

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

**Cynthia Gudde,
Personal Representative and
Administrator of the Estate of
Crystal M. Gudde, deceased,**

Plaintiff,

v.

Case No. 09-2341-JWL

**Evergreen Realty Group, LLC,
d/b/a Town Center Apartments,**

Defendant.

MEMORANDUM & ORDER

Crystal Gudde, now deceased, filed suit against defendant, her former employer, alleging that defendant violated Title VII and the FMLA in connection with various adverse employment actions taken against Ms. Gudde. Although defendant initially appeared through counsel, defendant's counsel moved to withdraw and the court granted that motion. Defendant never retained counsel after that time and has made no further appearance in the case. Substituted plaintiff Cynthia Gudde, personal representative and administrator of the Estate of Ms. Gudde, moved for default judgment and requested a hearing to determine damages, attorneys' fees and costs (doc. 48). The court referred the motion to Magistrate Judge Rushfelt for report and recommendation.

On March 20, 2012, Judge Rushfelt issued his report and recommendation, recommending that the court enter default judgment in favor of plaintiff and against defendant

Evergreen Realty Group, LLC in the amount of \$432,828.66 for damages and \$41,309.50 for attorneys fees and incidental costs and for the costs of this action. Judge Rushfelt recommends that damages be apportioned as follows:

Back pay and employment benefits, pursuant to the claims under Title VII and FMLA, in the amount of \$100,791.60;

Prejudgment interest on the claims for back pay and employment benefits, pursuant to the claims under Title VII, in the amount of \$15,622.73;

Compensatory damages for emotional pain, suffering, mental anguish, and loss of enjoyment of life, pursuant to the claims under Title VII, in the amount of \$100,000;

Punitive damages pursuant to the claims under Title VII in the amount of \$100,000;

Liquidated damages, pursuant to the claims under FMLA, in the amount of \$116,414.33;

and attorneys fees of \$40,574.50 and incidental expenses of \$735.00 incurred by counsel.

Finally, Judge Rushfelt recommends that the court, in accordance with 28 U.S.C. § 1961(a), grant plaintiff post-judgment interest from the date of judgment until the date the judgment is paid.

No objections to the report and recommendation have been filed. In the absence of any objections, the court adopts in its entirety the report and recommendation of Judge Rushfelt.

IT IS THEREFORE ORDERED BY THE COURT THAT the report and recommendation (doc. 59) is adopted in its entirety. Specifically, plaintiff's renewed motion for default judgment (doc. #48) is **granted** as set forth in the report and recommendation.

IT IS SO ORDERED this 9th day of April, 2012.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge