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## IN THE UNITED STATES DISTRICT COURT

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## FOR THE NORTHERN DISTRICT OF CALIFORNIA

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MEGUMI HISAMATSU,

No. C 07-04371 JSW

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Plaintiff,

**ORDER ON REPORT AND  
RECOMMENDATION  
REGARDING PLAINTIFF'S  
MOTION FOR DEFAULT  
JUDGMENT AGAINST  
DEFENDANT KAUSHAL  
NIROULA**

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v.

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KAUSHAL NIROULA, et al.

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Defendants.

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Now before the Court for consideration is the Report and Recommendation on Plaintiff Megumi Hisamatsu's ("Ms. Hisamatsu") Motion for Default Judgment against Defendant Kaushal Niroula, issued by Magistrate Judge Laporte on October 22, 2009. On November 2, 2009, Ms. Hisamatsu filed objections to the Report, a motion for *de novo* review of the Report, and a motion to expand the record.

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The matter is now ripe for consideration, and the Court finds the matter suitable for disposition without oral argument. *See* N.D. Civ. L.R. 7-1(b). For the reasons set forth herein, the Court ADOPTS IN PART the Report and Recommendation, GRANTS Ms. Hisamatsu's motion to expand the record, SUSTAINS IN PART AND OVERRULES IN PART Ms. Hisamatsu's objections to the Report, and GRANTS IN PART AND DENIES IN PART Ms. Hisamatsu's motion for *de novo* review.

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This Court outlined in detail the facts underlying this dispute in its Orders resolving motions to dismiss filed by Defendant Bank of Hawaii. (*See* Docket Nos. 66, 106.) Magistrate

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1 Judge Laporte also detailed the facts underlying the dispute. (Docket No. 168.) As such, the  
2 Court presumes that the parties are familiar with those facts, and it shall not repeat them herein.

3 In her Report, Magistrate Judge Laporte recommended that the Court grant Plaintiff’s motion  
4 for default judgment on three of the eight causes of action asserted against Defendant Niroula.  
5 Plaintiff does not object to that portion of the Report, and the Court finds that recommendation  
6 to be thorough and well-reasoned and adopts that portion of the Report in full.

7 Magistrate Judge Laporte concluded, however, that Plaintiff had not adequately proved  
8 up her actual, general and punitive damages. Accordingly, Magistrate Judge Laporte  
9 recommended that the Court award \$1,398,000 in actual damages, which represented \$508,000  
10 in three stolen checks and \$890,000 that Mr. Niroula promised to Ms. Hisamatsu as  
11 reimbursement for the funds he obtained by way of the stolen checks. Plaintiff objects to this  
12 portion of the Report. In support of her objection to the findings that she had not established  
13 damages in the amount of \$41,000, Plaintiff submits a supplemental declaration and attests that  
14 she gave Mr. Niroula \$41,000 based on his false representations that his sister had been  
15 kidnapped and he required the funds to pay her ransom. (See Second Amended Complaint  
16 (“SAC”) ¶¶ 37, 50-53, 55-56; Docket No. 170, Supplemental Declaration of Megumi Hisamatsu  
17 (“Hisamatsu Supp. Decl.”), ¶ 2.) The Court grants Ms. Hisamatsu’s motion to expand the  
18 record, and it concludes she has established this aspect of her claim for actual damages.  
19 Accordingly, the Court rejects in part the Report, sustains in part Ms. Hisamatsu’s objection,  
20 and grants in part Ms. Hisamatsu’s motion for de novo review on this basis.

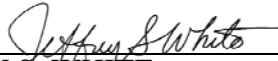
21 Ms. Hisamatsu also contends that in light of Mr. Niroula’s representations regarding his  
22 family’s wealth, she should be awarded the \$7.5 million she has requested in punitive damages.  
23 (See Docket No. 169, Objections and Motion for De Novo Review at 4:6-9.) However, the  
24 Court finds Magistrate Judge Laporte’s Report with respect to general and punitive damages to  
25 be thorough and well reasoned. Therefore, the Court adopts in part the Report, overrules in part  
26 Ms. Hisamatsu’s objection, and denies in part Ms. Hisamatsu’s motion for de novo review on  
27 this basis.

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For the foregoing reasons Ms. Hisamatsu's motion for default judgment against Defendant Kaushal Niroula is GRANTED IN PART. Ms. Hisamatsu shall be awarded damages in the sum of \$1,439,000. A separate judgment shall issue, and the Clerk is directed to close the file.

**IT IS SO ORDERED.**

Dated: November 30, 2009

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE