

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

**MCA VENTURES, LLC,
d/b/a CAPASSIST,**

Plaintiff,

v.

**MJ ENVIRONMENTAL INC. and
JOSE I. PENA,**

Defendants.

Case No. 15-9087-CM

MEMORANDUM AND ORDER

MCA Ventures, LLC, doing business as CapAssist, brings suit against MJ Environmental Inc. (“MJ Environmental”) and Jose I. Pena, alleging breach of contract on a future receivables sale agreement. On October 13, 2015, the court entered default in this this case, but declined to enter default judgment. (Doc. 10.) Plaintiff’s Motion for Default Judgment (Doc. 11) is before the court.

As previously noted by the court, entry of default was appropriate. The court concludes now that default judgment is appropriate because plaintiff has established that at least part of its claim is for a sum certain. Accordingly, the court will enter default judgment against defendants in the amount of \$140,025.60.

Plaintiff, however, also requests “postjudgment interest at the contract rate.” The contract at issue does not appear to provide for an award of interest or set a rate for post-judgment interest. Plaintiff is therefore entitled only to a judgment that provides for post-judgment interest at a rate set by applicable law.

Finally, as noted in its order entering default and declining to enter default judgment, the court had concerns regarding plaintiff’s request for reasonable attorney fees under the contract. Specifically,

plaintiff seeks reasonable attorney fees in the amount of \$5,000, but plaintiff continues to fail to support that figure with an affidavit or any other evidence or documentary proof. At this time, plaintiff's claim for contractual attorney fees is not for a sum certain, and the court cannot yet determine the proper amount of damages.

In light of its failure to support its claim for attorney fees, the court orders plaintiff to submit any support for its attorney fee claim on or before May 31, 2016. After receiving proper support from plaintiff, the court will issue default judgment in favor of plaintiff and against defendants. Plaintiff's motion (Doc. 11) is retained under advisement until that time.

Dated this 18th day of May, 2016, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge