

Bryan N. Zollinger ISB # 8008
SMITH, DRISCOLL & ASSOCIATES, PLLC
414 Shoup Avenue
P.O. Box 50731
Idaho Falls, Idaho 83405
(208) 524-0731

FILED
A.M. 4:15 P.M.

MAY 21 2012

CANYON COUNTY CLERK
J HEIDEMAN, DEPUTY

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF CANYON
MAGISTRATE DIVISION

DIVERSIFIED EQUITY SYSTEMS, a
Limited Liability Company

Plaintiff,

vs.

JACK RIGGS,

Defendants.

Case No. CV12-4865

COMPLAINT

Fee: \$88.00

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION
OBTAINED WILL BE USED FOR THAT PURPOSE**

COMES NOW plaintiff, Diversified Equity Systems, LLC, and for a claim against
defendants, alleges as follows:

1. The plaintiff is an Idaho limited liability company qualified to do business in the State of Idaho.
2. The defendant, Jack Riggs is an individual residing in the State of Idaho.
3. At all times mentioned herein the plaintiff was, and still is, a licensed and bonded collector under the laws of the State of Idaho, and before the commencement of this action the debt herein sued upon was assigned by Cash Call to the plaintiff for the purpose of collection. The plaintiff is now the holder thereof for such purposes.

4. The defendant is indebted to the plaintiff by reason of the allegations herein and owe the plaintiff in the following stated amounts:

CASH CALL	
Principal Amount Owing	\$ 2,523.72
Prejudgment Interest	<u>\$ 4,744.59</u>
Subtotal	\$ 7,268.31
TOTAL	\$ 7,268.31

5. The plaintiff is entitled to further prejudgment interest from the date the complaint is filed until judgment is entered.

6. Despite the plaintiff's requests and demands, and without offering any reason or objection to the bill, the defendant has failed to pay the indebtedness in full.

7. To obtain payment of the obligation due, the plaintiff has been required to retain the services of Smith, Driscoll & Associates PLLC, attorneys at law. This action arises from an open account and/or from services provided. Moreover, written demand for payment on the defendants has been made more than 20 days prior to commencing this action. Pursuant to Idaho Code § 12-120(1) and 12-120(3) the plaintiff is entitled to recover the plaintiff's attorney's fees incurred herein in the sum of \$2,543.90 if judgment is taken by default and such greater amounts as may be evidenced to the court if this claim is contested. Pursuant to Idaho Rules of Civil procedure § 54(d)(1) the plaintiff is further entitled to recover the plaintiff's costs incurred herein.

WHEREFORE, the plaintiff demands judgment against the defendants, and each of them, for the principal sum of \$2,523.72, together with legal interest on said sum in the amount of \$4,744.59, the filing fee of \$88.00 and attorney's fees incurred herein in the sum of \$2,543.90, for a combined total of \$9,900.21 plus the costs of suit to be proven to the court, and for such other and further relief as is equitable and just.

NOTICE UNDER FEDERAL FAIR DEBT COLLECTION
PRACTICES ACT 15 U.S.C. §§ 1692a to 1692o

Jack Riggs
3410 Sage Dr.
Caldwell, ID 83605

1. Amount of Debt exclusive of interest: \$2,523.72
2. Name of Creditor: Diversified Equity Systems, LLC
3. Unless you dispute the validity of the above-described debt, or a portion thereof, within 30 days of your receipt of this letter, we will assume that the debt is valid.
4. If you notify us, in writing, within 30 days of your receipt of this letter that you dispute the debt, or a portion thereof, we will obtain verification of the debt, or a copy of any judgment, and will mail you a copy of the verification or judgment.
5. If you request, in writing, within 30 days of your receipt of this letter, we will provide you with the name and address of the original creditor, if different from the current creditor described above.
6. This Notice informs you of specific rights to information under federal law. Any judgment in this legal action will not be taken by default until 30 days after you have been served a summons and a copy of the complaint. Thus, no judgment will be taken within 30 days of this Notice. The 30 days allowed by this Notice are not in addition to the requirements of state law.

NOTE: This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Bryan N. Zollinger, Esq.
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F I L E D
A.M. 12:25 P.M.

NOV 01 2012

CANYON COUNTY CLERK
J. FEDERAL DEPUTY

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF CANYON
MAGISTRATE DIVISION

DIVERSIFIED EQUITY SYSTEMS, a
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Plaintiff,

vs.

JACK RIGGS,

Defendant.

Case No. CV-12-4865

**MOTION FOR AWARD OF
PREJUDGMENT INTEREST**

COMES NOW, plaintiff, Diversified Equity Systems, LLC, by and through its counsel of record, Bryan N. Zollinger, Esq., of the firm Smith, Driscoll & Associates, PLLC, and moves the court pursuant to Idaho Code Section 28-22-104 for an order awarding prejudgment interest.

This motion is made on the grounds that the plaintiff is entitled to prejudgment interest at 99.24% on the principal sum of \$2,523.72 from June 1, 2008 to the entry of Judgment. (See executed contract signed by Defendant with CashCall, Inc attached as Exhibit "D" to the Affidavit of Maryn Coughran in Support of Motion for Summary Judgment dated July 25, 2012 in which Defendant agreed to pay 99.24% prejudgment interest; see also CashCall, Inc. account billings attached as Exhibit "A" to the Affidavit

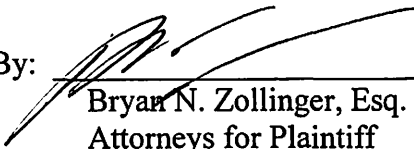
of Maryn Coughran in Support of Motion for Summary Judgment dated July 25, 2012 showing the date for the calculation of prejudgment interest.)

Prejudgment interest runs on the principal amount of the defendants' account from June 1, 2008, until the date of the hearing on this motion (November 15, 2012) for a total prejudgment interest in the amount of \$11,054.28.

This motion is based on this Motion, the Notice of Hearing, and the court's records and files.

DATED this 29th day of October, 2012.

SMITH, DRISCOLL &
ASSOCIATES, PLLC

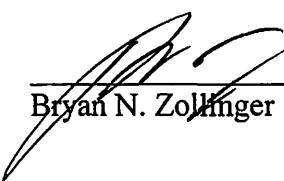
By: 
Bryan N. Zollinger, Esq.
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of October, 2012, I caused a true and correct copy of the foregoing **MOTION FOR AWARD OF PREJUDGMENT INTEREST** to be served by placing the same in a sealed envelope and depositing it in the United States Mail, postage prepaid, or by hand delivery, facsimile transmission, or overnight delivery, addressed to the following:

- U.S. Mail
- Facsimile Transmission
- Hand Delivery
- Overnight Delivery

Jack Riggs
3410 Sage Dr.
Caldwell, ID 83605


Bryan N. Zollinger

NOV 01 2012

CANYON COUNTY CLERK
J. H. BROWN, DEPUTY

Bryan N. Zollinger
Idaho State Bar # 8008
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414 Shoup Avenue
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Attorneys for Plaintiff

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MAGISTRATE DIVISION

DIVERSIFIED EQUITY SYSTEMS, a
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Plaintiff,

vs.

JACK RIGGS,

Defendant.

Case No. CV-12-4865

**AFFIDAVIT OF BRYAN N.
ZOLLINGER IN SUPPORT OF
MOTION FOR AWARD OF
ATTORNEY'S FEES AND COSTS**

STATE OF IDAHO)
) ss.
County of Bonneville)

BRYAN N. ZOLLINGER, Esq. of the firm Smith, Driscoll & Associates, PLLC,
being first duly sworn on oath, deposes and states as follows:

1. I am the attorney of record for Plaintiff in the above-styled action. I
obtained a Juris Doctorate degree from the Florida Coastal School of Law in 2008 and
have been actively practicing law since then.

2. I am licensed to practice law in the Courts of Idaho and the United States
District Court for the District of Idaho. A substantial portion of my practice has been
devoted to civil litigation.

3. I submit this Affidavit in Support of Plaintiff's Motion for Award of Attorneys Fees and Costs and further in support of Plaintiff's Memorandum of Costs and Attorney's Fees.

4. My rate of billing on the above-referenced matter is on a one-third contingent fee basis. The fee for this case is \$4,525.99 calculated as follows:

Principal Recovered:	\$2,523.72
Prejudgment Recovered:	\$11,054.28
Total:	\$13,578.00
1/3 Contingent Fee	\$4,525.99

5. I believe that the aforesaid one-third contingent fee rate is reasonable, given the amount involved and the result obtained, the desirability of the case, the nature and length of my professional relationship with my client, awards in similar cases, my experience (particularly in the area of law involved in this case), and the rates charged by other attorneys with comparable experience in comparable cases in the southeastern Idaho area.

6. The costs incurred from Smith, Driscoll & Associates, PLLC, by plaintiff in the instant action since June 1, 2008 are \$153.00 as set forth in the Memorandum of Costs. Accordingly, these costs should in the interest of justice be assessed against Defendant.

7. The costs and attorney's fees sought in this motion are reasonable and were necessarily and actually incurred in this action.

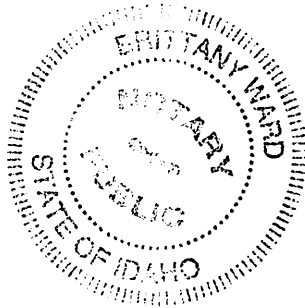
Further sayeth your affiant naught.

DATED this 29th day of October, 2012.

SMITH, DRISCOLL &
ASSOCIATES, PLLC

By: [Signature]
Bryan N. Zollinger, Esq.
Attorneys for Plaintiff

SUBSCRIBED AND SWORN to before me this 29th day of October, 2012.



Brittany Ward
Notary Public for Idaho
Residing at: Blackfoot
Commission Expires: 10/27/2017

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of October, 2012, I caused a true and correct copy of the foregoing **AFFIDAVIT OF BRYAN N. ZOLLINGER IN SUPPORT OF DEFENDANT'S MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS** to be served by placing the same in a sealed envelope and depositing it in the United States Mail, postage prepaid, or by hand delivery, facsimile transmission, or overnight delivery, addressed to the following:

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[Signature]
Bryan N. Zollinger

Bryan N. Zollinger, Esq.
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FILED
A.M. 3:50 P.M.

NOV 23 2012

CANYON COUNTY CLERK
T. CRAWFORD, DEPUTY

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE
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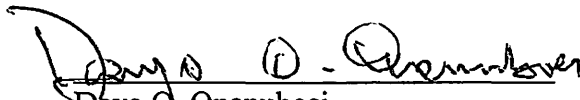
ORDER

THIS CAUSE having come up regularly for hearing before the Court on
Thursday, November 15, 2012, pursuant to plaintiff's motion for attorney's fees and costs
and plaintiff's motion for prejudgment interest; and the Court having considered and
records filed herein and having heard and considered oral argument from counsel, and
otherwise being fully advised in the premises:

NOW, THEREFORE, it shall be the order of this Court and it is hereby ordered:

1. That plaintiff's motion for award of attorney's fees and costs is
GRANTED; and
2. That plaintiff's motion for prejudgment interest is GRANTED.

MADE AND ENTERED this 21 day of November, 2012.


Dayo O. Onanubosi
Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am the clerk of the above-entitled court, and that on the 23 day of November, 2012, I served a true and correct copy of the foregoing **ORDER** on the persons listed below by mailing, with the correct postage thereon, or by causing the same to be hand delivered.

Persons Served:

- U.S. Mail
- Facsimile Transmission
- Hand Delivery
- Overnight Delivery

Bryan N. Zollinger, Esq.
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& ASSOCIATES, PLLC
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Idaho Falls, Idaho 83405

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Clerk of the Court

Bryan N. Zollinger
Idaho State Bar # 8008
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T. CRAWFORD, DEPUTY

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JUDGMENT

IN THIS MATTER, the Court having entered summary judgment in favor of Diversified Equity Systems, LLC and against Jack Riggs; and the court having awarded attorney's fees, costs, and prejudgment interest in favor of Diversified Equity Systems, LLC and against Defendant, Jack Riggs;


IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment be entered against Defendant, Jack Riggs, in the sum of \$18,268.99 said amount being itemized as follows, to-wit:

Principal	\$2,523.72
Prejudgment interest from June 1, 2008, to October 29, 2012 at 99.24%	\$11,054.28

Less Payment	\$ -0.00
Costs	\$165.00
Attorney's Fees	\$4,525.99
TOTAL	\$18,268.99

Interest shall accrue on the total amount of this judgment at the rate provided by law, and execution may issue on this judgment.

DATED this 01 day of November, 2012.


Dayo O. Onanubosi
Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am the clerk of the above-entitled court, and that on the 23 day of November, 2012, I served a true and correct copy of the foregoing **JUDGMENT** on the persons listed below by mailing, with the correct postage thereon, or by causing the same to be hand delivered.

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