

DEFAULTED PARTY HAS NO RIGHT TO A HEARING BEFORE ENTRY OF JUDGEMENT IN LIQUIDATED DAMAGES CASE

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Searchtoppers.com v. Trustcash LLC

Arizona Ct. Appeals, Div. One, December 20, 2012

[JSH Appellate Team](#) Authored by the

Searchtoppers.com sued Trustcash alleging that Trustcash failed to make 38 monthly payments for internet marketing services. Searchtoppers sought to recover the past due contractual payments, totaling \$95,000 plus interest. Trustcash failed to answer. Searchtoppers filed for default, Trustcash still did not respond, and the default became effective. Searchtoppers asked the court to enter judgment without a hearing because the damages were liquidated. The court granted the motion and entered judgment in favor of Searchtoppers in the amount of \$102,500 plus interest. After judgment was entered, Trustcash moved to vacate the default judgment, which the court denied. Trustcash appealed.

The court of appeals affirmed. First, it rejected Trustcash's argument that it demonstrated good cause to vacate the judgment pursuant to Rule 60(c). Trustcash's statutory agent and president thought he had forwarded the complaint to counsel, but actually failed to do so, and never followed up. Mere carelessness is not sufficient reason to set aside a default judgment. Second, under the language of Rule 55(b)(1), Trustcash was not entitled to a hearing on the amount of the judgment. Trustcash had been defaulted and the claim was for a sum certain or for a sum which could by computation be made certain (i.e., was liquidated).