UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MILA EVANAUSKAS,	:	
Plaintiff	:	CIVIL ACTION NO.
v.	:	3-00-CV-1106 (JCH)
	:	
LINDA STRUMPF and	:	
HAL SIEGEL,	:	
Defendants.	:	JUNE 27, 2001

RULING ON PLAINTIFF'S MOTION FOR JUDGMENT BY DEFAULT [DKT. NO. 22-1]

This is an action for damages and equitable relief brought pursuant to the Fair Debt Collection Practices Act ("FDCPA"), the Connecticut Creditor Collection Practices Act ("CCPA"), the Consumer Collection Agency Act ("CCAA"), and the Connecticut Unfair Trade Practices Act ("CUTPA"). The plaintiff, Mila Evanauskas ("Evanauskas"), alleges that the defendants, Linda Strumpf ("Strumpf") and Hal Siegel ("Siegel"), violated the above statutes in connection with collection efforts made with regard to the plaintiff's personal debt to American Express Travel Related Services Co., Inc. On January 11, 2001, the court entered a default against the defendants who had failed to file a timely answer. Pending before the court is the plaintiff's motion for judgment by default [Dkt. No. 22-1]. On April 25, 2001, the court held a hearing on damages and requested that both parties submit post-trial

briefs.[1] Based on the complaint, the hearing, and the briefs submitted by both parties, the court grants the motion for judgment by default and awards the plaintiff $750 from each defendant in statutory damages and $7562.50 for reasonable and necessary attorney's fees.

I. FACTUAL BACKGROUND

On August 11, 1999, judgment entered against the plaintiff in Superior Court of the State of Connecticut. The judgment confirmed that the plaintiff owed American Express Travel Related Services Company, Inc. ("American Express Travel") a total of $9,043.20 for credit card debt and ordered the plaintiff to make weekly payments of $25.00 starting September 17, 1999. Defendant Strumpf is an attorney who represented American Express Travel in the Superior Court action. Defendant Siegel is Strumpf's husband and administrator of her office.

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[1] During the hearing on damages, the plaintiff made a motion to strike Defs.' Mem. of Law submitted at the hearing because it contained exhibits that included settlement negotiations. The court reserved judgment and now denies the motion. While evidence of settlement offers is inadmissible under Rule 408 of the Federal Rules of Evidence, the court does not find the entire memorandum to be inadmissible. Exhibit A to the memorandum is a letter from the plaintiff's attorney, notifying the defendants of alleged FDCPA violations. It is not for settlement but for notice of the claim. Similarly, the documents in Exhibit B are letters regarding whether the defendants changed their practice and are not settlement documents. To the extent any reference is made to settlement, the court does not rely on such information. Finally, Exhibit C is an offer for settlement, which is inadmissible under Rule 408, and thus the court will not consider it as evidence. The motion to strike is therefore DENIED and the Clerk is directed to docket the defendants' Memorandum of Law.

On October 28, 1999, the defendants sent a letter to the plaintiff. The letter stated:

> This is to inform you that a judgment has been entered against you and in favor of American Express Travel Related Services Company, Inc. in the sum of $9043.20 plus interest from 08/11/99. The judgment entitles us to liquidate your assets (i.e., your car, bank accounts, stocks, etc.) and garnishee your wages. Please contact us immediately to arrange payment/payment plan. This is an attempt to collect this debt and any information will be used for that purpose.

Ex. 2. The letter was from Strumpf, but indicated it had been written by Siegel. Id. The letter was addressed to the plaintiff but was sent to her mother's address. The subject line of the letter included the name of the plaintiff's mother's. Ex. 2.

II. DISCUSSION

A. Entry of Default Judgment

The plaintiff moves for a judgment by default against each defendant pursuant to Rule 55(b) of the Federal Rules of Civil Procedure. Fed. R. Civ. P. 55(b). Once a court concludes that a defendant is in default, the well-pleaded factual allegations against that defendant are taken as true except as to the amount of damages claimed. Au Bon Pain Corp. v. Artect, Inc., 653 F.2d 61, 65 (2d Cir.1981) (citations omitted). However, liability is not necessarily established merely because of the default, as a defendant cannot be said to "admit" conclusions of law through default.

Van Limburg Stirum v. Whalen, 1993 WL 241464, at *4 (N.D.N.Y. Jun. 29, 1993) (citing 10 C. Wright, A. Miller, & M. Kane, Federal Practice and Procedure § 2688, at 445, 447). "[A] default is not treated as an absolute confession by the defendant of his liability and of the plaintiff's right to recover." Nishimatsu Construction Co. v. Houston Nat'l Bank, 515 F.2d 1200, 1206 (5th Cir.1975). Therefore, before judgment can be entered, the court must determine whether plaintiff's factual allegations are sufficient to state a claim for relief on each of the causes of action for which the plaintiff seeks judgment by default. See Au Bon Pain, 653 F.2d at 65. The court may grant only the relief for which a sufficient basis is asserted in the complaint. 10 James Wm. Moore et al., Moore's Federal Practice § 55.12[1] (3d ed. 2001) (citing Thomson v. Wooster, 114 U.S. 104 (1855)).

The cause of action for which the plaintiff seeks judgment by default consists of two counts. The first count alleges that the defendants' collection efforts violated the FDCPA. The second count alleges that the defendants engaged in acts and practices in violation of the CCPA and the CCAA, and such violations constitute unfair or deceptive acts or practices under CUTPA.[2] The court finds that the

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[2] The CCAA and CCPA prohibit unfair and deceptive collection tactics and provide for enforcement by the commissioner, but do not themselves provide a private cause of action. See Conn. Gen. Stat. §§ 36a-645 - 36a-647; 36a-800 - 36a-810.

complaint does not provide a sufficient basis for relief under CUTPA and thus judgment by default will not enter on the second count of the complaint. Under CUTPA:

> Any person who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment of a method, act or practice prohibited by section 42-110b, may bring an action in the judicial district in which the plaintiff or defendant resides or has his principal place of business or is doing business, to recover actual damages. Proof of public interest or public injury shall not be required in any action brought under this section. The court may, in its discretion, award punitive damages and may provide such equitable relief as it deems necessary or proper.

Conn. Gen. Stat. § 42-110g(a). Any claim arising under the act must involve "the conduct of any trade or commerce." Conn. Gen. Stat. § 42- 110b(a). Neither the complaint nor any evidence before the court demonstrates that the plaintiff's claims against the defendants involve the conduct of any trade or commerce. CUTPA does not provide a cause of action for a party to a lawsuit to sue its adversary's attorney. Jackson v. Whipple, Inc., 225 Conn. 705, 727 (1993); Field v. Kearns, 43 Conn. App. 265, 279 (Conn. App. Ct. 1996) ("attorneys cannot be liable to the clients' adversaries for alleged unfair trade practices occurring in the course of the attorney's representation"). Defendant Strumpf and, on her behalf, defendant Siegel communicated with the plaintiff as the legal representative for American Express

Travel Related Services, seeking to enforce a judgment it obtained. While CUTPA has been held to apply to the commercial aspects of the legal profession, the defendants' actions here were not commercial practices. Jackson, 225 Conn. at 727 n. 15. The post-judgment letter was sent to the plaintiff from the defendants in their capacity as legal representative for American Express Travel Related Services. Even though the defendants were acting as debt collectors in their communication with the plaintiff, they were doing so as part of the legal representation of the client and, thus, their actions were legal, rather than commercial, in nature.[3] Based on what is before the court, the court does not find that the relationship between the parties involved the conduct of any trade or commerce and, therefore, CUTPA cannot a basis for damages in this default judgment. See American Centennial Ins. Co. v. Seguros La Republica, S.A., 1996 WL 304436, at *18 (S.D.N.Y. Jun. 5, 1996) (citing Nishimatsu Construction Co. v. Houston Nat'l Bank, 515 F.2d 1200, 1206 (5th Cir.1975) ("a defendant's default does not in itself warrant a court in entering a default judgment. There must be a sufficient basis in the pleadings for

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[3] Defendant Siegel is not an attorney. However, he was acting on behalf of Attorney Strumpf when he drafted the letter for her signature and thus was agent for her in carrying out her legal practice. Because both defendants' conduct occurred in the course of Attorney Strumpf's representation, the court views the liability of the two defendants as the same and finds that Siegel falls withing the scope of the CUTPA exclusion identified in Jackson, 225 Conn. at 727.

the judgment entered.")).[4]

The complaint does, however, provide a sufficient basis on which to enter judgment on the FDCPA claim. The FDCPA provides that "[a] debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt." 15 U.S.C. § 1692e. The complaint specifically alleges that the defendants were debt collectors within the meaning of the FDCPA and communicated with the plaintiff in connection with collection efforts. Because the court finds the defendants in default, such allegations are taken as true and form the basis for a default judgment.

The complaint specifically states that "each defendant violated the FDCPA, inter alia, sections 1692c, -d, -e, or -f." Complaint (Dkt. No. 1) at 1 ¶ 7.

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[4] The court also notes that the plaintiff's complaint does not sufficiently allege that she suffered "any ascertainable loss of money or property, real or personal," due to an unfair or deceptive practice. S 42-110g(a). "While the ascertainable loss is not necessarily equivalent to a precise figure of actual damages, this requirement 'is a threshold barrier which limits the class of persons who may bring a CUTPA action.'" Madonna v. Academy Collection Service, Inc., 1997 WL 530101, at * 10 (quoting Hinchliffe v. American Motors Corp., 184 Conn. 607, 615 (1981)). Under CUTPA, the plaintiff need not allege or prove the amount of the loss. Id. However, ascertainable loss is loss that is "capable of being discovered, observed or established." Hinchliffe, 184 Conn. at 613. The plaintiff's complaint makes no allegation as to an ascertainable loss suffered as a result of alleged CUTPA violations. Thus, lack of "ascertainable loss" is another basis upon which to deny judgment on the plaintiff's CUTPA claim.

Section 1692c provides:

> Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt . . .
> . . . if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer . . .

Id. § 1692c. Section 1692d prohibits a debt collector from engaging "in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt." Id. § 1692d. Section 1692e prohibits a debt collector from using:

> any false, deceptive, or misleading representation or means in connection with the collection of any debt . . . [including] . . . [t]he false representation of— . . . the character, amount, or legal status of any debt; or . . . any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt[;] . . . the representation or implication that nonpayment of any debt will result in the . . . seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action[; and] . . . [t]he threat to take any action that cannot legally be taken or that is not intended to be taken.

Id. § 1692e. Finally, section 1692f provides:

> [a] debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt[, including] . . . [t]aking or threatening to take any nonjudicial action to effect dispossession or disablement of property if . . .

> there is no present right to possession of the property claimed as collateral through an enforceable security interest; . . . there is no present intention to take possession of the property; or . . . the property is exempt by law from such dispossession or disablement. . . .

Id. § 1692f. Thus, the plaintiff's complaint presents allegations that the communications from the defendants on or after June 14, 1999 violated the above provisions. The only such communication in evidence is the October 28, 1999 letter.[5] Therefore, violations of the above provisions made in the letter serve as the basis for any damages to be awarded.

Based on the evidence before the court, the court finds that the defendants defaulted as to several violations of the FDCPA in the October 28, 1999 letter. First, it violated 15 U.S.C. § 1592c(a)(2) because the defendants communicated directly with the plaintiff even though they were aware she was represented by

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[5] During the hearing on damages, the plaintiff referred to fifteen violations and suggested that other actions, such as additional communications sent to the plaintiff at her mother's address, violated the FDCPA. However, the October 28, 1999 letter is the only communication of which the court has evidence of FDCPA violations. Further, other potential violations are outside the FDCPA's one-year statute of limitations. 15 U.S.C. § 1692k(d) ("An action to enforce any liability created by this subchapter may be brought in any appropriate United States district court . . . within one year from the date on which the violation occurs."). At the hearing in damages, the plaintiff alleged that the complaint filed in the state action against the plaintiff for judgment on the debt contained violations of the FDCPA. The state action was served on the plaintiff on November 22, 1998 and was filed in Connecticut Superior Court on December 15, 1998. Any violation thus occurred, at the latest, on December 15, 1998 and the statute of limitations expired, at the latest, on December 15, 1999. The present action was not filed until June 14, 2000, well beyond the one-year statute of limitations.

counsel. Second, the letter violated 15 U.S.C. §§ 1592e and 1592f because the lettered threatened repossession of assets when the defendants may not have been able to repossess certain assets either because of exemptions or because the plaintiff did not actually own such assets. Third, the letter violated 15 U.S.C. §§ 1592d and 1592f by including the mother's name in the subject line of the letter when the mother was not liable for any part of the plaintiff's debt.

B. Damages

In her complaint, the plaintiff seeks "such damages as are permitted by law, both compensatory and punitive, including $1,000 statutory damages for each communication, against each defendant; . . . costs of suit and a reasonable attorney's fee; . . . and declaratory and injunctive relief . . .." Complaint (Dkt. No. 1) at 2. Because the amount of damages is not readily ascertainable from the complaint, the court must make a determination as to the amount of the judgment. 10 James Wm. Moore et al., Moore's Federal Practice § 55.22[1] (3d ed. 2001).

Section 1692k(a) of the FDCPA provides that:

> . . . [e]xcept as otherwise provided by this section, any debt collector who fails to comply with any provision of this subchapter with respect to any person is liable to such person in an amount equal to the sum of—
> (1) any actual damage sustained by such person as a result of such failure;
> (2) (A) . . . such additional damages as the court may allow, but not exceeding $1,000; . . . and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

15 U.S.C. § 1692k(a). "In determining the amount of liability in any [FDCPA] action, . . . the court shall consider, among other relevant factors, . . . the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which such noncompliance was intentional." Id. § 1692k(b).

1. Actual Damages

The plaintiff seeks actual damages in the amount of fees incurred in opening the state court judgment following the October 28, 1999 letter from the defendants and seeks damages for emotional distress. During the April 25, 2001 hearing, the plaintiff submitted an invoice detailing the fees she incurred from her attorney in opening the state court judgment. Ex. 3. The fees total $1,201.99.

The court finds that the plaintiff failed to prove that the fees incurred were caused by the violations of the FDCPA. The plaintiff did not demonstrate that the defendants' improper actions caused her to open the state court judgment. She could have decided to open the judgment even if the defendants' letter had been in compliance with the FDCPA and therefore incurred the same fees. The plaintiff

bears the burden of establishing actual damages incurred as a result of the violation and has failed to do so. See Pipiles v. Credit Bureau of Lockport, 886 F.2d 22, 28 (2d Cir. 1989); Madonna, 1997 WL 530101, at *12. Therefore, the court does not award as damages the fees incurred in opening the state court judgment.

The plaintiff does not specify or estimate an amount of damages sought for emotional distress. She alleges that she suffered emotional distress because, based on the letter that included her mother's name and was sent to her mother's address, the plaintiff feared her mother's assets were at risk. The plaintiff testified that she was distracted because of the stress and thought her work performance was affected by it, but she did not miss any work and did not see a doctor. Although "an award of damages for emotional distress may be valid 'even though it is not substantially based on incurred medical expenses,'" Giordano v. Giordano, 39 Conn. App. 183, 207 (Conn. App. Ct. 1995) (quoting Berry v. Loiseau, 223 Conn. 786, 811 (1992) (internal quotation omitted)), and a plaintiff need only establish a claim for mental or emotional distress by a fair preponderance of the evidence, Buckley v. Lovallo, 2 Conn. App. 579, 589 (Conn. App. Ct. 1984), the court does not find that the plaintiff proved by a preponderance of the evidence that she is entitled to an award of money damages for emotional distress. Specifically, the court is not persuaded

that any emotional distress the plaintiff suffered was a result of the defendants' actions as opposed to a result of the stress of having a judgment issued against her for the debt she owed. Therefore, the court does not award any compensatory damages for emotional distress.

2. Statutory Damages

Section 1692k(a)(2)(A) provides that a person violating the FDCPA is liable for, "in the case of any action by an individual, such additional damages as the court may allow, but not exceeding $1,000." 15 U.S.C. § 1692k(a)(2)(A) (emphasis added). Statutory damages are thus limited to $1,000 per action, not per violation. See Wright v. Finance Service of Norwalk, Inc., 22 F.3d 647, 650-51 (6th Cir. 1994); Harper v. Better Business Services, Inc., 961 F.2d 1561, 1563 (11th Cir. 1992); Donahue v. NFS, Inc., 781 F. Supp. 188, 191 (W.D.N.Y. 1991).

Under the FDCPA, the award of statutory damages does not require the proof of actual damages. Cacace v. Lucas, 775 F. Supp. 502, 506-07 (D. Conn. 1990). As stated above, in determining the amount of the award, "the court shall consider, among other relevant factors . . . the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which such noncompliance was intentional." 15 U.S.C. § 1692k(b).

Despite the plaintiff's argument that the letter sent to the plaintiff was used in other cases, there is no evidence of how many times or for how long the post-judgment letter was used. The record indicates that the defendant sent one letter to this plaintiff. The letter was, at a minimum, misleading and uninformed. Neither of the defendants recalled having actual knowledge of the plaintiff's assets at the time the letter was sent and they provided no explanation for why the plaintiff's mother's name was included on the letter when her mother was not a co-signor to the agreement with American Express Travel Related Services Company or otherwise responsible for the debt. However, although the plaintiff argues that the violations were intentional, there is insufficient evidence for the court to conclude that the violations were intentional or designed to deceive the plaintiff. Therefore, based on the facts of this case, the court awards a total of $750 statutory damages for which the defendants are joint and severally liable.[6]

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[6] The plaintiff argues that the court should award separate statutory damages against each defendant. However, the cases cited by the plaintiff to support this argument are cases in which the court awarded multiple plaintiffs statutory damages rather than cases in which the court awarded a single plaintiff separate statutory damage awards from multiple defendants for the same violation. As discussed above, statutory damages are limited to $1,000 per action. 15 U.S.C. § 1692k(a)(2)(A). In this case, the plaintiff brought one action against two defendants who were responsible for the same violations. The court therefore finds the defendants jointly and severally liable for the violations.

3. Equitable Relief

The plaintiff relies on CUTPA as a basis for equitable relief. Pl.'s Hearing in Damages Mem. [Dkt. No. 25] at 15. Because the court finds that CUTPA is not a basis for the default judgment in this case, the question of equitable relief is moot.[7] Even if equitable relief were available under the FDCPA, Strumpf testified during the hearing on damages that the defendants no longer send debtors a post-judgment letter like the one sent to the plaintiff. Therefore, the letter that was the basis of the plaintiff's complaint is no longer in use and the court thus finds no basis for equitable relief.

4. Attorney's Fees

Because the FDCPA provides that, in the case of any successful action to enforce the foregoing liability, the plaintiff is entitled to the costs of the action, together with a reasonable attorney's fee, the plaintiff in this case is entitled to attorney's fees and costs. 15 U.S.C. § 1692k(a)(3). "In determining reasonable attorneys fees the court must calculate a 'lodestar' figure based upon 'the hours reasonably spent by counsel . . . multiplied by the reasonable hourly rate.'" Cruz v. Local Union No. 3, 34 F.3d 1148, 1159 (2d Cir. 1994) (citation omitted).

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[7] Punitive damages are similarly unavailable based on the court's CUTPA finding.

“Calculation of this basis, generally referred to as the ‘lodestar,’ . . . requires the court to determine the number of hours reasonably spent on the litigation and to exclude hours that ‘[we]re excessive, redundant, or otherwise unnecessary’ due to, for example, ‘overstaff[ing]’ . . ..” Orchano v. Advanced Recovery, Inc., 107 F.3d 94, 98 (2d Cir. 1997) (citations omitted). The “court is not required to ‘set forth item-by-item findings concerning what may be countless objections to individual billing items.’ . . . However, ‘[t]he task of determining a fair fee requires a conscientious and detailed inquiry into the validity of the representations that a certain number of hours were usefully and reasonably expended.’” Haley v. Pataki, 106 F.3d 478, 484 (2d Cir. 1997) (citations omitted).

“The ‘lodestar’ figure should be ‘in line with those [rates] prevailing in the community for similar services of lawyers of reasonably comparable skill, experience, and reputation.’” Cruz, 34 F.3d at 1159 (quoting Blum v. Stenson, 465 U.S. 886, 896 n. 11 (1984), and citing Hensley v. Eckerhart, 461 U.S. 424, 433 (1982)). The Second Circuit has held that “the ‘prevailing community’ the district court should consider to determine the ‘lodestar’ figure is ‘the district in which the court sits,’ unless there has been a showing that ‘special expertise of counsel from a . . . [different] district [was] required.’” Id. (citing Polk v. N.Y. State Dep’t of Corr.

Servs., 722 F.2d 23, 25 (2d Cir. 1983)).

"After calculating the lodestar, the district court may consider other factors 'that may lead [it] to adjust the fee upward or downward, including the important factor of the 'results obtained'' . . .., as well as the 12 Hensley factors . . .."[8] Orchano, 107 F.3d at 98 (citation omitted). "Although one of the Hensley factors is the amount involved in the suit, this does not mean that the fees awarded may not permissibly exceed the amount recovered. The reduction of a requested fee merely because the damages recovery was small is 'error unless the size of the award is the result of the quality of representation,' for 'tying that award to the amount of damages would subvert the statute's goal of opening the court to all who have meritorious civil rights claims.'" Id. (citation omitted). "'A presumptively correct 'lodestar' figure should not be reduced simply because a plaintiff recovered a low

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[8] The twelve "Hensley factors" are:

> (1) the time and labor required; (2) the novelty and difficulty of the question; (3) the skill requisite to perform the legal service properly; (4) the preclusion of employment by the attorney due to the acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the "undesirability" of the case; 11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.

Orchano v. Advanced Recovery, Inc., 107 F.3d 94, 97 (2d Cir. 1997) (citation omitted).

damage award,' . . . and a reasonable fee may well exceed the prevailing plaintiff's recovery . . ..." Id. (citations omitted).

Here, the plaintiff has requested total attorneys' fees in the amount of $9,487.50, and costs in the amount of $303.20. The requested fees figure is based on 34.50 hours at an hourly rate of $275 for plaintiff's counsel, Joanne Faulkner ("Faulkner").[9] The defendants object to the hourly rate, the time spent on litigation, and the costs claimed.

Faulkner bases her hourly rate on her extensive experience and expertise in consumer matters. Fee Affidavit (Dkt. No. 30) ¶¶ 4-7. Faulkner has previously received the same or a comparable rate in similar cases. Id. ¶ 10. The court finds her $275 hourly rate to be reasonable based on these prior cases and this court's knowledge of hourly rates in Connecticut.

The court finds, however, that some of the hours spent "[we]re excessive, redundant, or otherwise unnecessary." Orchano, 107 F.3d at 98 (citations omitted). First, the court finds that the hours spent on the post-trial brief were excessive. Faulkner claims to have spent a total of 5.5 hours preparing the post-trial brief on

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[9] The plaintiff claims 33.5 hours in her Fee Affidavit [Dkt. No. 30] but asks the court to add one hour for time spent on the reply to defendants' opposition to the application for attorney's fees. Pl.'s Reply in Support of Fee App. (Dkt. No. 33) at 1.

damages after the hearing on damages. Fee Affidavit (Dkt. No. 30). However, much of the law presented in the plaintiff's brief was boilerplate law with which someone with Faulkner's expertise would have been quite familiar. In addition, during oral argument, Faulkner represented that she had intended to bring case law to the hearing but had been unable to because of a computer malfunction, suggesting that she had completed at least some research relevant to the brief prior to the hearing. The court therefore subtracts 2 hours from the time spent on the post-trial brief, reducing the hours spent on the brief to 3.5 hours.

Second, the court finds that Faulkner claims more time than appropriate or necessary for several activities. Faulkner claims to have spent .5 hours preparing a subpoena with service unsuccessful on April 21, 2001. However, the defendants have no knowledge of such subpoena and Faulkner provides no information about the subpoena. Without adequate information about the claimed activity, the court cannot find the .5 hours to be necessary or reasonable and subtracts such time from the total hours. In addition, Faulkner claims to have spent .5 hours preparing a letter and motion for default on January 4, 2001. The court finds this to be excessive in light of the fact that a motion for default is a one line motion and thus reduces the time spent to .25 hours.

Further, Faulkner's affidavit indicates she spent 1.5 hours preparing for a deposition of defendant Strumpf and 1 hour waiting for Strumpf, who did not appear for the deposition. The court finds that the 1 hour spent waiting for Strumpf was unreasonable. In light of a scheduled settlement conference, the defendants sought and obtained a stay of discovery shortly after the scheduled deposition. They contend that they informed Faulkner that they were seeking such a stay prior to Strumpf's deposition. Faulkner responds that the defendants did not inform her of such intentions. Whether due to Faulkner's misunderstanding of the defendants' intentions or a lack of communication between the parties, the hour-long wait for Strumpf was excessive. The court therefore finds that Faulkner is entitled to the 1.5 hours spent in preparation for the deposition but not to the 1 hour spent waiting for defendant Strumpf.

Finally, the court finds that the time spent on the hearing in damages was excessive in light of the plaintiff's claims and that Faulkner was inefficient in her presentation during the hearing. Because a default was entered, the hearing was held to determine damages alone. However, Faulkner spent much of the hearing providing evidence and argument about the claims to which the defendants had defaulted and very little time providing evidence and argument about the damages

suffered by the plaintiff. The court finds that 4.5 hours would have been sufficient time to prepare for and appear for the hearing on damages. Therefore, the 7.75 total hours claimed in preparation and appearance for the hearing between April 23, 2001 and April 25, 2001 is reduced to 4.5 hours.

Based on the above, the court subtracts 7 hours from the hours claimed by Faulkner, resulting in a total of 27.5 hours. The total amount of attorney's fees awarded at the $275 hourly rate is thus $7562.50.

The plaintiff seeks $303.20 in costs. The filing fee and any service costs are statutory costs that would, if permitted, be awarded in the judgment prepared by the Clerk. The $106 claimed for the aborted deposition is disallowed as an avoidable expense.

III. CONCLUSION

For the foregoing reasons, the plaintiff's Motion for Judgment by Default [Dkt. No. 22-1] is GRANTED. The court finds that, pursuant to 15 U.S.C. § 1692k(a)(2)(A), the plaintiff should be awarded $750.00 in statutory damages, for which the defendants are jointly and severally liable. The court further finds that, pursuant to 15 U.S.C. § 1692k(a)(3), the plaintiff should be awarded reasonable and necessary attorney's fees in the amount of $7562.50.

SO ORDERED.

Dated at Bridgeport, Connecticut this 27th day of June, 2001.

________/s/______________
Janet C. Hall
United States District Judge