





taken as true for purposes of entering a default judgment. *Geddes v. United Financial Group*, 559 F.2d 557, 560 (9<sup>th</sup> Cir. 1977). Thus, while default establishes a defendant's liability on all well-pled claims, the court must determine the amount of damages to be awarded in the default judgment. See Fed. R. Civ. P. 55(b)(2).

Whether to grant default judgment is left to the court's sound discretion. See *Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9<sup>th</sup> Cir. 1980). In determining whether default judgment is appropriate under Rule 55(b), the court considers the following factors: "(1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff's substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at stake in the action, (5) the possibility of a dispute concerning material facts, (6) whether the default was due to excusable neglect, and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits." *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9<sup>th</sup> Cir. 1986).

The Ninth Circuit has also identified five factors that a district court must

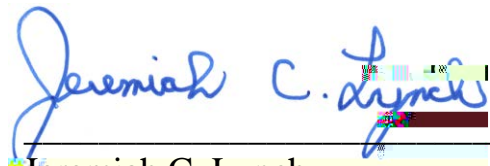


221(2).

Under Montana law, “[a]n award for punitive damages may not exceed \$10 million or 3% of a defendant’s net worth, whichever is less.” Mont. Code Ann. § 27-1-220(3). The Montana Supreme Court has held that the limitation on punitive damage awards in excess of 3% of a defendant’s net worth applies “only if the

compensatory damages and \$10,000,000 in punitive damages. In addition, because the atrocious conduct directed at Gersh and her family has not entirely abated, the Court should issue a permanent injunction ordering Anglin to remove from his website the blog posts encouraging his readers to contact Gersh, her family and, especially, her son, including all photographs and images of the family and comment boards associated therewith.

DATED this 15<sup>th</sup> day of July, 2019.

  
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Jeremiah C. Lynch  
United States Magistrate Judge