

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FINISHMASTER, INC., *et al.*,

Plaintiffs,

v.

EXCEL COLLISION CENTERS, LLC, *et al.*,

Defendants.

CIVIL ACTION
NO. 19-04518

PAPPERT, J.

February 20, 2020

MEMORANDUM

In December, the Court granted Finishmaster, Inc. and Axalta Coating Systems, LLC's motion for default judgment. But because Finishmaster and Axalta offered no documentary support for their request for attorneys' fees and costs, the Court deferred entering judgment. After receiving supplemental information from Finishmaster and Axalta, the Court now grants their Motion for Attorneys' Fees and Costs in part and enters default judgment against Excel Collision Centers, LLC and Timothy Stone in the amount of \$250,197.72, which includes \$244,535.65 in damages, \$4,901.85 in attorneys' fees and \$760.22 in costs.

Under their contracts with Excel and Stone, Finishmaster and Axalta are entitled to reasonable attorneys' fees and costs. *See* (Compl. ¶¶ 9, 18, ECF No. 1). Although Finishmaster and Axalta previously sought \$3,528.47 in attorneys' fees and costs, *see* (Request for Default J. 1, ECF No. 5), they now request \$6,089.57, *see* (Mot. for Attorneys' Fees & Costs 4, ECF No. 8). This total includes \$4,901.85 in attorneys' fees, \$427.50 in fees for a private investigator and \$760.22 in filing fees and other costs.

See (Aff. Supp. Mot. for Attorneys' Fees & Costs, ECF No. 9); (*id.* Ex. A, ECF No. 9-1); (*id.* Ex. B, ECF No. 9-2). Finishmaster and Axalta offer affidavits and documentary evidence to support their request.

Finishmaster and Axalta seeks \$4,901.85 in attorneys' fees for 15.6 hours of work by three attorneys and \$760.22 in costs. The first attorney, Matthew B. Barr, is a graduate of the Indiana University School of Law and a member of the Indiana bar with fourteen years' experience. *See* (Barr Aff. ¶¶ 7–8, ECF No. 13). As a partner and co-chair of the litigation department at the law firm Barnes & Thornburg, Barr billed Finishmaster and Axalta for 1.6 hours at a \$465 hourly rate. *See (id.* at ¶ 6); (Aff. Supp. Mot. for Attorneys' Fees & Costs ¶ 5(a)). Mark R. Owens has practiced law for twenty-one years after graduating from Widener University School of Law; he is a partner at Barnes & Thornburg, and he billed Finishmaster and Axalta for 2.2 hours at a \$550 hourly rate. *See (id.* at ¶¶ 5–6); (Owens Aff. ¶¶ 6–9, ECF No. 11). Kelsey Dilday is a second-year associate at Barnes & Thornburg, a graduate of Indiana University Robert H. McKinney School of Law and a member of the Indiana Bar. *See* (Dilday Aff. ¶¶ 6–8, ECF No. 12). She billed Finishmaster and Axalta for 11.8 hours at a \$300 hourly rate. *See* (Aff. Supp. Mot. for Attorneys' Fees & Costs ¶ 6). After examining the record, the Court finds that Finishmaster and Axalta's requests for \$4,901.85 in attorneys' fees and \$760.22 in costs are reasonable. *See (id.* Ex. A, at 4–5) (listing tasks attorneys performed and the relevant costs); (*id.* Ex. B, at 3) (same); (Dilday Aff. Ex. A, at 2, ECF No. 12-1) (showing the hourly rates charged are in line with the market rate).

The Court denies Finishmaster and Axalta's request for \$427.50 in fees for a private investigator. Under the contracts, Finishmaster and Axalta are entitled to

recover reasonable attorneys' fees and costs. But they cite no authority suggesting that Pennsylvania courts interpret "attorneys' fees and costs" to include private investigator fees. *See* (Mem. Supp. Investigator Costs ¶¶ 5–6, ECF No. 14). Absent any authority requiring the Court to award private investigator fees, the Court declines to do so.

An appropriate Order follows.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

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ORDER

AND NOW, this 20th day of February 2020, upon consideration of Plaintiffs' Request for Default and Default Judgment (ECF No. 5), Motion for Attorneys' Fees & Costs (ECF No. 8), Affidavits in Support of Motion for Attorneys' Fees & Costs (ECF Nos. 9, 11, 12 & 13) and Memorandum in Support of Private Investigator Costs (ECF No. 14), it is **ORDERED** that:

- 1) Plaintiffs' Motion for Attorneys' Fees & Costs (ECF No. 8) is **GRANTED in part and DENIED in part**. Specifically, the Court:
 - a) **GRANTS** the request for \$4,901.85 in attorneys' fees and \$760.22 in costs; and
 - b) **DENIES** the request for \$427.50 in fees for a private investigator.
- 2) The Clerk of Court is **DIRECTED** to:
 - a) **ENTER JUDGMENT** in favor of Plaintiffs against Excel Collision Centers, LLC and Timothy Stone in the amount of \$250,197.72; and
 - b) **MARK** this case closed.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.