

United States District Court
Southern District of Texas

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ENTERED

January 07, 2025

Nathan Ochsner, Clerk

JYHEIM DILLON,
Plaintiff,

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§
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§
§

V.

CIVIL ACTION NO. 4:24cv1253

TUSHIG, INC. AND JOHN DOE,
Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S
MEMORANDUM AND RECOMMENDATION**

Having reviewed the Magistrate Judge's Memorandum and Recommendation dated December 20, 2024 (Dkt. 21) and no party having filed objections thereto, the Court is of the opinion that said Memorandum and Recommendation should be adopted by this Court.

It is therefore **ORDERED** that the Magistrate Judge's Memorandum and Recommendation is hereby **ADOPTED** by this court.

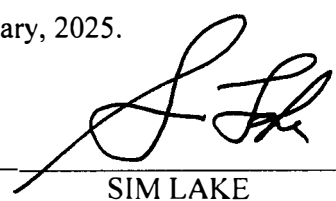
It is further **ORDERED** that Plaintiff's Second Motion for Default Judgment (Dkt. 18) is **GRANTED IN PART** and this Court enters Judgment by default against Defendant Tushig, Inc. and in favor of Plaintiff. The material allegations of Plaintiff's Original Petition are deemed admitted as to Defendant Tushig, Inc.

It is further **ORDERED** that Plaintiff's Motion for Default Judgment (Dkt. 12) and Supplemental Motion for Default Judgment (Dkt. 17) are **DENIED AS MOOT**.

Finally, Plaintiff filed his complaint on April 4, 2024. As such, Plaintiff is far past his deadline to identify and serve the John Doe Defendant pursuant to Federal Rule of Civil Procedure 4(m), and no good cause has been offered to extend the time for service.

Therefore, it is further **ORDERED** that Plaintiff's remaining claims against the John Doe Defendant are **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 4(m). *See Millan v. USAA Gen. Indem. Co.*, 546 F.3d 321, 325 (5th Cir. 2008) (Rule 4(m) permits the district court to dismiss a case without prejudice if the plaintiff, absent good cause, fails to timely serve a defendant.).

SIGNED at Houston, Texas this 7th day of January, 2025.



SIM LAKE
SENIOR UNITED STATES DISTRICT JUDGE