

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

J & J SPORTS PRODUCTIONS, INC.,

Case No. 1:15-cv-01036-LJO-SKO

Plaintiff,

v.

RAQUEL ORTIZ REYES, et al.,

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS THAT
PLAINTIFF'S MOTION FOR DEFAULT
JUDGMENT BE GRANTED**

Defendants.

(Doc. 31)

Plaintiff J&J Sports Productions, Inc. ("Plaintiff") seeks the entry of default judgment against Defendants Raquel Ortiz Reyes d/b/a Los Reyes Mexican Food and Raul Reyes d/b/a Los Reyes Mexican Food ("Defendants"). (Docs. 24; 27.) On January 8, 2016, the Magistrate Judge filed Findings and Recommendations recommending that Plaintiff's motion for default be granted and that Plaintiff be awarded a total of \$3,800. (Doc. 31.) The Findings and Recommendations provided twenty-one days for the filing of objections. (Doc. 31.) On January 29, 2016, Plaintiff objected, contending that the facts mandated an award of more damages than the amount recommended by the Magistrate Judge since Defendants' actions were willful and for the purpose of commercial advantage or financial gain. (Doc. 32.) Plaintiff argued that the amount of damages recommended by the Magistrate Judge were insufficient to deter either Defendants' or the general public's piracy of its boxing programs.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and proper analysis. Representing an amount more than twice that of the applicable licensing fee, total damages of \$3,800.00 represent sufficient deterrence in a case against first-time offenders under the circumstances presented. *See, e.g., J & J Sports Prods., Inc. v. Garcia*, No. 1:12-CV-00366-LJO, 2012 WL 5417417, at *1 (E.D. Cal. Nov. 6, 2012) (finding total damages of \$2,400.00, twice the value of

1 the licensing fee, to “represent sufficient deterrence in a case against a first-time offender”).

2 Nor does the Court find persuasive Plaintiff’s argument for enhanced damages. Although,
3 “upon default, the well pleaded allegations of the complaint relating to liability are taken as
4 true[,]” *Dundee Cement Co. v. Howard Pipe & Concrete Products, Inc.*, 722 F.2d 1319, 1323 (7th
5 Cir. 1983), the complaint in this matter alleges no facts constituting a well pleaded allegation that
6 Defendants’ actions were willful or for the purpose of commercial advantage or financial gain.
7 (*See* Doc. 31, p. 8.)

8 To adequately state a claim against a defendant, a plaintiff must set forth the legal and
9 factual basis for his or her claim. Detailed factual allegations are not required, but “[t]hreadbare
10 recitals of the elements of the cause of action, supported by mere conclusory statements, do not
11 suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), citing *Bell Atlantic Corp. v. Twombly*, 550
12 U.S. 544, 555 (2007). While factual allegations are accepted as true, legal conclusions are not.
13 *Iqbal*, 556 U.S. at 678. A plaintiff must set forth “the grounds of his entitlement to relief,” which
14 “requires more than labels and conclusions, and a formulaic recitation of the elements of a cause
15 of action.” *Twombly*, 550 U.S. at 555-56 (internal quotation marks and citations omitted). In its
16 complaint, Plaintiff simply alleged a legal conclusion: “Said unauthorized interception, reception,
17 publication, exhibition, divulgence, display, and/or exhibition by each of the Defendants was done
18 willfully and for purposes of direct and/or indirect commercial advantage and/or private financial
19 gain.” (Doc. 6, ¶ 22.) Plaintiff having failed to allege facts establishing the grounds of entitlement
20 to enhanced damages, this Court cannot award enhanced damages.

21 Accordingly, IT IS HEREBY ORDERED that the Findings and Recommendations, filed
22 January 8, 2016, are adopted in full.

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24 IT IS SO ORDERED.

25 Dated: February 1, 2016

/s/ Lawrence J. O’Neill
UNITED STATES DISTRICT JUDGE

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