plaintiff was due \$262,709.16 under the contract between the parties. The defendant paid a total of \$78,187.25 toward that contract. Accordingly, the plaintiff is entitled to \$184,521.91, which includes principal and pre-judgment interest due under the terms of the contract.¹

¹The plaintiff attached the contract between the parties to its complaint in this action. The contract sets forth interest due over the life of the contract.

Plaintiff also claims it is entitled to costs and legal fees associated with the above-styled action. However, the plaintiff was unable to demonstrate grounds for such award either through the contract at issue, by statute, or pursuant to case law. Accordingly, this Court found at the hearing that the plaintiff's attorney's request for attorney's fees and expenses must be denied.

Plaintiff is also entitled to post-judgment interest pursuant to 28 U.S.C. § 1961 which provides that the federal rate of post-judgment interest should apply to any money judgment obtained in civil cases recovered in district court, including federal diversity actions. See Forest Sales Corp. v. Bedingfield, 881 F.2d 111, 113 (4th Cir. 1989). Therefore, this Court finds that the plaintiff is entitled to post-judgment at the federal rate of 4.35% per annum.

Accordingly, it is ORDERED that default judgment be entered against the defendants in the amount of \$184,521.91. It is further ORDERED that plaintiff is entitled to post-judgment interest at the legal rate of 4.35% per annum from the date of this judgment until the date that the judgment is paid in accordance with 28 U.S.C. § 1961. Finally, it is ORDERED that the plaintiff's request for attorney's fees and expenses is DENIED.

This civil action is hereby DISMISSED WITH PREJUDICE and STRICKEN from the active docket of this Court.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to counsel of record herein. Pursuant to Federal Rule of Civil Procedure 58, the Clerk is DIRECTED to enter judgment on this matter.

DATED: November 18, 2005

/s/ Frederick P. Stamp, Jr. _____
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE