

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

PATRICIA D. CORNWELL,

Plaintiff,

v.

LESLIE RAYMOND SACHS,

Defendant.

CIVIL No. 3:07cv00236

MEMORANDUM OPINION AND ORDER

JUDGE NORMAN K. MOON¹

This matter is before the Court on Plaintiff's Motion for Default Judgment (docket entry no. 31). In her motion, Plaintiff requests the entry of a permanent injunction barring the Defendant from (1) violating the August 2000 Consent Decree for Permanent Injunction and (2) violating the Preliminary Injunction issued in June 2007. Additionally, Plaintiff requests \$35,780.00 in damages to recover the cost of (1) development and maintenance of an Internet website containing the August 2000 Consent Decree for Permanent Injunction and the June 2007 Preliminary Injunction; (2) Internet monitoring to ensure Sachs is not in violation of the 2000 Injunction or the 2007 Preliminary Injunction; and (3) sponsoring Internet links so that Internet searches will link to the newly developed orders website, not to Defendant's defamatory websites. For the following reasons, Plaintiff's motion is GRANTED and Defendant is ORDERED to pay Plaintiff \$35,780.00.

I. BACKGROUND

Plaintiff Patricia Cornwell ("Cornwell") is a best-selling author who previously lived in

¹ Judge Moon is presiding by designation.

Virginia, but who now resides in Massachusetts. Defendant Dr. Leslie Raymond Sachs (“Sachs”) also previously lived in Virginia, but now claims to be in political asylum in Belgium.

This case arises out of a longstanding dispute between the parties dating back to the late 1990s. In 1998, Sachs published a mystery novel, *The Virginia Ghost Murders*, about a modern-day detective who became involved with solving a murder dating from the Civil War era. A year later, Sachs read a publisher’s advance notice of Cornwell’s upcoming book, *The Last Precinct*, and erroneously decided that Cornwell’s book had copied ideas from *The Virginia Ghost Murders*.

Sachs then fabricated a scandal regarding the alleged plagiarism for advertising purposes. He designed a book cover for *The Virginia Ghost Murders* that stated, in a font size substantially larger than that used for his own name, “The MUST-READ gothic mystery that preceded PATRICIA CORNWELL’S newest bestseller!” (Compl ¶ 10.) Sachs also published press releases on Internet websites stating that *The Last Precinct* had “the same plot line” as *The Virginia Ghost Murders*. (Compl ¶ 12.) In addition, Sachs affixed a sticker to 350 copies of *The Virginia Ghost Murders* in circulation that read “The book that famous PATRICIA CORNWELL threatened to destroy.” (Compl ¶ 12.)

Cornwell filed suit in 2000, and in August 2000, the Court dismissed the action after the parties entered a joint Consent Decree for Permanent Injunction (the “2000 Injunction”). The 2000 Injunction provided that:

- (1) Defendant was enjoined from placing stickers referring to Cornwell on copies of *The Virginia Ghost Murders*;
- (2) Defendant was enjoined from using Cornwell’s name to advertise *The Virginia Ghost Murders*;
- (3) Defendant was ordered to remove existing stickers from *The Virginia Ghost Murders*;
- (4) Defendant was ordered to remove Cornwell’s name and any description designed to identify her from his website; and

(5) Defendant was ordered to “refrain from using[] the name of Patricia D. Cornwell in any way for advertising, marketing, or promoting his book *The Virginia Ghost Murders*.”

(Ex. A, Consent Decree for Permanent Inj.)

In April 2007, Cornwell filed the instant action against Sachs. In Count I of her Complaint, Cornwell claims that Sachs has used the Internet since 2000 to publish allegations that she is guilty of criminal conduct, and of moral turpitude of a nature that constitutes libel per se. Specifically, Cornwell alleges that Sachs published statements on two Internet websites in March 2007 that she is facing “federal indictment for racketeering, court fraud, perjury, extortion, [and] obstruction of justice” based on “evidence requested by White House Special Prosecutor Patrick Fitzgerald.” (Compl ¶ 16.) In Count II, Cornwell alleges that Sachs has published false and defamatory statements on the Internet, which claim that she has committed plagiarism, improperly influenced federal judges and members of law enforcement, and provided lavish gifts at unlawful levels to political figures. (Compl ¶ 20.) Cornwell also claims that Sachs has disregarded the 2000 Injunction and has continued to use her name to promote his novel *The Virginia Ghost Murders*. As a result, Cornwell requests an order enforcing the 2000 Injunction and holding Sachs in contempt for violating the 2000 Injunction.

In June 2007, the Court entered a Preliminary Injunction (the “2007 Preliminary Injunction”), which required Sachs to remove forty-five false and defamatory statements from the Internet and enjoined Sachs from republishing these statements in the future. These statements included allegations that (1) Cornwell faced criminal charges for racketeering, court fraud, perjury, extortion, and obstruction of justice; (2) Cornwell is an anti-Semite, follower of Adolf Hitler, or hater of Jews; (3) Cornwell advocated or participated in book burning; and (4) Cornwell plagiarized from *The Virginia Ghost Murders* in writing *The Last Precinct*.

In July 2007, Cornwell requested entry of default after Sachs failed to file an Answer to her Complaint. The Clerk entered default on July 9, 2007. Cornwell subsequently filed a motion for default judgment and requests entry of a permanent injunction barring Sachs from violating either the 2000 Injunction or the 2007 Preliminary Injunction. In her motion, Cornwell alleges that Sachs transferred the false and defamatory statements subject to the 2007 Preliminary Injunction to a new Internet website after his old Internet websites were removed by Internet search engines Google, Microsoft, and IAC Search & Media. As a result, Cornwell also seeks damages in addition to the permanent injunction, with damages limited to the cost of (1) developing an Internet website containing information about the 2000 and 2007 suits against Sachs; (2) Internet monitoring to ensure Sachs does not further violate of the 2000 Injunction or the 2007 Preliminary Injunction; and (3) sponsoring Internet links so that Internet searches will link to the newly developed orders website, not to Defendant's defamatory websites.

II. DISCUSSION

A. Plaintiff is Entitled to Default Judgment

Federal Rule of Civil Procedure 55(a) provides for the entry of default when a party has "failed to plead or otherwise defend" against an action. Fed. R. Civ. P. 55(a). After default has been entered, the plaintiff may seek a judgment by default. 10A Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 2682 (3d ed. 2007). The decision to enter default judgment lies within the sound discretion of the court. *Brogie v. Mackay-Smith*, 75 F.R.D. 739, 742 (W.D. Va. 1977).

Upon default, the well-pled allegations in the complaint are taken as true. *See, e.g., Fair Hous. of Marin v. Combs*, 285 F.3d 899, 906 (9th Cir. 2002); *see also* Fed. R. Civ. P. 8(d) ("Averments in a pleading to which a responsive pleading is required, other than those as to the

amount of damage, are admitted when not denied in the responsive pleading.”). A court is not required to make detailed findings of fact,² *Fair Hous. of Marin*, 285 F.3d at 906, and need only conduct a hearing if the damages are not for a sum certain, *United Artist Corp. v. Freeman*, 605 F.2d 854, 857 (5th Cir. 1979).

In this case, I find that default judgment is appropriate. The defendant, Dr. Leslie Raymond Sachs, has failed to defend this case. He has not responded to the Complaint, the entry of default, or any of the other motions filed by Plaintiff. This silence is not the result of inadequate notice or because the Defendant is an infant, incompetent, or in military service. In fact, he has acknowledged receipt of the Complaint and other filings through Internet postings, but has dismissed these “federal court lawsuit papers” as “worthless.” New US Federal Court Lawsuit Involving Patricia Cornwell, <http://www.patricia-cornwell-biography.net/new-us-federal-court-lawsuit.html> (last visited November 26, 2007). Defendant also has indicated his intent to “never travel to the [United States]” so that federal judges will “simply have no power over him.” *Id.* Moreover, he has instructed Plaintiff’s attorneys to “[t]ake your neo-Nazi legal documents and shove them up your Nazi behinds . . . Indeed, you and Cornwell shove it all up your behinds.” *Id.* As a result, it is clear that Defendant has not defended this case not because of inadequate notice or service, but because of his purposeful and deliberate disregard for the judicial process. Accordingly, I find the entry of default judgment appropriate in this case.

B. Plaintiff is Entitled to Permanent Injunctive Relief

The decision to award permanent injunctive relief lies within the discretion of the court, but requires, at minimum, that four factors be satisfied:

- (1) that [the plaintiff] has suffered an irreparable injury;

² I do, however, adopt and incorporate the Findings of Fact in the 2007 Preliminary Injunction, which set forth forty-five different statements made by the Defendant on Internet websites that I found to be false.

- (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury;
- (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and
- (4) that the public interest would not be disserved by a permanent injunction.

Christopher Phelps & Assocs., LLC v. Galloway, 492 F.3d 532, 543 (4th Cir. 2007) (quoting *Ebay Inc. v. MercExchange, L.L.C.*, --- U.S. ---, 126 S.Ct. 1837, 1839 (2006)).

1. Plaintiff Has Suffered an Irreparable Injury

It is clear that Defendant's Internet postings have caused, and will continue to cause, irreparable harm to the Plaintiff. A party suffers irreparable harm when monetary damages are incalculable and not susceptible of proof. *Phillips v. Crown Cent. Petroleum Corp.*, 602 F.2d 616, 629 (4th Cir. 1979) ("A future injury of uncertain date and incalculable magnitude is irreparable harm, and protection from such an injury is a legitimate end of injunctive relief."). Here, the false and defamatory Internet postings of the Defendant negatively affect Plaintiff's reputation as an author and adversely impact the sale of her books. Although the actual loss in sales of her books caused by the Defendant is impossible to quantify, it is undeniable that the allegations that Plaintiff plagiarized from *The Virginia Ghost Murders*, attempted to murder the Defendant, and is a neo-Nazi anti-Semite will cause a number of would-be purchasers to opt not to support Plaintiff or purchase her novels. In addition, these vitriolic allegations may lead others to harm, or attempt to harm, Plaintiff physically, thereby affecting Plaintiff's sense of security and well-being. As a result, the harm of Defendant's Internet postings is evident, and the incalculable nature of the injury establishes that the harm suffered, and the harm that Plaintiff will continue to suffer, is irreparable absent injunctive relief.

2. Plaintiff Has No Adequate Remedy Available at Law

It is equally clear that a monetary award will not adequately compensate Plaintiff for the

harm suffered by the Defendant. Ordinarily, equity will not enjoin a libel because there is usually an adequate remedy available at law. *Alberti v. Cruise*, 383 F.2d 268, 272 (4th Cir. 1967). If, however, an action at law does not provide a complete, prompt, and efficient remedy, an injunction may be issued. *Wynn Oil Co. v. Purolator Chem. Corp.*, 536 F.2d 84, 86 (5th Cir. 1976). Moreover, the concern that an injunction may constitute an impermissible prior restraint of speech is obviated if the speech has been determined previously to be libelous. See *Pittsburgh Press Co. v. Pittsburgh Comm'n on Human Relations*, 413 U.S. 376, 390 (1973) (“The special vice of a prior restraint is that communication will be suppressed, either directly or by inducing excessive caution in the speaker, before an adequate determination that it is unprotected by the First Amendment.”); see also *Balboa Island Vill. Inn, Inc. v. Lemen*, 40 Cal. 4th 1141, 1149–50 (Cal. 2007) (“[P]reventing a person from speaking or publishing something that, allegedly, would constitute a libel if spoken or published is far different from issuing a post-trial injunction *after* a statement that already has been uttered has been found to constitute defamation.”).

In this case, I find that the Internet postings of the Defendant fall outside the protections of the First Amendment, as they constitute false and defamatory speech. *Beauharnais v. Illinois*, 343 U.S. 250, 266 (1952) (finding libelous statements to be constitutionally unprotected speech).

These statements—the claims that Plaintiff has engaged in criminal conduct, has attempted to murder the Defendant, has engaged in book burning, has plagiarized from *The Virginia Ghost Murders*, and that Plaintiff is a neo-Nazi hater of Jews—have been determined to be false and untrue and have been issued solely with the intent to harm Plaintiff’s reputation. There is no amount of monetary award that can adequately compensate Plaintiff for the harm to her reputation or to the erosion of her sense of security and well-being. Therefore, Plaintiff has no adequate remedy at law, and only injunctive relief, albeit narrowly tailored, is the proper relief.

3. Balance of Hardships Favor Plaintiff

The balance of hardships strongly weighs in favor of the Plaintiff. If Plaintiff does not receive equitable relief, Defendant will continue to broadcast his vitriolic accusations on Internet websites, which will further subject Plaintiff to irreparable harm. In contrast, the only hardship Defendant will incur by the issuance of a permanent injunction is that he will be unable to utter defamatory statements. Many of these defamatory statements are subject to the 2000 Injunction and, therefore, are already prohibited. The remaining statements—the allegations that Plaintiff is a book burner, is a neo-Nazi anti-Semite, a felon, and an attempted murderer—do not merit protection under the First Amendment as false and defamatory statements and injure both the Plaintiff and readers of the statements. *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 776 (1984) (“False statements of fact harm both the subject of the falsehood *and* the readers of the statements. . . . There is no constitutional value in false statements of fact.”) (citation omitted). As a result, the balance of hardships favors the issuance of a permanent injunction.

4. Public Interest Served by Permanent Injunction

Finally, the public interest will be served by granting the injunctive relief requested by the Plaintiff. The public has a strong interest in having parties comply with orders of the Court. *Maness v. Meyers*, 419 U.S. 449, 459 (1975) (“The orderly and expeditious administration of justice by the courts requires that an order issued by a court with jurisdiction over the subject matter and person must be obeyed by the parties until it is reversed by orderly and proper proceedings.”) (citation and quotation omitted). In addition, the public has an interest in preventing the malicious behavior of the Defendant, as no benefit is derived from the repeated abuse engaged in by Defendant. Further, his false and defamatory statements harm not only the Plaintiff, but also the public at large. *See Keeton*, 465 U.S. at 776 (“False statements of fact

harm . . . the readers of the statements.”). False statements, such as those made by the Defendant, do not advance society’s interest in uninhibited and robust public debate. Instead, these statements confuse and mislead readers because they are made solely to deceive. As a result, the public interest is strongly served by preventing such statements through the issuance of a permanent injunction.

C. Plaintiff is Entitled to Damages

Plaintiff has also requested limited damages to recover expenses incurred to combat the Defendant’s continued libelous attacks. Plaintiff seeks damages in the amount of \$35,780.00 for (1) the development and maintenance of an Internet website containing the 2000 Injunction and 2007 Preliminary Injunction; (2) Internet monitoring for two years to alert her of new defamatory statements made by the Defendant; and (3) sponsoring Internet links so that Internet searches will link to the newly developed orders website, not to Defendant’s defamatory websites.

I find these limited damages to be reasonable and necessary because of Defendant’s blatant disregard for these judicial proceedings. The Defendant’s false and defamatory attacks have incalculably injured her reputation, and, at minimum, these damages will allow Plaintiff to limit the harm to her reputation in the future. Accordingly, I grant Plaintiff’s request for \$35,780.00 in damages.

III. CONCLUSION

For the foregoing reasons, Plaintiff’s Motion for Default Judgment (docket entry no. 31) is hereby GRANTED. It is hereby ORDERED that Defendant is permanent enjoined from further violating the 2000 Injunction or the 2007 Preliminary Injunction, which ordered:

1. Defendant to remove or have removed from all Internet websites all statements described above.

2. Defendant enjoined from republishing any of the statements described above.
3. Defendant enjoined from making any statements that reference Plaintiff or statements that would lead a reasonable person to conclude that Defendant is describing Plaintiff if such statements refer to Plaintiff in the following manner:
 - a. as being the subject of a pending criminal indictment,
 - b. as having committed the following crimes: racketeering, "court fraud," perjury, extortion, bribery, conspiracy, obstruction of justice, attempted murder, or acts of terrorism, or
 - c. as being an anti-Semite, follower of Adolf Hitler, or as a hater of Jews,
 - d. as advocating or participating in book burning,
 - e. as being a plagiarist.
4. Defendant to remove or have removed from all Internet websites any statements in which (a) Defendant references his book *The Virginia Ghost Murders*, whether by specific name or by any description that would lead a reasonable person to conclude Defendant was describing *The Virginia Ghost Murders*; (b) Defendant includes hyperlinks redirecting readers to any website at which readers could purchase copies of *The Virginia Ghost Murders*; and (c) there are hyperlinks redirecting readers to any website that themselves contain hyperlinks that would redirect readers to any website at which readers could purchase *The Virginia Ghost Murders*.

In addition, Plaintiff is AWARDED \$37,580.00 in damages.

It is so ORDERED.

The Clerk of the Court is hereby directed to send a certified copy of this Order to all counsel of record and parties.

ENTERED: Thomas R. Moon
United States District Judge

11-29-07
Date