

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**JANE DOE**

**Plaintiff,**

**v.**

**MARK A. GIPSON**

**Defendant.**

Civil Action No. 1:23-cv-00463-RP

**PLAINTIFF JANE DOE’S OPPOSED MOTION FOR ENTRY OF JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 58(d) and in view of the Jury’s verdict dated April 23, 2025 (Dkt. 258), Plaintiff Jane Doe (“Plaintiff”) respectfully requests that the Court enter final judgment against Defendant Mark A. Gipson (“Defendant”). The Jury found Defendant liable on all four of Plaintiff’s claims: (1) Disclosure of Intimate Images under 15 U.S.C. § 6851, (2) Unlawful Disclosure or Promotion of Intimate Visual Material under Tex. Civ. Prac. & Rem. Code § 98B, (3) Intentional Infliction of Emotional Distress, and (4) Negligence *Per Se* for Online Impersonation in violation of Texas Penal Code § 33.07. *Id.* at 1-4.

The Jury awarded Plaintiff \$300,000 in compensatory damages and \$2,000,000 in punitive damages for the three claims arising under Texas law: (1) Unlawful Disclosure or Promotion of Intimate Visual Material under Tex. Civ. Prac. & Rem. Code § 98B, (2) Intentional Infliction of Emotional Distress, and (3) Negligence *Per Se* for Online Impersonation in violation of Texas Penal Code § 33.07 (the “Texas Claims”). *Id.* at 2-4. Accordingly, Plaintiff requests that the Court enter judgment for these amounts, for a total of \$2,300,000, for Plaintiff’s Texas Claims.

The Jury's award did not account for damages arising under 15 U.S.C. § 6851. *See id.* at 6 (“Include damages, if any, ***only for liability found under Questions 2-4***, those for which you answered “Yes.”). Instead, 15 U.S.C. § 6851 provides for liquidated damages. *See* 15 U.S.C. § 6851(b)(3)(A)(i) (“an individual may recover . . . liquidated damages in the amount of \$150,000”). Therefore, Plaintiff requests that the Court enter an additional judgment against Defendant in the amount of \$150,000 for Plaintiff's claim under 15 U.S.C. § 6851.

Plaintiff also requests prejudgment interest on all damages. In Texas, “[p]rejudgment interest begins to accrue on the earlier of 180 days after the date the defendant receives written notice of a claim or the day suit is filed.” *Primrose Operating Co. v. Nat’l Am. Ins. Co.*, 382 F.3d 546, 564 (5th Cir. 2004). Here, the Court should award prejudgment interest to compensate Plaintiff for the “lost use of the money due as damages during the lapse of time between the accrual of the claim and the date of judgment.” *Arete Partners, L.P. v. Gunnerman*, 643 F.3d 410, 413 (5th Cir. 2011). Under Texas law, prejudgment interest accrues at either the prime rate or at five percent a year if the prime rate is less than five percent. *Id.* at 415. The current prime rate is 7.5%. Board of Governors of the Federal Reserve System, *Selected Interest Rates (Daily) - H.15*, (May 29, 2025), <https://www.federalreserve.gov/releases/h15/>. Plaintiff's suit was filed just over two years ago on April 24, 2023. Dkt. 1. Therefore, the total prejudgment interest owed Plaintiff equals:  $(\$2,300,000 + \$150,000) \times 7.5\% \times 2 \text{ yr} = \$367,500$ .

Additionally, Plaintiff requests that the Court find that Plaintiff is the prevailing party in this case and shall recover her costs in accordance with Federal Rule of Civil Procedure 54(d)(1), 28 U.S.C. § 1920, and 15 U.S.C. § 6851(b)(3)(A)(i) (“In a civil action filed under this section . . . an individual may recover . . . litigation costs reasonably incurred”). Plaintiff will separately file a Bill of Costs, as required by Local Rule CV-54.

Plaintiff also requests post-judgment interest on all damages and fees from the date of entry of this Judgment until paid, in accordance with 28 U.S.C. § 1961. “Interest shall be allowed on any money judgment in a civil case recovered in a district court.” 28 U.S.C. § 1961(a). Post-judgment interest “shall be calculated from the date of the entry of the judgment, at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding[] the date of the judgment.” *Id.*

Finally, Plaintiff requests that the Court retain jurisdiction over this case for the purpose of monitoring Defendant’s compliance with any injunctive relief ordered by this Court. *See NextEra Energy Cap. Holdings, Inc. v. Jackson*, No. 1:19-cv-00626, Dkt. 245 at 2 (W.D. Tex. Oct. 28, 2024) (“The Court retains jurisdiction to enforce its permanent injunction.”).

For the reasons above, Plaintiff requests the Court grant this motion and enter the proposed final judgment attached to this motion.

Dated: May 30, 2025

Respectfully Submitted,

/s/ Daniel S. Muller

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ATTORNEYS FOR Plaintiff  
JANE DOE

**CERTIFICATE OF CONFERENCE**

On May 27, 2025, Counsel for Plaintiff conferred with opposing counsel concerning the relief sought in this motion and was advised that Defendant opposes this motion.

Dated: May 30, 2025

/s/ Daniel S. Muller  
Daniel Muller

**CERTIFICATE OF SERVICE**

I hereby affirm that on May 30, 2025, a true and correct copy of the foregoing document was served by electronic service pursuant to the Federal Rules of Civil Procedure with the Court's CM/ECF electronic filing system. Additionally, a copy of the respective pleading was served to Mr. Gipson's email address, as well as Mr. Gipson's legal counsel Mr. Trey Lavespere.

Dated: May 30, 2025

/s/ Daniel S. Muller  
Daniel Muller