

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOE HAND PROMOTIONS, INC.,

Plaintiff,

v.

ELK'S LODGE COALINGA 1613,

Defendant.

Case No. 1:12-cv-01998-LJO-MJS

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS ON PLAINTIFF'S
APPLICATION FOR DEFAULT
JUDGMENT**

(ECF No. 17)

Plaintiff Joe Hand Promotions, Inc., ("Plaintiff") filed this action on December 6, 2012 alleging violations of the Communications Act of 1934 (47 U.S.C. § 605 et seq.), the Cable & Television Consumer Protection and Competition Act of 1992 (47 U.S.C. § 553 et seq.), and asserting supplemental state law claims. (Compl., ECF No. 1.)

On June 19, 2013, Plaintiff filed an application for default judgment against Defendant Elk's Lodge Coalinga 1613, an unknown business entity doing business as Elk's Lodge # 1613 and also known as Coalinga Elk's Lodge 1613. (Application For Default Judgment, ECF No. 13.) The Application was referred to the United States Magistrate Judge pursuant to 28 U.S.C. 636(b)(1)(B) and Local Rule 302 of the United States District Court for the Eastern District of California, who finding the matter suitable for decision

1 without a hearing, vacated the August 23, 2013 hearing and considered the Application
2 submitted upon the record in accordance with Local Rule 230(g).

3 On October 7, 2013, Findings and Recommendations on Plaintiff's Application for
4 Default Judgment (Findings and Recommendations, ECF No. 17) were filed in which the
5 Magistrate Judge recommended the Application be granted and judgment entered against
6 Defendant Elk's Lodge Coalinga 1613, an unknown business entity doing business as Elk's
7 Lodge # 1613 and also known as Coalinga Elk's Lodge 1613 as follows:

- 8 a. \$10,000 statutory damages for violation of 47 U.S.C. § 605;
- 9 b. \$5,000 enhanced statutory damages for violation of 47 U.S.C. § 605; and
- 10 c. \$1,000 damages for the tort of conversion.

11 The parties were notified that objection, if any, was due within fifteen (15) days.
12 Neither party filed an objection to the Findings and Recommendations. In accordance with
13 the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de novo review of
14 this case. Having carefully reviewed the entire file, the Court finds the Findings and
15 Recommendations to be supported by the record and by proper analysis, provided that
16 damages for conversion shall be awarded in the sum of \$1,100 rather than \$1,000.¹

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. The Court adopts the Findings and Recommendations filed October 7, 2013,
19 modified as above,
- 20 2. The Clerk of the Court shall enter judgment against Defendant Elk's Lodge
21 Coalinga 1613, an unknown business entity doing business as Elk's Lodge #
22 1613 and also known as Coalinga Elk's Lodge 1613 as follows:
 - 23 a. \$10,000 statutory damages for violation of 47 U.S.C. § 605;
 - 24 b. \$5,000 enhanced statutory damages for violation of 47 U.S.C. § 605;
 - 25 and

26 /////

27 _____
28 ¹ The Magistrate's analysis concludes Plaintiff is entitled to damages for conversion in the amount of \$1,100. (ECF 17 at 9:11-13.) However, the recommended amount of damages for conversion is \$1,000. (Id. at 9:25.) The Court concludes the amount requested by Plaintiff, \$1,100, is supported by the record and proper analysis and that conversion damages shall be awarded in the amount of \$1,100.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

c. \$1,100 damages for the tort of conversion.

IT IS SO ORDERED.

Dated: November 7, 2013

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