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United States District Court, E.D. Pennsylvania.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff,
v.
FUSARO CORPORATION d/b/a Ristorante Il Gallo Nero, Defendant.

No. CIV. A. 99–3321. | April 11, 2000.

Opinion

Memorandum and Order

YOHN.

***1** The Equal Employment Opportunity Commission filed this action against Fusaro Corporation seeking relief for the unlawful sex-based harassment suffered by Sharon Syron and Joan Kross during their employment at Ristorante Il Gallo Nero. Defendant filed no answer or responsive motions and default was entered. Liability having been determined, trial was held to determine the amount of damages to which plaintiff was entitled. At the trial, plaintiff offered evidence germane to the nature and amount of damages. Counsel for defendant entered an appearance and participated in the trial, but offered no evidence. Based on the findings of fact and conclusions of law that follow, I will order that judgment be entered against defendant for back pay plus prejudgment interest, compensatory damages, punitive damages, and costs.

I. FINDINGS OF FACT

A. Background

1. From November of 1995 to September 11, 1998, Fusaro Corporation did business as Ristorante Il Gallo Nero ("Gallo Nero") in Ambler County, Pennsylvania. *See* Compl. ¶ 4.

2. At all relevant times, defendant employed 15 or more persons at Gallo Nero. *See* Compl. ¶ 4.

3. At all relevant times, Enzo Fusaro ("Fusaro") was both CEO of defendant corporation and employee supervisor at Gallo Nero. *See* Compl. ¶¶ 7(a) & 9(a).

4. At all relevant times, Carla Fusaro was an officer of Gallo Nero. *See* Compl. ¶¶ 7(c) & 9(c).

5. Plaintiff Equal Employment Opportunity Commission ("EEOC" or "plaintiff") is an agency of the United States of America authorized to administer, interpret, and enforce Title VII of the Civil Rights Act of 1964. *See* Compl. ¶ 3.

6. Sharon Syron was employed by defendant as a bartender at Gallo Nero from November of 1995 to January 5, 1996.

7. Joan Kross was employed by defendant as a bartender at Gallo Nero from February 7, 1996 to July 11, 1996.

8. Syron and Kross each filed a timely charge with the EEOC charging Fusaro with unlawful sexual harassment and retaliation. *See* Compl. ¶ 6.

9. On behalf of Syron and Kross, plaintiff filed suit against defendant on June 30, 1999. See Compl. (Doc. No. 1).

a. Plaintiff alleged that defendant had discriminated unlawfully and intentionally against both Syron and Kross because of their sex, in violation of their federally protected rights under 42 U.S.C. § 2000e–2(a)(1). *See* Compl. ¶¶ 7, 9, 11 & 12.

b. Plaintiff alleged also that defendant had retaliated unlawfully and intentionally against both Syron and Kross because they opposed unlawful discrimination, in violation of their federally protected rights under 42 U.S.C. § 2000–3(a). *See* Compl. ¶¶ 8 & 10–12.

c. Plaintiff alleged that defendant's practices were done with "malice or reckless indifference to the federally protected rights of" Syron and Kross. *See* Compl. ¶ 12.

10. Plaintiff served defendant's agent with personal process on August 27, 1999. *See* Doc. No. 3.

***2** 11. Plaintiff applied for entry of default and requested default judgment on October 21, 1999. *See* Doc. No. 4.

12. Defendant was notified of plaintiff's request for entry of default and default judgment by Federal Express of October 21, 1999. *See* Doc. No. 4.

13. The court ordered entry of default on October 25, 1999. *See* Doc. No. 5.

14. Notice of entry of default and of a trial for default judgment was sent to defendant by United States Mail on October 25, 1999. *See* Doc. No. 5.

15. Defendant has filed no objections or responsive briefs in this action.

16. Default having been entered, I find that defendant discriminated unlawfully and intentionally against Syron and Kross because of their sex in violation of their federally protected rights.

17. Default having been entered, I find that defendant retaliated unlawfully and intentionally against Syron and Kross because they opposed unlawful discrimination in further violation of their federally protected rights.

18. Default having been entered, I find that defendant discriminated against Syron and Cross with malice or reckless indifference to their federally protected rights.

19. On February 10, 2000, the court held a trial to determine the amount of damages to be awarded to plaintiff.

20. At the February 10, 2000 damages trial, defendant's counsel confirmed for the court that liability was not being contested.

B. Sharon Syron

1. Defendant employed Syron as a bartender from November of 1995 to January 5, 1996. *See* Syron Dep. Test. of Jan. 19, 2000 [hereafter "Syron Test."]; Compl. ¶ 7(a).

2. Syron was directly supervised in her employment by Fusaro. *See* Compl. ¶ 7(a).

3. Syron was subjected regularly to Fusaro's unwelcome sexual advances, observations, and inquiries. *See* Compl. ¶ 7; Syron Test.

a. Fusaro commented upon Syron's anatomy. *See id.*

b. Fusaro touched Syron on the hips, buttocks, and breasts. *See id.*

c. Fusaro asked Syron about her sexual relationships. *See id.*

d. Fusaro offered to "take care of" Syron financially if she would have a "sexual relationship" with him. *See id.*

4. Syron objected repeatedly to Fusaro's questions, conduct and contact. *See* Compl. ¶ 7(c); Syron Test.

5. Fusaro took no remedial action when Syron complained. *See* Compl. ¶ 7(c).

6. Syron reported Fusaro's behavior to Carla Fusaro, who replied only that "he has his consc[ience], I have mine." *See* Compl. ¶ 7(c).

7. On January 4, 1996, Fusaro ordered everyone but Syron out of Gallo Nero, locked the door to Gallo Nero, cornered Syron in a dark cloakroom, fondled Syron despite her objections, and compelled Syron to kiss him once on the cheek before permitting her to leave. *See* Compl. ¶ 7(b); Syron Test.

8. Fusaro's sex-based discrimination caused Syron shame, depression, embarrassment, humiliation, frustration, fear and anger. *See* Syron Test.

***3** 9. On January 5, 1996, Syron was terminated for breaking wine glasses during the course of her employment. *See* Compl. ¶ 8.

10. Syron and other employees had broken glasses previously without being terminated. *See* Compl. ¶ 8; Syron Test.

11. On December 27, 1997, Syron suffered a disabling back injury and was thereafter unable to work. *See* Syron Test.

12. Syron had been paid "off the books" during most of 1995. *See* Syron Test.

13. Syron earned $235.00 for her final week in defendant's employ in 1996. *See* Syron Test. Ex. 1.

14. Between January 6, 1996, and December 28, 1997, Syron lost $23,970.00 in wages from defendant due to her termination.

a. Syron lost 51 weeks of work for defendant in 1996 due to her termination, causing a loss in pay of $11,985.00.

b. Syron lost 51 weeks of work for defendant in 1997 due to her termination, causing a loss of pay of $11, 985.00.

15. Between January 6, 1996, and December 28, 1997, Syron earned $18,119.37 from other sources.

a. Syron earned $6,417.80 in 1996 from other sources, as follows:

(1) Syron earned $821.83 from TD's Wales

Junction Inc., *see* Syron Test. Ex. 2;

(2) Syron earned $141.02 from Mara Enterprises of City Line, Inc ., *see* Syron Test. Ex. 2;

(3) Syron earned $1,854.95 from B. Rathbone, Inc., *see* Syron Test. Ex. 3; and

(4) Syron earned $3,600 in unreported income from Butler's Pub, for four months work at an average of $900 per month, *see* Syron Test.

b. Syron earned $11,701.57 from other sources in 1997, as follows:

(1) Syron earned $107.22 from The Southland Corp., *see* Syron Test. Ex. 4;

(2) Syron earned $2,841.32 from B. Rathbone, Inc., *see* Syron Test Ex. 4; and

(3) Syron earned $8,753.03 from Bloomingdale's, *see* Syron Test. Ex. 5.

16. Between January 6, 1996, and December 28, 1997, Syron lost $5,850.63 in back pay from defendant, because she would have been paid $23,970 absent discrimination, and she was paid $18,119.37 actually. Her annual losses were as follow:

a. Because she would have been paid $11,985 in 1996 absent discrimination, and she was paid $6,417.80 in 1996 actually, Syron lost $5,567.20 in back pay in 1996; and

b. Because she would have been paid $11,985 in 1997 absent discrimination, and she was paid $11,701.57 in 1997 actually, Syron lost $283.43 in back pay in 1997.

C. Joan Kross

1. Defendant employed Kross as a bartender at Gallo Nero between February 7, 1996, and July 11, 1996. *See* Compl. ¶ 9(a).

2. Kross was directly supervised by Fusaro. *See* Compl. ¶ 9(a).

3. Kross was subjected regularly to Fusaro's unwelcome and offensive sexual comments and contact. *See* Compl. ¶ 9(b); Kross Trial Test. of February 10, 2000 [hereafter "Kross Test."].

a. Fusaro rubbed and touched Kross. *See* Compl. ¶ 9(b); Kross Test.

b. Fusaro commented upon Kross' appearance. *See* Kross Test.

***4** 4. Kross informed both Fusaro and Carla Fusaro of her objections to Fusaro's contact and comments. *See* Compl. ¶ 9(c); Kross Test.

5. Defendant took no remedial action despite Kross' objections. *See id.*

6. On April 29, 1996, Fusaro made an unwelcome and intimidating sexual advance upon Kross. *See* Compl. ¶ 9(b); Kross Test.

a. On April 29, 1996, Fusaro asked Kross to come to Gallo Nero while closed and instructed her to park in a secluded area behind the restaurant. *See* Kross Test.

b. When she arrived at Gallo Nero, Kross was frightened because an unidentified car was parked in the parking lot and Kross believed that Fusaro owned a firearm. *See* Kross Test.

c. Inside Gallo Nero, Fusaro approached Kross from behind and kissed her on the neck, disregarded Kross' objection to his conduct, touched Kross again, and compelled Kross to kiss him before permitting her to leave. *See* Kross Test.

7. After April 29, 1996, Fusaro refused to assist Kross or answer her work-related questions and regularly spoke to Kross in a harsh and demeaning manner. *See* Compl. ¶ 10; Kross Test.

8. As a result of Fusaro's conduct, Kross felt afraid, angry, degraded, and uncomfortable at work. *See* Compl. ¶ 10; Kross Test.

9. About July 10, 1996, Kross told her co-worker O'Hara that Fusaro had harassed Kross. *See* Kross Test. O'Hara then informed Kross that Fusaro had harassed a former bartender. *See id* .

10. Her feelings of degradation, anger and fear inflamed, Kross drafted a letter of resignation on July 11, 1996. *See* Kross Test. & Ex. 9.

11. On July 13, 1996, Kross tendered her letter of resignation to Fusaro. *See* Kross Test. & Ex. 9.

12. On September 11, 1998, defendant sold Gallo Nero. *See* Statement of Howard Trubman, Esq., counsel for defendant, at February 10, 2000 Trial.

13. The total of four paychecks Kross received in June of 1996, prior to her termination, was $877.97, demonstrating that Kross' average weekly pay prior to her resignation was $219.27. *See* Kross Test. Exs. 8(a)-(d).

14. Between July 14, 1996, and September 11, 1998, Kross lost $24,777.51 in wages from defendant.

a. Kross lost 24 weeks of pay from defendant in 1996, causing a loss of pay of $5,262.48.

b. Kross lost 52 weeks of work for defendant in 1997, causing a loss of pay of $11,402.04.

c. Kross lost 37 weeks of work for defendant in 1998, causing a loss of pay of $8,112.99.

15. Between July 14, 1996, and September 11, 1998, Kross earned $8,538.65 from other sources.

a. In 1996, Kross earned no other income from any other source.

b. In 1997, Kross earned $4,318.15 from other sources, as follows:

(1) Kross earned $1,956.90 from Kiss Fresh Fruit, Inc., *see* Kross Test. Ex. 10; and

(2) Kross earned $2,361.25 from Fort Washington Expo Assocs. LP, *see* Kross Test. Ex. 10.

c. In 1998, Kross earned $4,220.50 from other sources, as follows:

***5** (1) Kross earned $3,820.50 from Kiss Fresh Fruit, Inc., *see* Kross Test. Ex. 11; and

(2) Kross earned $400 from Kross Construction, *see* Kross Test. Exs. 12–14.

16. Between July 14, 1996, and September 11, 1998, Kross lost $16,238.86 in back pay from defendant, because she would have been paid $24,777.51 absent discrimination, and she was paid $8,538.65 actually. Her annual losses were as follow:

a. Because she would have been paid $5,262.48 for the last 24 weeks of 1996 absent discrimination, and she was paid nothing for that time period actually, Kross lost $5,262.48 in back pay in 1996;

b. Because she would have been paid $11,402.04 in 1997 absent discrimination, and she was paid $4,318.15 in 1997 actually, Kross lost $7,083.89 in back pay in 1997; and

c. Because she would have been paid $8,112.99 for 37 weeks of work in 1998 absent discrimination, and because she was paid $4,220.50 for that time period actually, Kross lost $3,892.49 in back pay in 1998

II. CONCLUSIONS OF LAW

A. Jurisdiction and Applicable Law

1. This action was instituted pursuant to Section 706(f)(1) & (3) of Title VII of the Civil Rights Act of 1964, as codified at 42 U.S.C. § 2000e–5(f)(1) & (3), and section 102 of the Civil Rights Act of 1991, as codified at 42 U.S.C. § 1981a.

2. The court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 & 1343.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2).

B. Liability of Defendant

1. Title VII provides that "[i]t shall be an unlawful employment practice for an employer ... to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's ... sex ." *See* 42 U.S.C. § 2000e–2(a)(1).

2. I conclude that defendant is liable to plaintiff because I found that defendant discriminated intentionally and unlawfully against Syron and Kross because of their sex in violation of 42 U.S.C. § 2000e–2(a)(1). *See supra,* Part I.A.16; Parts I.B.1–8; Parts I.C.1–6.

3. Title VII provides also that "[i]t shall be an unlawful employment practice for an employer to discriminate against any of his employees ... because he has opposed any practice made an unlawful employment practice by this title." *See* 42 U.S.C. § 2000e–3(a).

4. I conclude that defendant is liable to plaintiff because I found that defendant retaliated intentionally and unlawfully against Syron and Kross in violation of their rights secured under § 2000e–3(a). *See supra,* Part I.A.17; Parts I.B.7–10; Parts I.C.6–11.

C. Back Pay and Prejudgment Interest Due from Defendant

1. Title VII provides that "[i]f the court finds that the [employer] has intentionally engaged in ... an unlawful employment practice charged in the complaint, the court may ... order such affirmative action as may be appropriate." *See* 42 U .S.C. § 2000e–5(g)(1).

***6** 2. I conclude that affirmative relief is appropriate because I found the defendant intentionally engaged in unlawful employment practices. *See supra,* Parts I.A.16 & 17.

3. To make whole the victims of intentional unlawful discrimination, it is within the court's discretion to award to plaintiff back pay and prejudgment interest. *See* 42 U.S.C. § 2000e–5(g)(1); *Booker v. Taylor Milk Co., Inc., 64 F.3d 860, 867 (3d Cir.1995); Robinson v. SEPTA,* 982 F.2d 892, 897 (3d Cir.1993); *Davis v. Rutgers Cas. Ins. Co.,* 964 F.Supp. 560, 574 (D.N.J.1997).

4. Back pay awarded to a plaintiff should be the difference between wages the plaintiff would have earned absent discrimination and wages the plaintiff actually earned. *See Durham Life Ins. Co. v. Evans,* 166 F.3d 139, 156 (3d Cir.1999) (quoting *Gunby v. Pennsylvania Elec. Co.,* 840 F.2d 1108, 1119 (3d Cir.1988); *Davis,* 964 F.Supp. at 574.

5. I conclude that Syron is entitled to an award of $5,850.63 in back pay because I found that she would have earned $23,970.00 absent defendant's unlawful discrimination and that she actually earned $18,119.37 from other sources of employment. *See supra,* Parts I.B.13–16.

a. I conclude that Syron is entitled to an award of $5,567.20 for back pay lost in 1996, *see supra* Part I.B.16.a; and

b. I conclude that Syron is entitled to an award of $283.43 for back pay lost in 1997, *see supra* Part I.B.16.b.

6. I conclude that Kross is entitled to an award of $16,238.86 in back pay because I found that she would have earned $24,777.51 absent defendant's unlawful discrimination and that she actually earned $8,538.65 from other sources of employment. *See supra,* Parts I.C.13–16.

a. I conclude that Kross is entitled to an award of $5,262.48 for back pay lost in 1996, *see supra* Part I.C.16.a;

b. I conclude that Kross is entitled to an award of $7,083.89 for back pay lost in 1997, *see supra* Part I.C.16.b; and

c. I conclude that Kross is entitled to an award of $3,892.49 for back pay lost in 1998, *see supra* Part I.C.16.c.

7. When a Title VII suit results in an award of back pay against a private employer, "there is a strong presumption in favor of awarding prejudgment interest, except where the award would result in 'unusual inequities.' " *See Booker,* 64 F.3d at 868. *See also Taxman v. Board of Educ. of Twp. of Piscataway,* 91 F.3d 1547, 1566 (3d Cir.1996).

8. The rate of prejudgment interest to be applied to a back pay award is not specified by statute. *See Taxman,* 91 F.3d at 1566; *Davis,* 964 F.Supp. at 575.

9. The prejudgment interest rate to be applied to a back pay award is within the court's discretion. *See Taxman,* 91 F.3d at 1566; *Davis,* 964 F.Supp. at 575.

10. Courts in this district have calculated rates of prejudgment interest on awards of back pay in Title VII cases with reference to both 28 U.S.C. § 1961(a) ("T-bill rate") and 26 U.S.C. § 6621 ("IRS rate"). *See Taxman,* 91 F.3d at 1566. *Compare Bonenberger v. Plymouth Twp.,* No. 96–403, 1998 U.S.Dist.Lexis 12036, at *34 (E.D.Pa. July 27, 1998) (applying rate based on § 1961) *and Becker v. ARCO Chem. Co.,* 15 F.Supp.2d 621, 638 (E.D.Pa.1998) (same), *with Robinson v. SEPTA,* No. 87–5114, 1993 U.S.Dist.Lexis 5134, at *11–13 (E.D.Pa. Apr. 22, 1993) (applying rate based on § 6621).

***7** 11. Plaintiff's filings suggest that the court apply the "IRS rate," although they differ in how often they suggest the interest be compounded. *Compare* Proposed Order for Default Judgment and Hearing on Costs (filed with Doc. No. 4) (calculating "interest at Internal Revenue Service rates compounded monthly"), *with* Jan. 31, 2000 Affidavit of Yvonne Davis ¶¶ 4 & 6 (submitted at Damages Trial of Feb. 10, 2000) (calculating "interest compounded quarterly ... utilizing IRS interest rates").

12. Because I find no unusual inequities in this action, I conclude that defendant shall pay to plaintiff prejudgment interest in an amount to be determined upon consideration of a motion for prejudgment interest and any response thereto as required in the following order.

D. Plaintiff's Costs Due From Defendant.

1. "Except when express provision therfor is made either in a statute of the United States or in these rules, costs other than attorney's fees shall be allowed as of course to the prevailing party unless the court otherwise directs." *See* Fed.R.Civ.P. 54(d)(1).

2. "A 'prevailing party' is one that 'succeeded on any significant issue in the litigation which achieves some of the benefit the parties sought

in bringing the suit.' " *See Torres v. Metropolitan Life Ins. Co.,* 189 F.3d 331, 332 (3d Cir.1999) (quoting *Hensley v. Eckerhart,* 461 U.S. 424, 433 (1983)).

3. I conclude that plaintiff is a prevailing party in this action. *See supra,* Parts I.A.16 & 17.

4. Defendant shall pay plaintiff's lawful costs incurred as required in the following order.

E. Compensatory and Punitive Damages Due from Defendant

1. "In an action brought by a complaining party under [42 U.S.C. § 2000e–5] against a respondent who engaged in unlawful intentional discrimination ... the complaining party may recover compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by ... [42 U.S.C. § 2000e–5(g)]." *See* 42 U.S.C. § 1981a.

2. Compensatory damages may be awarded for "future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses." *See* 42 U.S.C. § 1981a(b)(3).

3. Punitive damages may be awarded if "the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual." *See* 42 U.S.C. § 1981a(b)(1).

4. A plaintiff demonstrates malice or reckless indifference to federally protected rights by showing that the employer "discriminate[d] in the face of a perceived risk that its action will violate federal law." *See Kolstad v. American Dental Ass'n,* 119 S.Ct. 2118, 2129 (1999).

5. "The sum of the amount of compensatory damages awarded under this section ... and the amount of punitive damages awarded under this section, shall not exceed, for each complaining party, in the case of a respondent who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $50,000." *See* 42 U.S.C. § 1981a(b)(3)(A).

***8** 6. Sharon Syron

a. I conclude that Syron is entitled to compensatory damages of $30,000 because I found that defendant's discriminatory conduct caused her emotional pain, inconvenience, mental anguish, loss of enjoyment of life and fear. *See supra,* Part I.B.8.

b. I conclude that Syron is entitled to punitive damages of $20,000, the maximum amount permitted by statute, *see* § 1981a(b)(3)(A), because I found that, despite notice to both Fusaro and Carla Fusaro, defendant discriminated against her with malice or reckless indifference to her federally protected rights. *See supra,* Part I.A.18; Parts I.B.4–10.

7. Joan Kross

a. I conclude that Kross should be awarded compensatory damages in the amount of $12,000 because I found that she suffered inconvenience, mental anguish and fear caused by defendant's unlawful discrimination. *See supra,* Parts I.C.6 & 8.

b. I conclude that Kross should be awarded punitive damages of $24,000 because I found that, despite objections to both Fusaro and Carla Fusaro, defendant discriminated against her with malice or reckless indifference to her federally protected rights. *See supra,* Part I.A.18; Parts I.C.4 & 5.

CONCLUSION

By entry of default following notice and an opportunity to be heard, defendant admitted liability for unlawful sex-based discrimination and retaliation against Sharon Syron and Joan Kross. A trial was scheduled to determine the amount of damages to be awarded to plaintiff. At that hearing, plaintiff presented evidence demonstrating defendant's severe and pervasive unlawful harassment. Defendant presented no evidence.

I find that both Syron and Kross lost wages due to defendant's discriminatory conduct, and I conclude that each should be awarded back pay plus prejudgment interest. I find also that each suffered nonpecuniary harm, and I conclude that each should be awarded compensatory damages. Further, I find that defendant's conduct was maliciously and recklessly indifferent to the federally protected rights of both Syron and Kross. Therefore, I conclude that each should be awarded punitive damages. Finally, the EEOC should be awarded its costs for the action.

An appropriate order follows.

Order

And now, this __ day of April, 2000, upon consideration of plaintiff's complaint (Doc. No. 1) and no response thereto, and upon consideration of the entry of default against defendant (Doc. No. 5) and no response thereto, and upon consideration of plaintiff's evidence presented at the damages trial of February 10, 2000 (Doc. No. 12), it is hereby ORDERED AND DECREED that:

1. Judgment shall be entered against defendant and in favor of plaintiff, for the benefit of Sharon Syron and Joan Kross, for back pay in the amount of $22,089.49 as follows:

a. Defendant shall pay to Sharon Syron back pay in the amount of $5,850.63; and

b. Defendant shall pay to Joan Kross back pay in the amount of $16,238.86.

2. Judgment shall be entered against defendant and in favor of plaintiff, for the benefit of Sharon Syron and Joan Kross, for compensatory and punitive damages in the amount of $86,000 as follows,

***9** a. Defendant shall pay compensatory damages in the amount of $30,000 and punitive damages in the amount of $20,000 for the benefit of Sharon Syron; and

b. Defendant shall pay compensatory damages in the amount of $12,000 and punitive damages in the amount of $24,000 for the benefit of Joan Kross.

3. If plaintiff desires to pursue the claim for prejudgment interest, plaintiff shall serve and file a motion for prejudgment interest on back pay awarded within ten days of the date of this order. Such motion shall indicate the prejudgment interest rate to be applied, the reason therefor, the prejudgment interest dollar amount sought, and the method of its calculation. Within ten days of the date of service of the motion, defendant may file with the court a response to only the prejudgment interest rate proposed, the reason therefor, the prejudgment interest amount sought, or the method of its calculation.

4. Plaintiff shall be awarded costs allowed by law.