UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ANTHONY DOMENIC REO,	Case No. 1:19-cv-02615-JRA
Plaintiff,	Hon. John R. Adams
v.	Mag. Carmen E. Henderson
MARTIN LINDSTEDT.,	
Defendant.	

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PLAINTIFF ANTHONY DOMENIC REO'S PARTIAL OBJECTION TO MAGISTRATE JUDGE CARMEN E. HENDERSON'S REPORT AND RECOMMENDATION DATED MARCH 3, 2021 (ECF NO. 37)

(ORAL ARGUMENT REQUESTED)

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II. ISSUE PRESENTED

1. Whether the Court should adopt *in toto* Magistrate Judge Carmen E. Henderson's Report and Recommendation dated March 3, 2021 (ECF No. 37, PageID. 450-469) granting Anthony Domenic Reo ("Plaintiff") summary judgment against Martin Lindstedt ("Defendant") as to Plaintiff's tort claims for common law defamation and common law invasion of privacy (false light), except that the Court should additionally award Plaintiff general damages in the amount of $250,000 and punitive damages in the amount of $250,000—and close the case—insofar as Defendant effectively admitted the same as being proper by not ever responding to Plaintiff's Requests for Admissions.

   Plaintiff's Response: Yes.

   Defendant's Presumed Response: No.

III. STATEMENT OF FACTS

Plaintiff has sued Defendant for Defendant having engaged in a vile campaign of vexatious disparagement against Plaintiff via the Internet. After a jury previously awarded Plaintiff's counsel a verdict in excess of $100,000.00 against Defendant, Defendant embarked on a campaign of harassment extending to the counsel's family members and has targeted Plaintiff which has resulted in the instant action to seek the redress of Plaintiff's grievances. (ECF No. 1-1, PageID. 3-7).

On April 29, 2020, Plaintiff served upon Defendant via First Class United States Mail and via electronic mail Plaintiff Anthony Domenic Reo's First Set of Requests for Admissions, Interrogatories, and Requests for Production of Documents to Defendant Martin Lindstedt. (ECF No. 18, PageID. 185; ECF No. 18-1, PageID. 195-203; ECF No.18-2, PageId. 204). Defendant did not timely serve upon Plaintiff answers to the requests for admissions contained within said discovery requests. (ECF No. 18, PageID. 185). In fact, Defendant did not serve upon Plaintiff at any time answers to said requests for admissions. (ECF No. 18, PageID. 185). In fact, Defendant did not respond to any of Plaintiff's discovery. (ECF No. 18, PageID. 185).

The April 29, 2020, requests for admissions were required to be answered by Defendant within thirty days of said date. Fed. R. Civ. P. 36(a)(3). Due to Defendant not timely denying the requests for admissions, said requests for admissions are deemed admitted. *Id*. The admissions made by Defendant "conclusively establish[]" factual and legal conclusions which permit the Court to enter a dispositive order at this juncture. Fed. R. Civ. P. 36(b). Defendant cannot rebut the irrebuttable, which is the following:

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Please admit that at all times relevant to the controversy as described within Plaintiff's Complaint, Defendant knew that Plaintiff is a resident of the State of Ohio.

ANSWER:

REQUEST FOR ADMISSION NO. 2: Please admit that at all times relevant to the controversy as described within Plaintiff's Complaint, Defendant knew that Defendant's acts of commission as described within Plaintiff's Complaint would cause Plaintiff to suffer damages in the State of Ohio.

ANSWER:

REQUEST FOR ADMISSION NO. 3: Please admit that at all times relevant to the controversy as described within Plaintiff's Complaint, Defendant purposefully acted in a tortious manner so as to cause Plaintiff to suffer damages in the State of Ohio.

ANSWER:

REQUEST FOR ADMISSION NO. 4: Please admit that on September 6, 2019, Defendant published on the worldwide web a false and defamatory statement alleging that Plaintiff had used the committed homosexual incest with his own son.

ANSWER:

REQUEST FOR ADMISSION NO. 5: Please admit incest is defined by Meriam Websters as-sexual intercourse between persons so closely related that they are forbidden by law to marry also: the statutory crime of engaging in such sexual intercourse.

ANSWER:

REQUEST FOR ADMISSION NO. 6: Please admit that incest is a crime in Missouri.

ANSWER:

REQUEST FOR ADMISSION NO. 7: Please admit that incest is a crime in Ohio.

ANSWER:

REQUEST FOR ADMISSION NO. 8: Please admit Plaintiff has never engaged in homosexual incest.

ANSWER:

REQUEST FOR ADMISSION NO. 9: Please admit Plaintiff has never engaged in incest.

ANSWER:

REQUEST FOR ADMISSION NO. 10: Please admit Plaintiff has never engaged in homosexual conduct.

ANSWER:

REQUEST FOR ADMISSION NO. 11: Please admit that you possess no evidence to support the alleged truth of any of the allegedly defamatory statements that give rise to Plaintiff's complaint in the instant action.

ANSWER:

REQUEST FOR ADMISSION NO. 12: Please admit that you know of no evidence that would support the alleged truth of any of the allegedly defamatory statements that give rise to Plaintiff's complaint in the instant action.

ANSWER:

REQUEST FOR ADMISSION NO. 13: Please admit that on September 17, 2018, Defendant published on the worldwide web a false and defamatory statement alleging that Plaintiff had conspired with an Ohio judge to corrupt jury proceedings occurring in June of 2019.

ANSWER:

REQUEST FOR ADMISSION NO. 14: Please admit that all of Defendant's publications about Plaintiff—as described within Plaintiff's Complaint—were published by Defendant to third-parties.

ANSWER:

REQUEST FOR ADMISSION NO. 15: Please admit that Defendant is liable to Plaintiff for defamation for the reasons articulated in Paragraphs 20 through 27 of Plaintiff's Complaint.

ANSWER:

REQUEST FOR ADMISSION NO. 16: Please admit that Defendant is liable to Plaintiff for invasion of privacy—false light—for the reasons articulated in Paragraphs 28 through 34 of Plaintiff's Complaint.

ANSWER:

REQUEST FOR ADMISSION NO. 17: Please admit that Defendant is liable to Plaintiff for intentional infliction of emotional distress for the reasons articulated in Paragraphs 35 through 39 of Plaintiff's Complaint.

ANSWER:

REQUEST FOR ADMISSION NO. 18: Please admit Plaintiff is entitled to permanent injunctive relief against Defendant for the reasons articulated in Paragraphs 40 through 46 of Plaintiff's Complaint.

ANSWER:

REQUEST FOR ADMISSION NO. 19: Please admit that Defendant caused willful and malicious injury——as these terms are defined by 11 U.S.C. § 523(a)(6)—to Plaintiff for the reasons alleged in Plaintiff's Complaint.

ANSWER:

REQUEST FOR ADMISSION NO. 20: Please admit that Defendant does not have a meritorious affirmative defense in relation to any and all causes of action Plaintiff pled against Defendant in Plaintiff's Complaint.

ANSWER:

REQUEST FOR ADMISSION NO. 21: Please admit that Plaintiff never committed an act of commission or omission against Defendant for which Plaintiff is liable to Defendant for money damages.

ANSWER:

REQUEST FOR ADMISSION NO. 22: Please admit that for purposes of First Amendment jurisprudence, Plaintiff is a non-public figure.

ANSWER:

REQUEST FOR ADMISSION NO. 23: Please admit that for the reasons set forth within Plaintiff's Complaint, Plaintiff suffered $250,000.00 in general damages due to Defendant's tortious conduct.

ANSWER:

REQUEST FOR ADMISSION NO. 24: Please admit that for the reasons set forth within Plaintiff's Complaint, Plaintiff it would be just and proper for Plaintiff to be awarded $250,000.00 in punitive damages against Defendant due to Defendant's willful and malicious misconduct.

ANSWER:

REQUEST FOR ADMISSION NO. 25: Please admit to the truth of all allegations, factual and legal, contained within Plaintiff's Complaint.

ANSWER:

REQUEST FOR ADMISSION NO. 26: Please admit that your counterclaim or claims pending against Plaintiff Anthony Domenic Reo, if any, are wholly lacking in merit.

ANSWER:

REQUEST FOR ADMISSION NO. 27: Please admit that your counterclaim or claims pending against Plaintiff Bryan Anthony Reo, if any, are without any evidentiary or factual basis.

ANSWER:

REQUEST FOR ADMISSION NO. 28: Please admit that you damaged Plaintiff in an amount of $250,000 in general damages and $250,000 in punitive damages.

ANSWER:

REQUEST FOR ADMISSION NO. 29: Please admit that judgment should be entered against you, in favor of Plaintiff Anthony Domenic Reo, in the amount of $500,000.00 dollars.

ANSWER:

(ECF No. 18-1, PageID. 197-201).

In light of Request for Admission No. 25 requesting Defendant to admit the truth of all allegations—factual and legal—contained within Plaintiff's Complaint, the factual allegations of said Complaint are incorporated by reference as if fully set forth herein. (ECF No. 18-1, PageID. 200; ECF No. 1-1, PageID. 7-17).

Not only has Defendant conclusively admitted to being liable to Plaintiff for Defendant's tortious conduct, but Defendant has also admitted that Plaintiff is entitled to an award of $250,000 as general damages and $250,000 as punitive damages. (ECF No. 18-1, PageID. 201, Requests for Admissions Nos. 28 and 29).

On April 29, 2020, the Court issued its Case Management Conference Order. (ECF No. 17, PageID. 173-177). On June 12, 2020, Plaintiff filed Plaintiff's Motion for Summary

Judgment. (ECF No. 18, PageID. 178-194). On July 10, 2020, Defendant filed Defendant's Answer to Plaintiff's Motion for Summary Judgment, which did not contain any meaningful exhibits to corroborate anything Defendant argued therein. (ECF No. 19, PageID. 207-216).

On March 3, 2021, Magistrate Judge Carmen E. Henderson issued her Report and Recommendation, which pertinently recommends that: (1) the Court enter summary judgment in Plaintiff's favor and against Defendant as to Plaintiff's claims for common law defamation and common law invasion of privacy (false light); (2) the Court not award Plaintiff summary judgment as to Plaintiff's claim for common law intentional infliction of emotional distress; (3) the Court enter a permanent injunction in Plaintiff's favor and against Defendant by ordering that Defendant "should be enjoined from making or publishing the defamatory statement regarding Plaintiff's sexual activity and those that are the same, or significantly similar in nature, to it"; and (4) the Court not enter judgment in Plaintiff's favor and against Defendant in the sum certain amounts of $250,000 for general damages and $250,000 for punitive damages even though Defendant did not respond to Plaintiff's Requests for Admissions concerning the same. (ECF No. 37, PageID. 450-469).

Plaintiff now timely objects only in part to Magistrate Judge Carmen E. Henderson's Report and Recommendation dated March 3, 2020. Plaintiff maintains that the Court should adopt said Report and Recommendation in its entirety, except that the Court should award Plaintiff $250,000 against Defendant for general damages and $250,000 for punitive damages—by not permitting Defendant to withdraw Defendant's admissions—and close the case.[1]

[1] Plaintiff hereby consents to Plaintiff's claim against Defendant for common law intentional infliction of emotional distress being dismissed if the Court grants Plaintiff the relief prayed for within this Objection. The case can then be closed. Whether Plaintiff is awarded $250,000 against Defendant for general damages and $250,000 for punitive damages for defamation and invasion of privacy, or the same sum total for defamation, invasion of privacy, *and intentional infliction of*

emotional distress is an esoterically academic matter that should not offend judicial economy or Plaintiff's economy. Defendant essentially admitted to engaging in malicious tortious conduct against Plaintiff and thus owing Plaintiff $250,000 for general damages and $250,000 for punitive damages, so the case at bar can swiftly and decisively be ended if said sums are awarded to Plaintiff in light of Defendant not responding to Plaintiff's Requests for Admissions concerning the same.

IV. LAW & ARGUMENT

A. THE COURT SHOULD ADOPT MAGISTRATE CARMEN E. HENDERSON'S REPORT AND RECOMMENDATION DATED MARCH 3, 2021 (ECF NO. 37) IN ITS ENTIRETY, EXCEPT THAT THE COURT SHOULD AWARD PLAINTIFF $250,000 AS GENERAL DAMAGES AND $250,000 AS PUNITIVE DAMAGES AND CLOSE THE CASE

1. STANDARD OF REVIEW

A district court reviews any objections to a magistrate judge's report and recommendation *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); Local Rule 72.3(b). A district court need only review the magistrate judge's factual or legal conclusions that are specifically objected to by either party. *Thomas v. Arn*, 474 U.S. 141, 150 (1985). "[O]bjections disput[ing] the correctness of the magistrate's recommendation but fail[ing] to specify the findings * * * believed [to be] in error' are too general." *Spencer v. Bouchard*, 449 F.3d 721, 725 (6th Cir. 2006) (quoting *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995)). Thus, if a party fails to file specific objections, then the failure to do so constitutes a waiver of those objections. *Cowherd v. Million*, 380 F.3d 909, 912 (6th Cir. 2004).

Magistrate Judge Carmen E. Henderson's Report and Recommendation dated March 3, 2021 (ECF No. 37, PageID. 450-469) concerns Plaintiff's Motion for Summary Judgment (ECF No. 18, PageID. 178-194).

Summary judgment is sought pursuant to Fed. R. Civ. P. 56(a). The seminal cases interpreting Fed. R. Civ. P. 56 are *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986), and *Matsushita Electric Industrial Co., Ltd., v. Zenith Radio Corp.*, 475 U.S. 574 (1986). See *Street v. J.C. Bradford & Co*, 886 F.2d 1472, 1478-1480 (6th Cir. 1989) (providing an excellent analysis of Fed. R. Civ. P. 56(a) motion practice).

2. PRINCIPAL POINT OF ARGUMENT

In the instant case, Magistrate Judge Carmen E. Henderson erred by not recommending that the Court should enter judgment in Plaintiff's favor and against Defendant's favor in the sum certain amounts of $250,000 for general damages and $250,000 for punitive damages. Defendant did not answer Plaintiff's Requests for Admissions which concerns these sums, and so the same has been conclusively established by Plaintiff:

REQUEST FOR ADMISSION NO. 28: Please admit that you damaged Plaintiff in an amount of $250,000 in general damages and $250,000 in punitive damages.

ANSWER:

REQUEST FOR ADMISSION NO. 29: Please admit that judgment should be entered against you, in favor of Plaintiff Anthony Domenic Reo, in the amount of $500,000.00 dollars.

ANSWER:

(ECF No. 18-1, PageID. 201).

Not only has Defendant conclusively admitted to being liable to Plaintiff for Defendant's tortious conduct, but Defendant has also admitted that Plaintiff is entitled to an award of $250,000 as general damages and $250,000 as punitive damages. (ECF No. 18-1, PageID. 201, Requests for Admissions Nos. 28 and 29).

Defendant's answers to Plaintiff's Requests for Admissions were due thirty days after they were served upon Defendant. Fed. R. Civ. P. 36(a)(3). Due to Defendant not timely denying the requests for admissions, said requests for admissions are deemed admitted. *Id.* The admissions made by Defendant "conclusively establish[]" factual and legal conclusions which permit the Court to enter a dispositive order at this juncture. Fed. R. Civ. P. 36(b).

In a substantially similar controversy involving a Reo family member and Defendant, a lawsuit being litigated at the United States District Court for the Northern District of Ohio, Defendant ignoring the plaintiff's requests for admissions, the plaintiff moving for summary judgment, and it was noted by Magistrate Judge Thomas M. Parker succinctly relayed the applicability of Fed. R. Civ. P. 36:

> Fed. R. Civ. P. 36(b) permits the court, upon motion, to allow the withdrawal or amendment of an admission. "A 'district court has considerable discretion over whether to permit withdrawal or amendment of admissions.'" *Kerry Steel, Inc. v. Paragon Indus.*, 106 F.3d 147, 154 (6th Cir. 1997) (quoting *Am. Auto. Ass'n v. AAA Legal Clinic of Jefferson Crooke,* P.C., 930 F.2d 1117, 1119 (5th Cir. 1991)). In exercising its discretion, however, the Court must follow Rule 36(b)'s instruction that withdrawal or amendment if proper only if (1) "it would promote the presentation of the merits of the action" and (2) it would not cause prejudice to the party who requested the admissions "in maintaining or defending the action on the merits." Fed. R. Civ. P. 36(b). "Prejudice under Rule 36(b) . . . 'relates to special difficulties a party may face caused by a sudden need to obtain evidence upon withdrawal or amendment of an admission.'" *Kerry Steel*, 106 F.3d at 154 (quoting *AAA v. AAA Legal Clinic of Jefferson Crooke, P.C.*, 930 F.2d 1117, 1120 (5th Cir. 1991).
>
> Here, Lindstedt has not moved to withdraw his admissions as required under Fed. R. Civ. P. 36(b); and in *Goodson v. Brennan*, the Sixth Circuit held that the *sua sponte* exercise of the court's discretion under Rule36(b) would "contravene[] the plain language of Rule 36." *Goodson*, 688 F. App'x at 375. The Court could refuse to permit Lindstedt to withdraw his admissions on this basis alone.
>
> Moreover, even if Lindstedt had moved to withdraw his admissions, permitting him to withdraw them at this stage of the case would prejudice Reo's ability to prosecute his action on the merits. Lindstedt continues to file insulting statements against Reo, and he has shown no intention to stop. For example, in his response opposing the motion for summary judgment, Linstedt states that "Reo is a Satanic homosexual mongrel of mixed jew, negro, gook and Indian descent who is working as a fed to insinuate other jews and mongrels and homes into the leadership of the Movement and thus Bryan Reo and anyone who will have anything to do with Bryan Reo is to be kept outside Resistance organizations and operations." ECF Doc. 75 at 3. Lindstedt's defense "strategy" to the Reos' current lawsuits demonstrates that, despite a judgment already having been issued against him in Lake County, Lindstedt plans to continue to publish false information about numerous individuals in public forums such as this federal court. Given his continued publication of such statements, allowing withdrawal of admissions would needlessly prolong this

> lawsuit and give Lindstedt a public platform Lindstedt could use to publish similar defamatory statements.
>
> * * *
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> Because the requests for admissions here are conclusively admitted under Fed. R. Civ. P. 36(b), it is unnecessary for the Court to require further proof on the issue of damages.

(*Bryan Anthony Reo v. Martin Lindstedt*, Case No. 1:19-cv-02589-CAB, ECF No. 78, PageID. 793-794 (N.D. Ohio December 1, 2020)).

Magistrate Judge Thomas M. Parker, however, recommended that the Court exercise its discretion by throwing Defendant a bone in the form of *sua sponte* permitting Defendant to withdraw Defendant's admissions regarding Plaintiff being entitled to $250,000 as general damages and $500,000 as punitive damages. (*Bryan Anthony Reo v. Martin Lindstedt*, Case No. 1:19-cv-02589-CAB, ECF No. 78, PageID. 794-795 (N.D. Ohio December 1, 2020)). Magistrate Judge Thomas M. Parker, however, pertinently stated in his Report and Recommendation—which has also been objected to by the plaintiff in that case—, "if the Court declines to permit Lindstedt to withdraw his admissions concerning damages, I recommend that the Court grant summary judgment in its entirety and award general damages in the amount of $250,000.00 and punitive damages in the amount of $500,000.00 to Reo on his claims against Lindstedt in this case [due to Defendant ignoring Plaintiff's Requests for Admissions concerning the same]." (*Bryan Anthony Reo v. Martin Lindstedt*, Case No. 1:19-cv-02589-CAB, ECF No. 78, PageID. 795 (N.D. Ohio December 1, 2020)).

Just like in *Bryan Anthony Reo v. Martin Lindstedt*, Case No. 1:19-cv-02589-CAB, this Court should not exercise its discretion by permitting Defendant to withdraw Defendant's unanswered admissions which were requested of Defendant by Plaintiff in accordance with the Federal Rules of Civil Procedure. The Court should have no tolerance for Defendant's wantonly

depraved misconduct. Defendant has not shown even a scintilla of good faith behavior for the case at bar.

Plaintiff respectfully submits that the Court should not exercise its discretion by permitting Defendant to withdraw Defendant's admissions—which is being recommended by Magistrate Judge Carmen E. Henderson—, because: (1) Plaintiff would suffer prejudice insofar as Defendant has willfully refused to participate at all with discovery for the instant case—which has offended and continues to adversely offend Plaintiff's due process right to receive evidence to prepare for any evidentiary hearing concerning damages—and (2) Defendant's copious number of court filings contain repugnant slurs and Defendant's unrelenting history of victimizing Plaintiff and Plaintiff's family members even after a jury awarded Plaintiff's son a judgment in excess of $100,000 demonstrates that Defendant has unclean hands and is wholly underserving of being granted *sua sponte* leave to withdraw Defendant's admissions.

Defendant did not accidentally miss a deadline to respond to Plaintiff's Requests for Admissions; Defendant deliberately ignored Plaintiff's Requests for Admissions, Plaintiff's Interrogatories, and Plaintiff's Requests for Production of Documents. Furthermore, even after Plaintiff filed Plaintiff's Motion for Summary Judgment on June 12, 2020, Defendant never even submitted untimely answers to Plaintiff's Requests for Admissions or otherwise moved the Court for leave to withdraw Defendant's admissions.

Fed. R. Civ. P. 36(b) states:

> (b) EFFECT OF AN ADMISSION; WITHDRAWING OR AMENDING IT. A matter admitted under this rule is conclusively established unless the court, **on motion**, permits the admission to be withdrawn or amended. Subject to Rule 16(e), **the court may permit withdrawal or amendment if it would promote the presentation of the merits of the action and if the court is not persuaded that it would prejudice the requesting party in maintaining or defending the action on the merits**. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding.

(Emphasis.)

Firstly, Fed. R. Civ. P. 36(b) makes it clear that a matter is admitted via Fed. R. Civ. P. 36 unless the Court permits withdrawal or amendment "on motion." No motion was ever filed by Defendant concerning the same, and that ship has sailed a long time ago.

Secondly, Fed. R. Civ. P. 36(b) provides that the Court "may" permit withdrawal or amendment if two elements are established. When it comes to statutory interpretation, "may" is permissive while "shall" or "must" is mandatory. The Court need not permit Defendant to withdraw or amend Defendant's admissions even if the two elements are established by Defendant as required by Fed. R. Civ. P. 36(b).

Thirdly, Defendant has not established that permitting Defendant to withdraw or amend Defendant's admissions regarding damages being established in sum certain amounts would "promote the presentation of the merits of the action." Defendant's maliciously vindictive *scienter* is highly relevant for purposes of determining the amount of punitive damages to which Plaintiff is owed, and insofar as Plaintiff was unable to obtain admissible evidence from Defendant via interrogatories and requests for production of documents as to the reasons why Defendant published what he did about Plaintiff, Plaintiff's ability to prepare for an evidentiary hearing concerning damages is adversely impacted by deliberate design of Defendant. Thus, withdrawing the admissions would not promote the presentation of the merits of the action insofar as Defendant did not produce admissible evidence sought by Plaintiff which is, in effect, spoliation of the same. See Fed. R. Civ. P. 37(e) (permitting severe sanctions when evidence is permitted to spoil); *Adkins v. Wolvever*, 554 F.3d 650 (6th Cir. 2009) ("We hold that it is within a district court's inherent power to exercise broad discretion in imposing sanctions based on spoliated evidence."). How can Plaintiff meaningfully prepare for a damages hearing since Defendant has failed to provide to

Plaintiff evidence which would assist Plaintiff to show why high punitive damages are appropriate?

Fourthly, with regards to the second prong—i.e., prejudice resulting to the non-moving party—, "prejudice relates to special difficulties a party may face caused by a sudden need to obtain evidence upon withdrawal or amendment of an admission." *Kerry Steel, Inc. v. Paragon Indus., Inc.*, 106 F.3d 147, 154 (6th Cir. 1997). As set forth *supra*, if the Court permits Defendant to withdraw Defendant's admissions which establish damages in sum certain amounts and in light of Defendant not ever responding to Plaintiff's discovery requests which solicit information and documentary evidence which would aid Plaintiff in presenting Plaintiff's case as it relates to damages, Plaintiff would suffer special difficulties by the sudden need of preparing for a damages hearing.

It should be pointed out that a "district court has **considerable discretion** over whether to permit withdrawal or amendment of admissions." (Emphasis added.) *Kerry Steel, Inc. v. Paragon Indus., Inc.*, 106 F.3d 147, 154 (6th Cir. 1997) (quoting *American Auto. Ass'n v. AAA Legal Clinic of Jefferson Crooke, P.C.*, 930 F.2d 1117, 1119 (5th Cir. 1991)). The Court should exercise its "considerable discretion" by not granting Defendant leave to withdraw Defendant's admissions which establish damages in sum certain amounts: $250,000 for general damages and $250,000 for punitive damages.

Fed. R. Civ. P. 36 states in pertinent part:

> (a) SCOPE AND PROCEDURE.
>
> (1) *Scope.* A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to:
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> (A) facts, the application of law to fact, or opinions about either; and

> (B) the genuineness of any described documents.
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> * * *
>
> (3) *Time to Respond; Effect of Not Responding.* A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. A shorter or longer time for responding may be stipulated to under Rule 29 or be ordered by the court.
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> * * *
>
> (b) EFFECT OF AN ADMISSION; WITHDRAWING OR AMENDING IT. A matter admitted under this rule is conclusively established unless the court, on motion, permits the admission to be withdrawn or amended.

Pursuant to Fed. R. Civ. P. 36(b), a request for admission that is not responded to within the applicable time period is self-executing and "conclusively established[.]" *Kerry Steel, Inc.*, 106 F.3d 147, 153 (6th Cir. 1997) (citing Fed. R. Civ. P. 36(b)). Thus, Defendant cannot try to now rebut that which has been "conclusively" admitted to by Defendant due to Defendant failing to timely respond to—or respond to at all—Plaintiff's Requests for Admissions concerning Plaintiff being entitled to $250,000 as general damages and $250,000 as punitive damages. See *Tracy v. Heffron*, 822 F.2d. 60 (6th Cir. 1987) (Affirming grant of summary judgment as proper on the basis that "[t]he district court correctly deemed the **r**equests for admissions to have been admitted by plaintiff because he did not respond to them pursuant to Rule 36(a), Federal Rules of Civil Procedure.")

This Court noted that pro se litigants are entitled to a certain amount of latitude and that Defendant Lindstedt is a pro se litigant, however mere status as a pro se does *not* entitle a litigant to disobey the rules of civil procedure or avoid the consequences of not following proper procedure. In *Bryan Anthony Reo v. Royal Administration Services*, 1:16-cv-00295-SL (ND of

Ohio), filed in 2015 before Plaintiff's Counsel from the instant action became an attorney[2], the Court, in granting the motion for leave to amend complaint and remand to Lake County Court of Common Pleas, noted "the fact that Reo is pro se should not suggest that he is at a disadvantage in this litigation. He is a very experienced pro se litigator, having filed many lawsuits in this and other courts. Reo knows precisely what he is doing." (*Reo v. Royal Admin*, 1:16-cv-00295-SL, Doc. No. 14, PageID #189).

Martin Lindstedt is likewise a very experienced pro se litigator and he knows precisely what he is doing, he is causing delay. To quote the Defendant himself, "By moving it up to the federal level hopefully it will be delayed. In South Dakota Pastor Lindstedt gave his property back to his sister who uses lawyers to try to keep it." *Bryan Anthony Reo v. Martin Lindstedt*, Case No. 1:19-cv-02589-CAB [ECF No. 57, Page ID #541]. Defendant has embarked on a campaign of attempting to cause as much delay as possible, which is not proper in litigation. His present conduct should be understood and viewed through that lens. Flagrant disregard for the rules, incoherent rambling pleadings, and abusive language appear to be the "go-to" tools for Defendant whose primary purpose is to cause confusion and delay.

Defendant Martin Lindstedt has been party to several dozen civil actions, most as plaintiff, initiated by his filing complaints in various United States District Courts, some as Defendant involving members of the Reo family who he has relentlessly defamed. All of the cases involving a Reo versus Martin Lindstedt have involved Requests for Admissions. Martin Lindstedt is no stranger to Requests for Admissions, how they operate, or the consequences of not participating in discovery and not responding to RFAs.

[2] Plaintiff became a licensed Ohio attorney in May of 2018.

Plaintiff's Counsel provides the attached declaration[3] and statement as to a list of a portion of Martin Lindstedt litigation, those cases specifically involving Bryan Anthony Reo [either as plaintiff or counsel for plaintiff] and entailing use of Requests for Admissions shall be so noted.

Interestingly [and rather telling as to his motives and goals in litigation], in 1:19-cv-02589-CAB, defendant Martin Lindstedt did file a formal declaration [ECF No. 58] with the Court advising that he could not adequately oppose the pending dispositive motion that plaintiff Bryan Anthony Reo had filed without an extension so that he could formally participate in the discovery process, a process he had shunned and flippantly dismissed with his earlier refusal to participate. Plaintiff opposed the extension of discovery at that time on the basis that it was clear that defendant was simply angling for a delay. The Court generously extended discovery for defendant on 9/8/2020 [ECF No. 67] and gave him to November, 8, 2020 to conduct discovery. What did defendant do with his extension? He did not propound a single document upon plaintiff, he did not respond to late or overdue discovery that plaintiff had propounded upon him, he did nothing except wait until 11/9/2020 [not even on time per the deadline of 11/8/2020 but late] to file a rant opposing plaintiff's pending dispositive motion. Defendant made a declaration to the Court in the relevant case affirmatively stating that he needed more time to conduct discovery, he obtained an extension to conduct discovery for purposes of opposing plaintiff's pending dispositive motion, and proceeded to do just what plaintiff warned the Court defendant was going to, cause a delay. Plaintiff had formally opposed defendant's request for an extension on the basis that plaintiff knew that defendant was not seeking to have actual discovery but rather a delay [ECF No. 60]. Defendant's failure to participate in discovery has been a conscious and willful choice undertaken

[3] See attached Declaration of Counsel

in the hopes of causing as much delay as possible. Any granting of withdrawal of admissions in the instant action will cause further delay, it will prejudice the Plaintiff, and it will not aid in the presentation of the claims on the merits.

In the Lake County cases, *Bryan Anthony Reo v. Martin Lindstedt*, 15CV1590 and 16CV825, which were consolidated for trial, the defendant did not answer interrogatories nor produce documents any documents in response to plaintiff discovery requests, and he failed to respond to about half of the Requests for Admissions and waited approximately 3 years, until the first day of trial, to make an oral motion to withdraw admissions. (T.d. 199, trial transcript 6-24-19 Trial Day 1, pg 4 – pg 11). His "response" to half of the RFAs consisted of taking the questions wherein plaintiff asked defendant to admit to some fact in consequence or to admit to the application of law to facts, and flip the questions around so as to have defendant asking the same question of plaintiff. The trial court allowed Defendant-Appellant to withdraw all of his party/judicial admissions that had been made per Civ.R. 36 on the first day of the trial, a move that ultimately did not aid in the presentation of the case on the merits. Although plaintiff ultimately prevailed, this had the result of prejudicing plaintiff in the presentation of his case as to damages. (T.d. 199, trial transcript 6-24-19 Trial Day 1, pg 11 at 5-16). The court in Lake County had repeatedly explained to Lindstedt what RFAs were, how they operate, and that they must be responded to, in writing, and that if one seeks to amend or withdraw them then it must be done in compliance with the civil rules that govern discovery. Lindstedt has long-insisted that nobody in the Reo family is worthy of a formal discovery response and he will not participate in discovery with the any of the Reo family and this attitude and position clearly comes through in his pleadings.

Animus and disdain for a party opponent does not justify non-participation in discovery and is certainly not a valid basis for a court to allow a withdrawal of admissions.

Fundamentally, Fed. R. Civ. P. 36 is clear, "unless the court, on **motion**, permits the matter to be withdrawn or amended…" "the court **may** permit withdrawal…" There are two basic issues in play. The first is that Fed. R. Civ. P. 36 does not say "sua sponte the court…" and the second is that the withdrawal is permissive via the use of "may" and even the permissive discretion only comes into play if a formal motion is first made. Defendant has never made a formal motion, the Court would not be obligated and required to grant such a motion even if one were made, and given the advanced stage of these proceedings, Defendant's conduct to date, and Defendant's absolute non-participation in discovery despite his clear experience with RFAs and his understanding of his obligations in discovery, Plaintiff would be prejudiced if withdrawal were to occur as to any aspect of the RFAs. Furthermore, in light of Defendant's conduct to date, he simply does not deserve the sort of consideration the Magistrate has proposed that he be shown. Defendant has delayed these proceedings and delayed proceedings in related cases and has reveled in taking the opportunity to use this case as a means to further libel Plaintiff and Plaintiff's Counsel.

3. CONCLUSION

For the reasons set forth herein, the Court should adopt Magistrate Judge Carmen E. Henderson's Report and Recommendation dated March 3, 2020 (ECF No. 37) in its entirety, except that the Court should award Plaintiff $250,000 as general damages and $250,000 as punitive damages—and close the instant civil action—insofar as Defendant admitted to these sum certain amounts by refusing to respond to Plaintiff's Requests for Admissions.

V. PRAYER FOR RELIEF

For the reasons set forth herein, Plaintiff prays that this Honorable Court will adopt Magistrate Judge Carmen E. Henderson's Report and Recommendation dated March 3, 2021 (ECF No. 37) in its entirety, except that the Court should award Plaintiff $250,000.00 as general damages and $250,000.00 as punitive damages, dismiss with Plaintiff's consent Plaintiff's claim for intentional infliction of emotional distress, and close the instant civil action.

Respectfully submitted,

REO LAW, LLC

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Attorney for Anthony Domenic Reo

Dated: March 9, 2021

VI. CERTIFICATE OF SERVICE

I, Bryan Anthony Reo, affirm that I am a party to the above-captioned civil action, and on March 9, 2021, I served a true and accurate copy of Plaintiff Anthony Domenic Reo's Partial Objection to Magistrate Judge Carmen E. Henderson's Report and Recommendation Dated March 9, 2021 (ECF No. 37) upon Martin Lindstedt, 338 Rabbit Track Road, Granby, MO 64844, by placing the same in a First Class postage-prepaid, properly addressed, and sealed envelope and in the United States Mail located in Village of Mentor, Lake County, State of Ohio.

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Dated: March 9, 2021