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NOT FOR PUBLICATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Christine Rode,

Plaintiff,

v.

Ron Credio, et al.,

Defendants.

No. CV-14-02354-PHX-SRB
ORDER

Defendant Jacob Harvey was served with the Summons and Complaint on October 3, 2014. He failed to appear and his default was entered on January 20, 2015. Plaintiff filed a Motion for Default Judgment against Harvey on March 4, 2016 and this Court referred the motion to Magistrate Judge Boyle for an evidentiary hearing and Report and Recommendation. The evidentiary hearing was held by Judge Boyle on April 18, 2016. Judge Boyle arranged for the telephonic appearance of Harvey. Harvey was present by phone from the Arizona State Prison, Eyman Complex, Browning Unit. Harvey told Judge Boyle he did not want to participate in the default hearing. Counsel for Plaintiff requested an opportunity to submit additional documentation in support of the amount of damages and Harvey was advised he would be given a copy. That additional information was submitted on May 10, 2016 and reflects that copies were mailed to Harvey. Harvey filed nothing in response or in opposition.

On August 3, 2016 Judge Boyle issued his Report and Recommendation recommending that default judgment be entered in favor of Plaintiff and against


1 Defendant Jacob Harvey for \$10 million comprising \$5 million in compensatory damages
2 and \$5 million in punitive damages. A copy of the Report and Recommendation was
3 mailed to Harvey which also advised him of the 14 day objection period. Harvey filed a
4 one page document on August 10, 2016 expressing that he had an interest in this case,
5 acknowledged his participation in the April 18, 2016 hearing and asked for counsel to be
6 appointed because he doesn't know how to defend himself.

7 Harvey is not entitled to appointed counsel in this civil case and even if he were
8 this request is made over 2 years after he was served with the summons and complaint,
9 more than one year after his default was entered, and five months after he told Judge
10 Boyle he did not want to participate in the hearing to determine damages. The request for
11 counsel is denied and to the extent this filing could be interpreted as an objection to the
12 Report and Recommendation it is overruled.

13 IT IS ORDERED adopting the Report and Recommendation of the Magistrate
14 Judge as the Order of this Court.

15 IT IS FURTHER ORDERED directing the Clerk of Court to enter judgment in
16 favor of Plaintiff and against Defendant Jacob Harvey in the amount of \$5,000,000 in
17 compensatory damages and \$5,000,000 in punitive damages.

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19 Dated this 19th day of September, 2016.

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24 _____
25 Susan R. Bolton
26 United States District Judge
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