

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re: Case No. A02-00426-DMD

Chapter 7

MICHAEL C. FLYNN,

Debtor.

THE ESTATE OF LINDA M.
SHAWBACK FLYNN, ARON
SHAWBACK, Personal Representative,

Plaintiff,

v.

MICHAEL C. FLYNN,

Defendant.

Adv. No. 02-90078-DMD

**Filed On
10/20/05**

MEMORANDUM RE DEFAULT JUDGMENT

The plaintiff has filed an application for entry of default and an affidavit in support of entry of default judgment. Default of the defendant has been entered by the Clerk. The court has reviewed the request for default judgment and finds that entry of such a judgment is appropriate. However, no attorney's fees will be awarded to the plaintiff, because no state law issues were litigated in this proceeding.¹ The plaintiff's claim against the defendant had already been liquidated and brought to final judgment in state court before Michael Flynn filed his bankruptcy petition. The only issue before this court was the

¹See *Renfrow v. Draper*, 232 F.3d 688, 693-94 (9th Cir. 2000).

dischargeability of the plaintiff's claim under 11 U.S.C. § 523(a)(2). The plaintiff's request for attorney's fees in the sum of \$6,976.44 will therefore be denied.

Additionally, although the plaintiff is entitled to costs of suit, many of the costs itemized in the affidavit of counsel are not taxable as costs under 28 U.S.C. § 1920 or D. AK. L.R. 54.1. Moreover, the court notes that some costs which would be taxable against the defendant, such as the adversary filing fee, were not included in the itemization of costs submitted by the plaintiff. The plaintiff will be required to submit a bill of costs to the Clerk of the Bankruptcy Court, consistent with 28 U.S.C. § 1920 and D. AK L.R. 54.1, who will then tax the costs in accordance with the applicable federal law.

Finally, prejudgment interest will be awarded to the plaintiff, but only from the date the adversary complaint was filed, and not from the earlier date of April 1, 2002.

An order and judgment will be entered consistent with this memorandum.

DATED: October 20, 2005

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

Serve: T. McKeever, Esq.
P. Gingras, Adv. Case Mgr.
W. Wolfe, Clerk of Court

10/20/05