

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



DAVID MCGLYNN,

Plaintiff,

v.

23-CV-78 (JLS) (JJM)

THE REPORTER, INC., doing business
as The Niagara Reporter, DOES 1
THROUGH 10 INCLUSIVE,

Defendants.

DECISION AND ORDER

On January 25, 2023, Plaintiff David McGlynn commenced this action, which seeks relief against Defendants The Reporter, Inc., and Does 1 Through 10 Inclusive¹ under the Copyright Act for Defendants' alleged infringement of his copyrighted photograph. *See* Dkt. 1. McGlynn asked the Clerk of the Court to enter default on June 7, 2023, after Defendant neither appeared nor responded to the complaint.² *See* Dkt. 7. The Clerk entered default on June 8, 2023. Dkt. 8. And on August 10, 2023, McGlynn moved for default judgment. Dkt. 10.

This Court referred the case to United States Magistrate Judge Jeremiah J. McCarthy to hear and determine, and to report and recommend on, all matters in

¹ A summons was issued, and affidavit of service returned, only as to Defendant The Reporter, Inc. *See* Dkt. 4; Dkt. 6. The Court therefore refers only to that Defendant in this decision and order.

² Defendant still has not appeared as of the date of this decision and order.

this case, pursuant to 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 12. On September 6, 2023, Judge McCarthy issued a Report and Recommendation (R&R), recommending that this Court (1) grant McGlynn's motion for default judgment, and (2) enter default judgment against Defendant as requested by McGlynn, without a hearing. *See* Dkt. 13.

Neither party objected to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Though not required to do so here, this Court nevertheless reviewed Judge McCarthy's R&R. Based on that review, and absent any objections, the Court accepts and adopts the R&R (Dkt. 13).

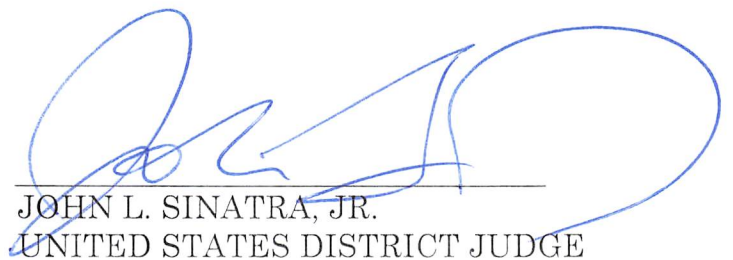
For the reasons stated above and in the R&R, the Court GRANTS McGlynn's motion for default judgment (Dkt. 10). The Clerk of Court shall enter judgment against Defendant The Reporter, Inc., as follows:

- Awarding McGlynn \$6,000 in statutory damages, pursuant to 17 U.S.C. § 504(c);
- Awarding McGlynn a total of \$732 in costs—comprised of \$402 for the filing fee related to this case and \$330 for costs incurred in serving the complaint; and
- Awarding McGlynn post-judgment interest, pursuant to 28 U.S.C. § 1961.

The Clerk of Court shall close this case.

SO ORDERED.

Dated: November 14, 2023
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE