

FILED

AUG 08 2019

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

TANYA GERSH,

Plaintiff,

and

TIMOTHY C. FOX, in his official
capacity as Attorney General of the
State of Montana,

Intervenor,

vs.

ANDREW ANGLIN,

Defendant.

CV 17-50-M-DLC-JCL

ORDER

Following a hearing on Plaintiff Tanya Gersh's Motion for Default Judgment (Doc. 201), United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation on July 15, 2019, recommending that the Court (1) grant the motion for default judgment; (2) award Gersh \$4,042,438 in compensatory damages and \$10,000,000 in punitive damages; and (3) issue a permanent injunction ordering Defendant Andrew Anglin to remove from his website the blog posts that caused Gersh's damages. (Doc. 211.) No party

timely objected to the Findings and Recommendation, and accordingly all parties have waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court reviews for clear error those findings and recommendations to which no party objects. *See Thomas v. Arn*, 474 U.S. 140, 149–53 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been made.” *Wash. Mut., Inc. v. United States*, 856 F.3d 711, 721 (9th Cir. 2017) (citation omitted).

Having reviewed the Findings and Recommendation (Doc. 211), the Court finds no clear error. Default judgment is an appropriate sanction for Anglin’s absolute refusal to defend. Fed. R. Civ. P. 37(d), 55(b)(2); *see Ringgold Corp. v. Worrall*, 880 F.2d 1138, 1141 (9th Cir. 1989); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987); *Eitel v. McCool*, 782 F.2d 1470, 1471–72 (9th Cir. 1986). Judge Lynch reviewed evidence regarding the measure of Gersh’s damages, and he did not clearly err in finding that they total \$4,042,438. Nor is there clear error in the recommendation that the Court award \$10,000,000 in punitive damages. *See Mont. Code Ann. § 27–1–221(7)(b)*; *Blue Ridge Homes, Inc. v. Thein*, 191 P.3d 374, 387 (Mont. 2008); *State Farm Mut. Auto. Ins. Co. v. Campbell*, 5387 U.S. 408 (2002). Finally, the Court agrees that a permanent injunction should be ordered to reduce future harassment of Gersh and her family.

Accordingly, IT IS ORDERED:

(1) Judge Lynch's Findings and Recommendation (Doc. 211) is ADOPTED
IN FULL;

(2) Defendant Andrew Anglin shall permanently remove from his website the blog posts encouraging his readers to contact Plaintiff Tanya Gersh and Gersh's family, including all photographs and images of the family and comment boards associated therewith;

(3) The Clerk of Court shall enter judgment against Defendant Anglin and in favor of Plaintiff Gersh for compensatory damages in the amount of \$4,042,438 and for punitive damages in the amount of \$10,000,000.

DATED this 8th day of August, 2019.



Dana L. Christensen, Chief Judge
United States District Court