

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
Russell Slifer,

Plaintiff,

-against-

CG Technology, L.P.,

Defendant.
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: 1:14-cv-9661

: ORDER

ANDREW L. CARTER, JR., United States District Judge:

Before the Court is Defendant CG Technology, L.P.'s motion pursuant to Fed. R. Civ. P. 67 for leave to deposit funds with the Court. The Court ordered Plaintiff Russell Slifer to show cause why Defendant's request should not be granted. Plaintiff has failed to respond. For the reasons that follow, Defendant's request is granted.

BACKGROUND

Plaintiff won a jury verdict against Defendant on both counts of his suit for breach of contract and breach of the implied covenant of fair dealing and good faith. The jury awarded Plaintiff \$250,000 "based on Defendant's failure to return the Patent" and \$150,000 "for some other reason." ECF 187 at 3. On January 26, 2017, the Court entered judgment against Defendant for a total of \$400,000. ECF 189. On June 13, 2017, the Court granted Plaintiff's motion for prejudgment interest as of August 29, 2013 under the statutory framework. ECF 227 at 17-18. The Court denied the parties' other post-trial motions, including Plaintiff's request for equitable relief in addition to the monetary damages awarded by the jury. *Id.* at 18.

Defendant has twice offered to pay the full judgment plus interest to Plaintiff, and Plaintiff has twice refused to accept payment in satisfaction of the judgment. Paul Decl. ¶¶ 5-6. In the meanwhile, Plaintiff has moved for reconsideration of the Court's decision on its post-trial

motion for equitable relief. Accordingly, Defendant seeks leave to deposit with the Court the full amount of the judgment plus pre-judgment and post-judgment interest, subject to Defendant's rights on appeal and in defense to Slifer's post-trial motions.

DISCUSSION

Federal Rule of Civil Procedure 67 permits the deposit of funds in dispute with the Clerk of the Court, and provides as follows:

Depositing Property. If any part of the relief sought is a money judgment or the disposition of a sum of money or some other deliverable thing, a party—on notice to every other party and by leave of court—may deposit with the court all or part of the money or thing, whether or not that party claims any of it. The depositing party must deliver to the clerk a copy of the order permitting deposit.

Fed. R. Civ. P. 67(a). The purpose of Rule 67 is to “provide a place of safekeeping for disputed funds pending resolution[.]” *Ray Legal Consulting Group v. DiJoseph*, 37 F. Supp. 3d 704, 729 (S.D.N.Y. 2014) (quoting *Prudential Ins. Co. of Am. v. BMC Indus., Inc.*, 630 F. Supp. 1298, 1300 (S.D.N.Y. 1986)). Courts have discretion to permit deposits. *NY Life Ins. Co. v. Aleandre*, No. 13 Civ. 2384, 2014 WL 30508, at *4 (S.D.N.Y. Jan. 2, 2014).

Because Plaintiff has refused to accept payment, Defendant seeks to deposit funds in order to satisfy judgment in order to halt the accrual of interest. The Second Circuit has stated that stopping the running of interest is a valid reason for such a request. *Kotsopoulos v. Asturia Shipping Co.*, 467 F.2d 91, 94 (2d Cir. 1972) (stating that under Rule 67 a party is not “prevented by the pendency of an appeal from provisionally discharging his debt, since he can, by leave of Court, pay the money into the registry of the Court and stop the running of interest”); *accord Cordero v. De Jesus-Mendez*, 922 F.2d 11, 18-19 (1st Cir. 1990); *Cajun Elec. Power Co-op., Inc. v. Riley Stoker Corp.*, 901 F.2d 441, 445 (5th Cir. 1990). Essentially, if a party owes interest

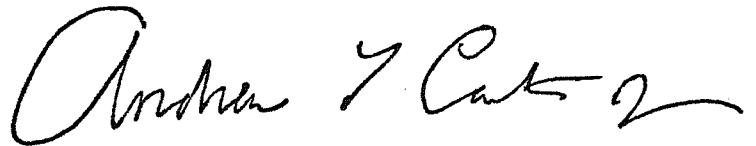
under a contract, as does Defendant here, the party can avoid interest obligations by depositing disputed funds with the court. Accordingly, the Court will permit Defendant to deposit the full amount of the judgment plus pre-judgment and post-judgment interest to date with the Court.

CONCLUSION

For the reasons set forth, Defendant's motion for leave to deposit funds with the Court is GRANTED.

SO ORDERED.

Dated: July 26, 2017
New York, New York

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written in a cursive style.

ANDREW L. CARTER, JR.
United States District Judge