

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

NEXSTAR MEDIA, INC.,

Plaintiff,

v.

Case No: 8:22-cv-516-CEH-SPF

JENNIFER JAROS and JAY IS 4
JUSTICE PODCAST, LLC,

Defendants.

ORDER

This cause comes before the Court upon Plaintiff Nexstar Media, Inc.’s Motion for Default Judgment against Defendant Jay is 4 Justice Podcast, LLC (“J4J”). Doc. 29. On March 4, 2022, Plaintiff filed a one-count complaint alleging copyright infringement against Defendants Jennifer Jaros and J4J. Doc. 1. Plaintiff now moves for default judgment as to J4J. Doc. 29. The Court, having considered the Motion and being fully advised in the premises, will grant default judgment as to liability. However, Plaintiff will be required to prove its damages at an evidentiary hearing.

I. FACTUAL ALLEGATIONS

Nexstar Media, Inc. (“Nexstar”) is an American media company that operates, programs, or otherwise provides services to television stations in 116 markets across 39 states. Doc. 1 ¶¶ 9–10. The company is the owner and authorized licensee of television station WFLA-TV (“WFLA”) based in Tampa, Florida. *Id.* ¶ 12. WFLA broadcasts seven hours of live news each weekday under the brand name

NewsChannel 8 and also operates WFLA NOW, a digital live-streaming platform for local news. *Id.* ¶¶ 14–15.

Between September 27 and October 21, 2021, WFLA reported extensively on the manhunt for Brian Laundrie. *Id.* ¶ 16. Laundrie was the former partner of Gabby Petito and a person of interest in her death, which was the subject of national and international press attention. *Id.* WFLA’s coverage included numerous videos, original descriptions made by its reporters, and compilations of audio and video put together by its producers. *Id.* ¶ 17. It also included the seven works that Nexstar claims were copied or redistributed without its permission (“the WFLA Works”).¹ *Id.* ¶ 18. Nexstar is the exclusive owner of all copyrights in the WFLA Works and promptly sought to register them with the United States Copyright Office. *Id.* ¶¶ 19–20. Among the exclusive rights granted to Nexstar by the Copyright Act, 17 U.S.C. § 106, are the rights to reproduce the Works and distribute them to the public. *Id.* ¶ 21.

Defendant J4J is a Florida limited liability company with a principal address in St. Petersburg, Florida. *Id.* ¶ 8. It creates and distributes true crime podcasts and videos through a number of platforms, including Twitter, Facebook, and YouTube. *Id.* ¶ 23. Nexstar believes that J4J is managed and operated by Defendant Jennifer Jaros. *Id.* ¶ 22. J4J released numerous podcasts and videos related to the search for Brian Laundrie. *Id.* ¶ 24. Included among these were numerous videos streamed or uploaded

¹ Although the Complaint lists eleven copyrighted works in Exhibit A (Doc. 1 at 10), Nexstar seeks default judgment as to J4J’s infringement of only the seven works that were registered within three months of initial publication. Doc. 29 at 8 n.3.

to YouTube and shared with the public. *Id.* ¶ 27. On multiple occasions, without Nexstar’s authorization, consent, or license, J4J’s podcasts and videos copied substantial portions of the WFLA Works. *Id.* ¶ 26. Defendant also placed a watermark on the infringing videos, branding them as “Jay is 4 Justice.” *Id.* ¶ 28. After discovering the infringement, a Nexstar attorney submitted several takedown notifications to YouTube seeking removal of the infringing works pursuant to the Digital Millennium Copyright Act, 17 U.S.C. § 512(c). *Id.* ¶ 30. YouTube promptly removed several of the works and notified J4J. *Id.* In turn, J4J submitted a counter-notification to YouTube, admitting to the use of another’s content but claiming that the videos fell within the fair use exception detailed in the Copyright Act. *Id.* ¶ 31. YouTube then reinstated the videos subject to a court determining the merits of Nexstar’s claims. *Id.* ¶ 33.

Nexstar filed suit against both Jaros and J4J, asserting one count of copyright infringement.² *Id.* ¶¶ 37–41. Nexstar alleged that the infringement was “willful, intentional, and in reckless disregard of and indifferent to” its rights. *Id.* ¶ 39. After serving J4J with a copy of the Summons and Complaint, Nexstar moved for and obtained a Clerk’s default. Docs. 17, 18, 19. J4J, a limited liability company, then filed an answer *pro se*, which the Court struck pursuant to the Middle District of Florida’s Local Rules. Docs. 20, 23. *See* L.R. 2.02(b)(2), M.D. Fla. (“A party, other than a natural person, can appear through the lawyer only.”) The Court directed J4J to file an answer, signed by counsel, no later than June 30, 2022. Doc. 23. After J4J failed to

² The docket in this case does not reflect service on Defendant Jennifer Jaros. Nor has Plaintiff dismissed Defendant Jaros as a party to this litigation.

do so, Nexstar submitted a second motion for Clerk's default (Doc. 24), and a default was entered on July 13, 2022. Doc. 25.

Now before the Court is Nexstar's motion for default judgment. Doc. 29. Nexstar seeks (i) \$10,000 dollars in statutory damages for each of the seven alleged infringements, totaling \$70,000 in damages, (ii) entry of a permanent injunction against future infringement, and (iii) an award of reasonable attorney's fees and costs incurred in prosecuting this action. *Id.* at 15–16.

II. LEGAL STANDARD

When a defendant fails “to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter” the defendant's default upon the plaintiff's request. Fed. R. Civ. P. 55(a). After the clerk enters the default, the plaintiff may proceed by seeking default judgment. *See* Fed. R. Civ. P. 55(b).

Default does not automatically warrant the entry of default judgment. Although a defendant who defaults is deemed to have “admit[ted] the plaintiff's well-pleaded allegations of fact,” *Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987), “[t]he defendant is not held to admit facts that are not well-pleaded or to admit conclusions of law.” *Nishimatsu Constr. Co., Ltd. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975).³ Similarly, a plaintiff is entitled to only those damages adequately supported by the record. *See Adolph Coors Co. v. Movement Against Racism and the Klan*, 777 F.2d 1538,

³ In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

1544–1545 (11th Cir. 1985). Therefore, a court must conduct an analysis to determine whether the well-pleaded factual allegations of the complaint provide a sufficient basis for a judgment against the defendant. *Nishimatsu Constr. Co.*, 515 F.2d at 1206.

III. DISCUSSION

A. Service of Process and Clerk’s Default

Under the federal rules, a plaintiff may serve a corporate defendant by:

delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process . . .

Fed. R. Civ. P. 4(h)(1)(B).

A plaintiff may also serve a corporate defendant “in the manner prescribed by Rule 4(e)(1) for serving an individual.” Fed. R. Civ. P. 4(h)(1)(A). Nexstar’s affidavit of service, filed on March 16, 2022, shows that Nexstar served the summons and complaint on Northwest Registered Agent LLC, the registered agent for Jay is 4 Justice Podcast LLC, at its business address. Doc. 17. Therefore, J4J was properly served pursuant to Federal Rule of Civil Procedure 4(h)(1)(B).

Under Federal Rule of Civil Procedure 12(a)(1), Defendants were required to respond to Plaintiff’s complaint within twenty-one (21) days from the date of service. They did not. The federal rules require that a defendant’s default be entered “[w]hen service of process is properly effected, but the served party fails to respond in a timely manner.” *Kelly v. Florida*, 233 F. App’x 883, 885 (11th Cir. 2007) (citing Fed. R. Civ. P. 55(a)). Thus, based on J4J’s failure to properly respond to the complaint or

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