

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BOBBY GOLDSTEIN PRODUCTIONS,)	
INC.,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	
VS.)	3:21-CV-1924-G
)	
THOMAS L. HABEEB and ATVD, LLC)	
d/b/a AMERICAN TELEVISION)	
DISTRIBUTION,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

Before the court is the plaintiff Bobby Goldstein Productions, Inc.’s (“BGP” or the “plaintiff”) motion for entry of judgment. Plaintiff’s Motion for Entry of Judgment (“Motion”) (docket entry 111). BGP moves for entry of final judgment pursuant to Federal Rule of Civil Procedure 58 against the defendants Thomas L. Habeeb (“Habeeb”) and ATVD, LLC, d/b/a American Television Distribution (“ATVD”) (collectively, the “defendants”), specifically asking the court to: (1) conclude that Habeeb is liable for the \$390,000 damages award levied against ATVD; (2) grant BGP \$354,868.37 in pre-judgment interest that accrued from May 7, 2008,

through October 27, 2022, and \$91.20 in pre-judgment interest for each subsequent day until judgment is entered; (3) award BGP post-judgment interest; and (4) award full costs, including reasonable attorney's fees, to BGP. See *id.* For the reasons set forth below, the motion is **GRANTED**. Judgment in favor of BGP for the full amount of relief will be entered against both ATVD and Habeeb. This includes liability for the \$390,000 damages award, \$366,997.97 in pre-judgment interest, post-judgment interest to be determined by the district court after entry of judgment, and reasonable costs and attorney's fees.

I. BACKGROUND

For a more detailed summary of this case's facts, see the court's order on the defendant's motion to compel arbitration. Motion to Compel Arbitration Memorandum Opinion and Order (docket entry 40). Below are the facts pertinent to this motion.

In 1995, Robert N. Goldstein ("Goldstein") created *Cheaters* and started his own production company, BGP, to produce and shoot the show. Plaintiff's Original Complaint for Copyright Infringement ("Complaint") (docket entry 1) ¶ 9. *Cheaters Uncensored* is a show comprised of uncensored footage from *Cheaters*. *Id.* Goldstein and Habeeb collaborated on *Cheaters*. Brief in Support of Defendants' Motion to Compel Arbitration ("Brief in Support of Motion") (docket entry 22) at 1. Habeeb is the president and managing member of ATVD, which is a Texas limited liability

company. Joint Pretrial Order (docket entry 81) at 5. ATVD, however, forfeited its corporate privileges on January 29, 2016, for failing “to file a franchise tax report and/or pay franchise taxes[,]” and its “corporate privileges were not revived by the Texas Secretary of State before BGP filed this lawsuit.” *Id.* at 6.

On August 18, 2021, BGP filed a complaint against Habeeb and ATVD, alleging that the defendants committed direct, contributory, and vicarious copyright infringement by posting videos online that contained BGP’s copyrighted material, specifically from *Cheaters Uncensored*. See Complaint. On October 20, 2022, the parties stipulated that the court, rather than the jury, should decide post-trial the question of whether Habeeb is liable for any or all of ATVD’s debts based on ATVD losing its corporate charter, assuming that the jury returned a verdict in favor of BGP. Joint Submission Regarding the Court’s October 19, 2022 Order (docket entry 93) at 1-2. Furthermore, on October 27, 2022, BGP withdrew its claims that ATVD committed vicarious and contributory copyright infringement. Plaintiff’s Requested Edits to the Court’s [Proposed] Instructions to the Jury and Verdict Form (docket entry 106) at 1. On October 27, 2022, the jury returned a verdict in favor of BGP and against ATVD, awarding BGP \$390,000 in statutory damages. Verdict (docket entry 109) at 48-49.

BGP filed its motion for entry of judgment on October 31, 2022. In it, BGP alleges that: (1) Habeeb is liable for the \$390,000 damages award levied against

ATVD because it is a debt of ATVD's that it incurred after ATVD forfeited its corporate privileges and before it reinstated its corporate charter; (2) pursuant to 28 U.S.C. § 1961, the court should award BGP \$354,868.37 in pre-judgment interest for the period of May 7, 2008, through October 27, 2022, and \$91.20 for each day thereafter until judgment is entered, because the Copyright Act does not preclude pre-judgment interest and awarding pre-judgment interest in this case furthers the congressional policies of the Copyright Act; (3) pursuant to section 1961, the court should award BGP post-judgment interest on the entire amount of relief sought; and (4) the court should award BGP, as the prevailing party, full costs and reasonable attorney's fees. *See* Motion.

The defendants filed their response to BGP's motion for entry of judgment on November 3, 2022. In it, the defendants first contend that the court should not enter judgment against Habeeb individually, because ATVD's debt was not incurred after it forfeited its corporate charter, ATVD never revived its corporate charter, and copyright infringement is not a debt under Texas Tax Code § 171.255(a). Response to Plaintiff's Motion for Judgment ("Response") (docket entry 113) at 2-7. The defendants then argue that if the court determines that ATVD's debt occurred when the verdict was entered against it, pre-judgment interest should be calculated from the date of the verdict. *Id.* at 7.*

* In their response to BGP's motion for entry of judgment, the defendants also ask the court to: (1) set aside the jury's finding that the defendants did not have

II. ANALYSIS

A. Habeeb is Liable for the \$390,000 Award Against ATVD

BGP first asks the court to enter final judgment that Habeeb is liable for all or part of the \$390,000 award against ATVD under section 171.255(a) because the award is a debt of ATVD's that it incurred after ATVD forfeited its corporate privileges and before it reinstated its corporate charter. Motion at 1. In relevant part, Texas Tax Code section 171.255 states:

(a) If the corporate privileges of a corporation are forfeited for the failure to file a report or pay a tax or penalty, each director or officer of the corporation is liable for each debt of the corporation that is created or incurred in this state after the date on which the report, tax, or penalty is due and before the corporate privileges are revived. The liability includes liability for any tax or penalty imposed by this chapter on the corporation that becomes due and payable after the date of the forfeiture.

(b) The liability of a director or officer is in the same manner and to the same extent as if the director or officer were a partner and the corporation were a partnership.

(c) A director or officer is not liable for a debt of the corporation if the director or officer shows that the debt was created or incurred:

an express license to use BGP's copyrighted material, arguing that this finding was against the great weight of the evidence; and (2) set aside both the court's prior ruling denying the defendants' motion to compel arbitration and the jury's verdict in favor of BGP and refer the case to arbitration. Response at 7-8. "A request for a court order must be made by motion." FED. R. CIV. P. 7(b)(1). Here, the defendants have requested court orders in their response to BGP's motion for entry of judgment, not in a motion submitted with the court. The defendants, therefore, have improperly brought these requests, and the court does not address these issues.

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