

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EUN HEE CHOI,

Plaintiff,

-v-

No. 06 Civ. 2740 (LTS)(DCF)

JASON KIM,

Defendant.

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**MEMORANDUM ORDER AND OPINION ADOPTING
REPORT AND RECOMMENDATION**

Plaintiff Eun Hee Choi (“Plaintiff”) commenced this action by filing a complaint asserting various tort claims against defendant Jason Kim (“Defendant”), of which the Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332. Defendant failed to interpose a timely answer to the complaint or otherwise move in this proceeding, and the Court granted Plaintiff permission to move for a default judgment. Upon consideration of Plaintiff’s default judgment application, the Court granted Plaintiff’s motion and referred the case to Magistrate Judge Freeman for an inquest as to damages.

Judge Freeman issued a scheduling order establishing the procedures the litigants were to follow in the inquest. Plaintiff filed her submission accordingly and requested an award of \$1,000,000 in compensatory damages for pain and suffering and \$1,000,000 in punitive damages. Defendant failed to respond to Plaintiff’s submissions or to contact Judge Freeman’s chambers. Accordingly, after allotting Defendant ample time to appear, Judge Freeman issued a Report and Recommendation (the “Report”) based upon the submissions of Plaintiff alone. The Report


recommends that the Court award Plaintiff \$350,000 in pain and suffering damages and that the Court not assess any punitive damages. Neither party has submitted objections to the Report, and the time allotted to do so has expired.

When reviewing the Report, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.A. § 636(b)(1)(C) (West 2008). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” See Pearson-Fraser v. Bell Atl., No. 01 Civ. 2343, 2003 WL 43367, at *1 (S.D.N.Y. Jan. 6, 2003) (internal citations and quotation marks omitted). Judge Freeman’s Report reflects a thorough review of Plaintiff’s factual submissions as well as a diligent analysis of the applicable law, including a survey of cases awarding pain and suffering damages to New Jersey assault and harassment victims and a survey of New Jersey punitive damages law. The Court is satisfied that the report contains no clear error. Accordingly, the Court adopts the Report in its entirety.

CONCLUSION

Defendant Jason Kim is liable to Plaintiff Eun Hee Choi for \$350,000 in compensatory damages for pain and suffering. The Clerk of Court is hereby requested to enter judgment accordingly and close this case.

Dated: New York, New York
April 21, 2009



LAURA TAYLOR SWAIN
United States District Judge