IN THE SUPREME COURT OF THE UNITED STATES

No.

APPENDIX A

(a) ORDER ENTRY No. 19 FILED BY UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT ON DECEMBER 23, 2024

UNPUBLISHED No. 24-1729

(b) MANDATE ENTR4Y No. 21 FILED ON January 14, 2025

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-1729

ISRAEL ROMERO,

Plaintiff - Appellant,

v.

META PLATFORMS INC.; MARK ZUCKERBERG, Meta Platforms Inc,

Defendants - Appellees,

and

JANE DOE, a/k/a Iga Mariana,

Defendant.

Appeal from the United States District Court for the District of South Carolina, at Spartanburg. Timothy M. Cain, Chief District Judge. (7:23-cv-03306-TMC)

Submitted: December 19, 2024 Decided: December 23, 2024

Before KING and BERNER, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Israel Romero, Appellant Pro Se. Katherine Elise Munyan, New York, New York, Eric Alan Shumsky, ORRICK, HERRINGTON & SUTCLIFFE, LLP, Washington, D.C., for

Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Israel Romero appeals the district court's order adopting the magistrate judge's recommendation to grant Defendants' motion to dismiss, or in the alternative, to transfer venue of, Romero's breach of contract and tort claims, and denying Romero's motions for default judgment and for entry of default. We have reviewed the record and find no reversible error. Accordingly, we deny Romero's "Motion For Filing Of After-Discovered Fraud Pursuant To Fed. R. Civ. P. Rule 60(b)(3)" and affirm the district court's order. *Romero v. Meta Platforms Inc.*, No. 7:23-cv-03306-TMC (D.S.C. July 19, 2024). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: January 14, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-1729
(7:23-cv-03306-TMC)

ISRAEL ROMERO

Plaintiff - Appellant

v.

META PLATFORMS INC.; MARK ZUCKERBERG, Meta Platforms Inc

Defendants - Appellees

and

JANE DOE, a/k/a Iga Mariana

Defendant

MANDATE

The judgment of this court, entered December 23, 2024, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

/s/Nwamaka Anowi, Clerk

IN THE SUPREME COURT OF THE UNITED STATES

No.

APPENDIX B

ORDER ENTRY No. 65 RENDERED BY THE DISTRICT COURT OF SOUTH CAROLINA

FILED ON JULY 19, 2024

CASE No. 7:23-cv-03306-TMC

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Israel Romero, Plaintiff, v. Meta Platforms, Inc. and Mark Zuckerberg,[1] Defendants.	Civil Action No. 7:23-cv-3306-TMC **ORDER**

Plaintiff Israel Romero, proceeding *pro se*, filed this action against Defendants, asserting claims for breach of contract, defamation, and intentional infliction of emotional distress. (ECF No. 1). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(e) (D.S.C.), this matter was referred to a United States Magistrate Judge for all pretrial proceedings. Subsequently, the parties filed numerous motions, including three motions that are presently before the Court: Defendants' Motion to Dismiss or, in the Alternative, to Transfer Venue to the Northern District of California (ECF No. 25); Plaintiff's Motion for Default Judgment (ECF No. 31); and Plaintiff's Motion for Entry of Default (ECF No. 32). On March 14, 2024, the magistrate judge issued a Report and Recommendation ("Report") recommending that the Court grant Defendants' Motion to Dismiss and deny Plaintiff's Motions for Entry of Default and Default Judgment. (ECF

[1] Plaintiff initially named Facebook Meta, Mark Zuckerberg, and Jane Doe as Defendants in this action. (ECF No. 1). On March 14, 2024, the magistrate judge directed the Clerk's Office to change "Facebook Meta" to "Meta Platforms, Inc.," the correct corporate name. (ECF No. 53 at 1 n.1). Furthermore, on April 17, 2024, the Court granted (ECF No. 61) Plaintiff's motion to dismiss Jane Doe as a Defendant in this action (ECF No. 46). Accordingly, the Defendants remaining in this action are Meta Platforms, Inc. and Mark Zuckerberg.

No. 53 at 14). Plaintiff filed Objections to the Report (ECF No. 57), and Defendants filed a Reply (ECF No. 58). These matters are now ripe for the Court's review.

Standard of Review

The recommendations set forth in the Report have no presumptive weight, and this court remains responsible for making a final determination in this matter. *Elijah v. Dunbar*, 66 F.4th 454, 459 (4th Cir. 2023) (citing *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). The court is charged with making a *de novo* determination of those portions of the Report to which a specific objection is made, and the court may accept, reject, modify, in whole or in part, the recommendation of the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). Thus, "[t]o trigger de novo review, an objecting party 'must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.'" *Elijah*, 66 F.4th at 460 (quoting *United States v. Midgette*, 478 F.3d 616, 622 (4th Cir. 2007)). However, the court need only review for clear error "those portions which are not objected to—including those portions to which only 'general and conclusory' objections have been made[.]" *Dunlap v. TM Trucking of the Carolinas, LLC*, 288 F. Supp. 3d 654, 662 (D.S.C. 2017); *see also Elijah*, 66 F.4th at 460 (noting that "[i]f a litigant objects only generally, the district court reviews the magistrate's recommendation for clear error only"). Furthermore, in the absence of specific objections to the Report, the court is not required to give any explanation for adopting the magistrate judge's recommendation. *Greenspan v. Brothers Prop. Corp.*, 103 F. Supp. 3d 734, 737 (D.S.C. 2015) (citing *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983)).

Additionally, since Plaintiff is proceeding *pro se*, this court is charged with construing his pleadings and filings liberally in order to allow for the development of a potentially meritorious

case. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017) (noting that "when confronted with the objection of a *pro se* litigant, [the court] must also be mindful of [its] responsibility to construe *pro se* filings liberally"). Accordingly, "when reviewing *pro se* objections to a magistrate's recommendation, district courts must review *de novo* any articulated grounds to which the litigant appears to take issue." *Elijah*, 66 F.4th at 460–61. This does not mean, however, that the court can ignore a *pro se* party's failure to allege or prove facts that establish a claim currently cognizable in a federal district court. *See Stratton v. Mecklenburg Cty. Dep't of Soc. Servs.*, 521 Fed. App'x 278, 290 (4th Cir. 2013) (noting that "'district judges are not mind readers,' and the principle of liberal construction does not require them to 'conjure up questions never presented to them or to construct full-blown claims from sentence fragments'" (quoting *Beaudett v. City of Hampton*, 775 F.2d 1274, 1277–78 (4th Cir. 1985))).

Plaintiff's Allegations and Claims

Defendant Meta Platforms, Inc. ("Meta") operates Facebook social media platform and Defendant Mark Zuckerberg ("Zuckerberg") serves as Meta's Chief Operating Officer. *See* (ECF No. 1). According to Plaintiff, when he created a Facebook account, he entered into a contract with Defendants pursuant to which they allegedly promised to "[f]ind and address violations of our terms or policies" including the prohibition against the posting of pornography on Facebook and to "[p]rotect the life, physical or mental health, well-being or integrity of [Facebook] users" and to "prevent spam . . . and other bad experiences." *Id.* at 5.

Plaintiff asserts that in February 2023, he made a donation to the American Heart Association thru his Facebook account in response to fundraising efforts on Facebook by his grandson's elementary school. *Id.* at 4. Plaintiff's Facebook page reflected that he made a

donation and showed a picture of the school children involved in the fundraiser. (ECF Nos. 1 at 4; 1-1 at 5). Plaintiff alleges, however, that within a few days "hackers" had posted graphic pornographic material on his Facebook page immediately below the picture of the school children. *Id.* Plaintiff alleges he closed his Facebook account soon thereafter, *id.*, and reported the incident to the FBI. (ECF Nos. 1 at 4; 1-1 at 8–15).

Plaintiff brought this action against Defendants, asserting claims for breach of contract, defamation and intentional infliction of emotional distress and seeking compensatory and punitive damages. (ECF No. 1 at 4–11). Defendants filed the instant Motion to Dismiss under Rule 12(b)(2) and (6) of the Federal Rules of Civil Procedure for lack of personal jurisdiction and for failure to allege facts stating a claim upon which relief can be granted. (ECF No. 25). Alternatively, Defendants seek a transfer of venue to the Northern District of California. *Id.* The motion has been fully briefed. *See* (ECF No. 30) (response in opposition) and (ECF No. 33) (reply in support).[2] On the other hand, Plaintiff filed a motion for entry of default, (ECF No. 32), and a motion for default judgment (ECF No. 31). Defendants filed a response in opposition to these motions (ECF No. 35).

[2] Plaintiff thereafter filed a sur-reply. (ECF No. 34). Neither the Federal Rules of Civil Procedure nor the Local Civil Rules provide for the ability to file a sur-reply as a matter of right. *See* Fed. R. Civ. P. 72(b)(2); Local Civil Rule 7.06-7.07 (D.S.C.). In fact, Local Rule 7.07 advises litigants that even replies are "discouraged." Were this court to permit parties to file sur-replies as a matter of course, it "would put the court in the position of refereeing an endless volley of briefs." *Byrom v. Delta Fam. Care--Disability & Survivorship Plan*, 343 F. Supp. 2d 1163, 1188 (N.D. Ga. 2004) (internal quotation marks omitted). On November 5, 2020, to underscore this court's view of sur-replies, the undersigned issued a standing order directing that a party "may not file, nor will the court consider, any sur-reply to a motion absent a showing of good cause and leave of the court." *In re: Sur-Replies, Standing Order* (D.S.C. Nov. 5, 2020). Plaintiff has not sought leave of court to file a sur-reply, and the court finds no good cause to grant such leave; however, even if the Court considered this material, it would not alter the Court's disposition of this matter as set forth in this order.

Report

Now before the Court is the magistrate judge's Report and Recommendation ("Report") (ECF No. 53), recommending that the Court grant Defendants' motion to dismiss and deny Plaintiff's motions relating to default, *id.* at 14.[3]

Motion to Dismiss (ECF No. 25).

In addressing Defendant's argument that this Court lacks personal jurisdiction in this case, the magistrate judge correctly noted that,

> [when] a district court rules on a Rule 12(b)(2) motion without conducting an evidentiary hearing or without deferring ruling pending receipt at trial of evidence relevant to the jurisdictional issue, but rather relies on the complaint and affidavits alone, the burden on the plaintiff is simply to make a prima facie showing of sufficient jurisdictional basis in order to survive the jurisdictional challenge. . . . In deciding whether plaintiff has met this burden, the court must construe all relevant pleading allegations in the light most favorable to the plaintiff, assume credibility, and draw the most favorable inferences for the existence of jurisdiction.

Id. at 3–4. (internal citations and quotation marks omitted).

With respect to whether the Court enjoys specific personal jurisdiction in this case, the magistrate judge noted specifically that "the interactivity of a website is also 'a jurisdictionally relevant fact' when the defendants' electronic contacts are at issue." *Id.* at 5 (quoting *Fidrych v. Marriott Int'l, Inc.*, 952 F.3d 124, 141 (4th Cir. 2020)). Citing *ALS Scan, Inc. v. Digital Service Consultants, Inc.*, 293 F.3d 707, 713 (4th Cir. 2002), the magistrate judge recognized that "an out-of-state citizen, through electronic contacts, [can be deemed to have] conceptually entered the State via the Internet for jurisdictional purposes" . . . when "that person (1) directs electronic activity into the State, (2) with the manifested intent of engaging in business or other interactions within

[3] The Report also recommended (ECF Nos. 44, 53) that the Court dismiss from the action "Jane Doe" who Plaintiff originally named as a Defendant in this action. (ECF No. 1). On April 17, 2024, the Court adopted this recommendation and dismissed Defendant "Jane Doe" from the action (ECF No. 61).

the State, and (3) that activity creates, in a person within the State, a potential case of action cognizable in the State's courts." *Id.* at 6 (quoting *ALS Scan*, 293 F.3d at 714). Critically, the magistrate judge highlighted that, at this point in time it is rare to find a non-interactive website and, as a result, courts cannot "'attach too much significance on the mere fact of interactivity'" because "'we risk losing sight of the key issue in a specific jurisdiction case -- whether the defendant has *purposefully directed* [its] activities at residents of the forum.'" *Id.* at 7 (quoting *Fidrych*, 952 F.3d 141–42 (emphasis in original) (citation and internal quotation marks omitted)). The magistrate judge then found that Plaintiff's allegations are insufficient to support a prima facie showing that Defendants specifically directed electronic activity at South Carolina:

> Construing all relevant pleading allegations in the light most favorable to the plaintiff, the plaintiff pleads the following contacts with South Carolina in his complaint: (1) Meta operates Facebook, a website that is accessible in South Carolina, (2), Mr. Zuckerberg is the CEO of Meta, (3) the plaintiff accessed Facebook while in South Carolina, and (4) Meta and Mr. Zuckerberg's failure to stop a third-party from posting pornographic content on the plaintiff's Facebook page caused injury to the plaintiff in South Carolina (see doc. 1 at 1-13). The undersigned finds that these allegations, without more, are insufficient [to establish personal jurisdiction] . . . Significantly, however, the plaintiff failed to allege that Facebook has directed electronic activity into South Carolina by targeting that state in particular.

Id. at 7–8. The magistrate judge also rejected the idea that Plaintiff's alleged injuries arose out of Defendants' contacts with South Carolina because [P]laintiff does not allege that [Defendant] Meta or [Defendant] Zuckerberg had any activity in the forum state other than maintaining a website that is accessible there." *Id.* at 8.

Finally, the magistrate judge rejected numerous arguments in support of specific jurisdiction, raised but not plead by Plaintiff. For example, Plaintiff believes that Defendants submitted to jurisdiction in this Court by filing the required answers to Local Rule 26.01 Interrogatories (ECF No. 26) and because their attorneys agreed that the venue was proper in the same interrogatory answers, *id.* at 2. The magistrate judge concluded these arguments were

Finally, the magistrate judge concluded Plaintiff offered no basis for entry of default under Rule 55(a) against Defendants because they "filed a timely motion to dismiss and are actively defending the plaintiff's allegations." *Id.* at 13. Also, to the extent that Plaintiff's default arguments are premised on the alleged unauthorized practice of law by Defendants' attorneys, the magistrate judge rejected them for the same reasons he rejected these arguments when made in opposition to Defendants' motion to dismiss. *Id.*

Accordingly, the magistrate judge recommended the Court deny Plaintiff's motion for entry of default (ECF No. 32) and motion for default judgment (ECF No. 31).

Discussion

Plaintiff filed objections to the Report, (ECF No. 57), and Defendants submitted a reply (ECF No. 58).[4] Out of an abundance of caution, the Court has reviewed the Report in light of Plaintiff's objections under a *de novo* standard of review.

The bulk of Plaintiff's objections make one argument: All of the documents filed by Defendants in this case "are null and void because the filers failed to verify or to sign them under penalty of perjury in violation of the applicable law." (ECF No. 57 at 1). The effect of this alleged failure, according to Plaintiff, is jurisdictional: "3). Failing to verify or to sign and file documents failing to do it as true under penalty of perjury, is tacit submission to the court's jurisdiction. Therefore, this court has personal jurisdiction over the defendants along with subject matter jurisdiction, to wit: federal question." *Id.* at 8. Plaintiff concludes the Report is in error for failing to take these points into account. *See id.* at 1.

[4] Plaintiff again filed a sur-reply (ECF No. 60) without seeking leave of court to do so. Even if the Court were to consider this document, however, the Court would not alter its disposition of these matters.

The Court overrules this objection. As Defendants suggest, Plaintiff—who purports to be an attorney (ECF No. 1 at 12)—seems to misunderstand the distinction between motion papers filed by attorneys and "affidavits, declarations, and other documents attesting to the truth of facts—which require verification via oath to have evidentiary value." (ECF No. 58 at 2 n.1). Plaintiff has offered no authority showing that Defendants' attorneys are required to sign motion papers or other documents setting forth legal argument under the pains and penalties of perjury. To the extent that any of Plaintiff's objections to the Report are premised on this basis—that the attorneys for the Defendants did not sign the motion papers or other litigation documents under oath—the Court rejects and overrules them.

Plaintiff's other objection to the Report is that Defendants were both properly served with process and that service "establishes full and complete jurisdiction of this court over the defendant[s]." (ECF No. 57 at 9). The Court rejects this argument. The Report assumed proper service was accomplished, but service alone does not establish personal jurisdiction. Rather proper service is simply a necessary prerequisite before a court can claim personal jurisdiction. *See Omni Capital Int'l, Ltd. v. Rudolf Wolff & Co.*, 484 U.S. 97, 104, 108 (1987). But Plaintiff must still establish that the Court's exercise of personal jurisdiction over Defendants would not offend the limits of the Due Process Clause of the Fourteenth Amendment. *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702 (1982). As noted previously, the Report contains a thorough analysis of whether the Court can exercise personal jurisdiction over Defendants. Plaintiff has not objected to this portion of the Report. And, having reviewed the magistrate judge's findings and conclusions regarding personal jurisdiction under a de novo standard, the Court finds no error in the Report.

Conclusion

Having conducted a de novo review of the Report and the record and, finding no error, the Court agrees with, and wholly **ADOPTS**, the magistrate judge's findings and recommendations in the Report (ECF No. 53), which is incorporated herein by reference. Accordingly, the Court hereby **GRANTS Defendants' motion to dismiss (ECF No. 25) and DENIES Plaintiff's motion for default judgment (ECF No. 31) and DENIES Plaintiff's motion for entry of default (ECF No. 32).**

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

July 19, 2024
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE DISTRICT OF SOUTH CAROLINA

SPARTANBURG DIVISION

Israel Romero,

Plaintiff,

vs.

Meta Platforms, Inc.,[1] Mark Zuckerberg, and Jane Doe,

Defendants.

Civil Action No. 7:23-cv-3306-TMC-KFM

REPORT OF MAGISTRATE JUDGE

This matter is before the court on Meta Platforms, Inc.'s ("Meta") and Mark Zuckerberg's ("Mr. Zuckerberg") motion to dismiss (doc. 25), Israel Romero's ("the plaintiff") motion for default judgment and second motion for entry of default (docs. 31; 32), and the plaintiff's motion to dismiss Jane Doe (doc. 46). The plaintiff is proceeding *pro se*, and, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and Local Civil Rule 73.02(B)(2)(e) (D.S.C.), this magistrate judge is authorized to review all pretrial matters in cases involving *pro se* litigants and submit findings and recommendations to the district court.

I. BACKGROUND AND FACTUAL ALLEGATIONS

Meta operates Facebook, "a service that enables users to create accounts to connect, share, discover, and communicate with friends, family, and communities on mobile devices and personal computers" (doc. 25-1 at 2). Meta is a Delaware corporation, with a principal place of business in Menlo Park, California (docs. 1 at 2; 25-2, Pricer decl. ¶ 1).

[1] The plaintiff named "Facebook/Meta" as a defendant (doc. 1). However, this defendant states that "Facebook/Meta" is not the correct name of any entity and that "Facebook, Inc." changed its name to "Meta Platforms, Inc." on October 28, 2021(doc. 25-1 at 1). Accordingly, the Clerk of Court is directed to correct the docket to reflect the defendant's name as "Meta Platforms, Inc."

Mr. Zuckerberg is the Chief Executive Officer ("CEO") of Meta and a citizen of California (docs. 1 at 2; 25-1 at 3; 25-6, van Loben Sels decl. ¶ 3).

The plaintiff states in his complaint that he has a J.D. and Ph.D. and is a former college professor (doc. 1 at 12). The plaintiff alleges that he created a Facebook account in 2015 and thereby entered into a contract with Meta (*id.* at 3). The plaintiff submits that this "contract was for [him] to make publication[s]" on Facebook (*id.* at 4). Exhibit A to the plaintiff's complaint contains portions of documents that he asserts are the contract that he entered into with Meta (doc. 1-1 at 1-15). Jennifer Pricer ("Ms. Pricer"), a case manager in Meta's legal department, testified in a declaration that page one of Exhibit A appears to be an excerpt from Meta's privacy policy for Facebook, which went into effect on January 1, 2023 (doc. 25-2, Pricer decl. ¶ 4). Ms. Pricer also testified that Exhibit A reflects some handwritten markings (*id.*). Moreover, Ms. Price testified that page two of Exhibit A appears to be the current version of Meta's "About Our Policies" webpage for Facebook (*id.*). Ms. Pricer provided copies of the entirety of these documents with her declaration (*id.* at ¶¶ 5, 6, ex. 1 & 2).

The plaintiff alleges in his complaint that in February 2023, his grandson's elementary school was using Facebook as a fundraising platform for the American Heart Association (doc. 1 at 4). On or about February 17, 2023, the plaintiff made a donation to this fundraiser from his Facebook page (*id.*). Several days later, the plaintiff's sister-in-law informed him that hackers had posted a pornographic picture on his Facebook page (*id.*). The plaintiff checked his Facebook page and saw that a pornographic image had been posted by an individual with the fictitious name of "Iga Mariana" and that the image was posted "following the picture of the fundraising school children" (*id.* at 4-5). The plaintiff contends that the pornographic image was accompanied by text that falsely claimed that the male in the image was the plaintiff (*id.*). The plaintiff immediately closed his Facebook account (*id.* at 4).

The plaintiff filed his complaint in the instant action on July 11, 2023, alleging claims for breach of contract, defamation, and intentional infliction of emotional distress against Meta, Mr. Zuckerberg, and Jane Doe a/k/a Iga Mariana (doc. 1). On January 8, 2024, the undersigned issued a report and recommendation recommending dismissal of Jane Doe because the plaintiff had not timely served Jane Doe (doc. 44). That report and recommendation is pending before the district court. On October 9, 2023, Meta and Mr. Zuckerberg moved to dismiss the plaintiff's claims pursuant to Federal Rule of Civil Procedure 12(b)(2) and (6) on the grounds that this court lacks personal jurisdiction over them and the plaintiff has failed to allege facts stating any plausible claim (doc. 25). In the alternative, Meta and Mr. Zuckerberg move to transfer this matter to the Northern District of California (*id.*). By order filed on October 12, 2023, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the motion to dismiss and motion for summary judgment procedures and the possible consequences if he failed to respond adequately to Meta and Mr. Zuckerberg's motion (doc. 28). The plaintiff filed a response on October 30, 2023 (doc. 30). On November 6, 2023, Meta and Mr. Zuckerberg filed a reply (doc. 33), and the plaintiff filed a sur reply on November 13, 2023 (doc. 34). The plaintiff also filed a motion for entry of default (doc. 32) and a motion for default judgment (doc. 31) on October 30, 2023. Meta and Mr. Zuckerberg filed a response to both motions on November 13, 2023 (doc. 35). Further, on January 19, 2024, the plaintiff filed a motion to dismiss Jane Doe (doc. 46). Accordingly, these matters are now ripe for review.

II. APPLICABLE LAW AND ANALYSIS

A. Meta and Mr. Zuckerberg's Motion to Dismiss

1. Personal Jurisdiction

"[W]hen, as here, a district court rules on a Rule 12(b)(2) motion without conducting an evidentiary hearing or without deferring ruling pending receipt at trial of evidence relevant to the jurisdictional issue, but rather relies on the complaint and affidavits

alone, the burden on the plaintiff is simply to make a prima facie showing of sufficient jurisdictional basis in order to survive the jurisdictional challenge." *In re Celotex Corp.*, 124 F.3d 619, 628 (4th Cir. 1997) (citation and internal quotation marks omitted). In deciding whether plaintiff has met this burden, "the court must construe all relevant pleading allegations in the light most favorable to the plaintiff, assume credibility, and draw the most favorable inferences for the existence of jurisdiction." *Combs v. Bakker*, 886 F.2d 676, 676 (4th Cir. 1989).

"[T]o validly assert personal jurisdiction over a non-resident defendant, two conditions must be satisfied." *Christian Sci. Bd. of Dirs. of the First Church of Christ v. Nolan*, 259 F.3d 209, 215 (4th Cir. 2001). First, the exercise of jurisdiction must be authorized by the long-arm statute of the forum state, and second, the exercise of personal jurisdiction must not "overstep the bounds" of the Fourteenth Amendment's Due Process Clause. *Anita's N.M. Style Mexican Food, Inc. v. Anita's Mexican Foods Corp.*, 201 F.3d 314, 317 (4th Cir. 2000). South Carolina's long-arm statute has been construed to extend to the outer limits allowed by the Due Process Clause. *Foster v. Arletty 3 Sarl*, 278 F.3d 409, 414 (4th Cir. 2002). As a result, "the sole question becomes whether the exercise of personal jurisdiction would violate due process." *Cockrell v. Hillerich & Bradsby Co.*, 611 S.E.2d 505, 508 (S.C. 2005) (internal citation omitted). Due process requires the existence of minimum contacts between the defendant and the forum state such that maintenance of the suit does not offend traditional notions of "fair play and substantial justice." *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 464 (1985); *see also Int'l Shoe Co. v. Wash.*, 326 U.S. 310, 316 (1945).

There are two categories of personal jurisdiction: (1) general, wherein a cause of action is unrelated to a defendant's contacts with the forum but the party's activities in the forum state have been found to be "continuous and systematic"; and (2) specific, wherein the cause of action arises out of a party's contacts with the forum state. *See ESAB*

Grp., Inc. v. Centricut, Inc., 126 F.3d 617, 623-24 (4th Cir. 1997). Meta and Mr. Zuckerberg argue that this court lacks both specific and general personal jurisdiction over them.

Regarding specific jurisdiction, the Court of Appeals for the Fourth Circuit applies a three-part test: (1) whether and to what extent the defendants purposely availed themselves of the privileges of conducting activities in the forum state and thus invoked the benefits and protections of its laws; (2) whether the plaintiff's claims arise out of those forum-related activities; and (3) whether the exercise of jurisdiction is constitutionally "reasonable." *Nolan*, 259 F.3d at 215-16 (citing *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414-16 (1984)); *Burger King*, 471 U.S. at 472, 476-77.

The purposeful availment prong "is grounded on the traditional due process concept of 'minimum contacts,' which itself is based on the premise that 'a corporation that enjoys the privilege of conducting business within a state bears the reciprocal obligation of answering to legal proceedings there.'" *Universal Leather, LLC v. Koro AR, S.A.*, 773 F.3d 553, 559 (4th Cir. 2014) (quoting *Tire Eng'g v. Shandong Linglong Rubber Co.*, 682 F.3d 292, 301 (4th Cir. 2012)). This prong "ensures that a defendant will not be haled into a jurisdiction solely as a result of random, fortuitous, or attenuated contacts," or due to "the unilateral activity of another party or a third person." *Burger King*, 471 U.S. at 475 (internal citations and quotation marks omitted). "In determining whether a foreign defendant has purposefully availed itself of the privilege of conducting business in a forum state, we ask whether the defendant's conduct and connection with the forum [s]tate are such that he should reasonably anticipate being haled into court there." *Universal Leather*, 773 F.3d at 559-60 (citations and internal quotation marks omitted).

Although not argued by the parties, the interactivity of a website is also "a jurisdictionally relevant fact" when the defendants' electronic contacts are at issue. *Fidrych v. Marriott Int'l, Inc.*, 952 F.3d 124, 141 (4th Cir. 2020). In *ALS Scan, Inc. v. Digital Service Consultants, Inc.*, the Fourth Circuit considered "when it can be deemed that an out-of-state

citizen, through electronic contacts, has conceptually entered the State via the Internet for jurisdictional purposes" and adopted the approach set out in *Zippo Manufacturing Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119 (W.D. Pa. 1997). 293 F.3d 707, 713 (4th Cir. 2002). The *Zippo* court concluded that "the likelihood that personal jurisdiction can be constitutionally exercised is directly proportionate to the nature and quality of commercial activity that an entity conducts over the Internet." 952 F. Supp. at 1124. Recognizing a "sliding scale" for defining when electronic contacts with a state are sufficient, the *Zippo* court elaborated:

> At one end of the spectrum are situations where a defendant clearly does business over the Internet. If the defendant enters into contracts with residents of a foreign jurisdiction that involve the knowing and repeated transmission of computer files over the Internet, personal jurisdiction is proper. At the opposite end are situations where a defendant has simply posted information on an Internet Web site which is accessible to users in foreign jurisdictions. A passive Web site that does little more than make information available to those who are interested in it is not grounds for the exercise [of] personal jurisdiction. The middle ground is occupied by interactive Web sites where a user can exchange information with the host computer. In these cases, the exercise of jurisdiction is determined by examining the level of interactivity and commercial nature of the exchange of information that occurs on the Web site.

Id. at 1124 (citations omitted). In "[a]dopting and adapting the *Zippo* model" in *ALS Scan*, the Fourth Circuit held as follows:

> [W]e conclude that a State may, consistent with due process, exercise judicial power over a person outside of the State when that person (1) directs electronic activity into the State, (2) with the manifested intent of engaging in business or other interactions within the State, and (3) that activity creates, in a person within the State, a potential case of action cognizable in the State's courts.

293 F.3d at 714.

The Fourth Circuit has subsequently noted that "[t]he internet we know today is very different from the internet of 1997, when *Zippo* was decided[,] and on today's

internet, [i]t is an extraordinarily rare website that is *not* interactive at some level." *Fidrych*, 952 F.3d at 141 n.5 (emphasis in original) (internal citations and quotation marks omitted). Accordingly, the Fourth Circuit cautioned that "if we attach too much significance on the mere fact of interactivity, we risk losing sight of the key issue in a specific jurisdiction case -- whether the defendant has *purposefully directed* [its] activities at residents of the forum." *Id.* at 142 (emphasis in original) (citation and internal quotation marks omitted); *see UMG Recordings, Inc. v. Kurbanov*, 963 F.3d 344, 352-53 (4th Cir. 2020) ("Regardless of where on the sliding scale a defendant's web-based activity may fall, however, [w]ith respect to specific jurisdiction, the touchstone remains that an out-of-state person have engaged in some activity purposefully directed toward the forum state ... creating a substantial connection with the forum state.") (citation and internal quotation marks omitted).

Construing all relevant pleading allegations in the light most favorable to the plaintiff, the plaintiff pleads the following contacts with South Carolina in his complaint: (1) Meta operates Facebook, a website that is accessible in South Carolina, (2), Mr. Zuckerberg is the CEO of Meta, (3) the plaintiff accessed Facebook while in South Carolina, and (4) Meta and Mr. Zuckerberg's failure to stop a third-party from posting pornographic content on the plaintiff's Facebook page caused injury to the plaintiff in South Carolina (*see* doc. 1 at 1-13).

The undersigned finds that these allegations, without more, are insufficient to show that Meta and Mr. Zuckerberg directed electronic activity into South Carolina. *See ALS Scan*, 293 F.3d at 714. The plaintiff sets forth allegations supporting the conclusion that Facebook is interactive, as he pleads that he created a Facebook page in 2015 and would post on that page (doc. 1 at 3, 5). Moreover, it is undisputed that Meta operates a website that is accessible in South Carolina and that Mr. Zuckerberg is the CEO of Meta. Additionally, the plaintiff argues, but does not plead, that Meta and Mr. Zuckerberg have millions of daily contacts in South Carolina through their social media platforms (doc. 30 at

15). Significantly, however, the plaintiff failed to allege that Facebook has directed electronic activity into South Carolina by targeting that state in particular. *See Fidrych*, 952 F.3d at 141 ("[E]ven though Marriott's website is interactive, Marriott does not use it to target South Carolina residents in particular. The general availability of the website to South Carolina residents thus does not create the substantial connection to South Carolina necessary to support the exercise of jurisdiction.") (internal citations omitted); *ALS Scan*, 293 F.3d at 715 (finding no jurisdiction in Maryland in part because the defendant "did not direct its electronic activity specifically at any target in Maryland"); *Conrad v. Benson*, C/A No. 9:20-cv-1811-RMG, 2020 WL 4754332, at *4 (D.S.C. Aug. 14, 2020) (finding no specific jurisdiction when the defendant operated a website that was "accessible to all but targeted at no one in particular"). Rather, the plaintiff acknowledges that he created a Facebook account, and his allegations reflect that, "[i]nstead of targeting any particular state, the website makes itself available to any one who seeks it out, regardless of where they live." *Fidrych*, 952 F.3d at 141.

To the extent that the plaintiff alleges that Meta and Mr. Zuckerberg have connections to South Carolina because the plaintiff is a South Carolina resident and was injured in South Carolina, the connection between the defendant and the forum "must arise out of contacts that the defendant[s] create[] with the forum State," *Walden v. Fiore*, 571 U.S. 277, 284 (2014). Further, the plaintiff does not allege that Meta or Mr. Zuckerberg had any activity in the forum state other than maintaining a website that is accessible there. *See ESAB*, 126 F.3d at 626 ("Although the place that the plaintiff feels the alleged injury is plainly relevant to the inquiry, it must ultimately be accompanied by the defendant's own contacts with the state if jurisdiction over the defendant is to be upheld.").

Other courts addressing similar situations have also concluded that personal jurisdiction over Meta was lacking notwithstanding the fact that Facebook was available to and used by residents of those states and allegedly caused harm in those states. *See, e.g.,*

Rich v. Meta Platforms, Inc., C/A No. 21-11956-FDS, 2023 WL 8355932, at *8 (D. Mass. Dec. 1, 2023) ("As a general matter, Meta could have anticipated that Massachusetts residents (like residents of any other state) would access its online services. However, this broad and generic degree of foreseeability is insufficient, standing alone, to rise to the level of purposeful availment. It cannot be sufficient that wherever plaintiff accesses Meta services, there is jurisdiction. Jurisdiction cannot be carted from state to state, enabling a plaintiff to sue in any state to which he chooses to roam.") (internal citations and quotation marks omitted); *Richard v. Facebook, Inc.*, C/A No. 2018-CP-2606158, 2019 WL 8324749, at *2-5 (S.C. Ct. Com. Pl. May 22, 2019) (examining federal cases and finding that the court lacked personal jurisdiction over Facebook and noting that operating a website and causing an alleged injury in a state is insufficient to confer personal jurisdiction); *Harrison v. Facebook, Inc.*, C/A No. 18-0147-TFM-MU, 2019 WL 1090779, at *4 (S.D. Ala. Jan. 17, 2019) ("Plaintiff's allegations that Facebook failed to delete content that she or her agent, who happen to be residents of Alabama, posted on her Facebook page fail to show with reasonable particularity any specific conduct by Facebook that would support an exercise of specific jurisdiction in Alabama."), *R&R adopted by* 2019 WL 1102210 (S.D. Ala. Mar. 8, 2019); *Ralls v. Facebook*, 221 F. Supp.3d 1237, 1244 (W.D. Wash. 2016) ("The court further notes that personal jurisdiction over Facebook may not exist simply because a user avails himself of Facebook's services in a state other than the states in which Facebook is incorporated and has its principal place of business.").

The plaintiff also submits, but does not plead, various arguments about why this court has specific jurisdiction over Meta and Mr. Zuckerberg. However, even if the plaintiff had pled these arguments, the undersigned would nevertheless conclude that the court does not have specific jurisdiction over Meta and Mr. Zuckerberg. The plaintiff argues that specific jurisdiction exists because Meta and Mr. Zuckerberg submitted to this court through filing documents on October 9, 2023 (doc. 30 at 4). The docket reflects that Meta

and Mr. Zuckerberg filed their instant motion to dismiss and answers to interrogatories pursuant to Local Civil Rule 26.01 (D.S.C.) on that date (docs. 25; 26). However, Meta and Mr. Zuckerberg base their motion to dismiss in part on the lack of personal jurisdiction and their answers to interrogatories are made subject to, and expressly reference, their jurisdictional defenses and motion (docs. 25; 26). Accordingly, the undersigned finds that the plaintiff's argument is without merit.

The plaintiff further argues that an exercise of specific jurisdiction is proper because one of Meta and Mr. Zuckerberg's attorneys is not licensed to practice law in South Carolina and has therefore committed crimes by submitting false documents to the court (docs. 30 at 14-16; 34 at 4-5). The plaintiff asserts that while one of Meta and Mr. Zuckerberg's attorneys is licensed in South Carolina, their other attorney engaged in the unauthorized practice of law because, in the motion to dismiss, she stated that her application for admission *pro hac vice* was forthcoming (docs. 30 at 1-2; 25 at 2). However, Meta and Mr. Zuckerberg's motion to dismiss was electronically signed by a member of the South Carolina bar who is licensed to practice before this court. His co-counsel, who is not licensed in South Carolina, did not sign the motion, and her information appears alongside a designation that an application for admission *pro hac vice* was forthcoming. *See* Local Civ. Rule 83.I.04 (D.S.C.). This attorney has now been admitted *pro hac vice* (doc. 37). Based on the foregoing, the undersigned declines to find the court lacks personal jurisdiction over Meta and Mr. Zuckerberg because one of their attorney's *pro hac vice* admittance was forthcoming at the time that the motion to dismiss was filed.

The plaintiff also argues that the court has specific jurisdiction over Meta and Mr. Zuckerberg because their attorneys agreed that the venue was proper (doc. 30 at 4-5). It appears that the plaintiff is referencing one of Meta and Mr. Zuckerberg's answers to the Local Civil Rule 26.01 interrogatories (*see* doc. 26). Meta and Mr. Zuckerberg's answer (D) states in full:

> Defendants are not subject to jurisdiction in the District of South Carolina and will be making a dispositive motion on that basis. Subject to the jurisdictional issue and without waiver of its jurisdictional defenses, Defendants agree that the Spartanburg Division is the most appropriate venue for this action in the District of South Carolina pursuant to Local Civil Rule 3.01(A)(2) because no Defendants reside in South Carolina and Plaintiff resides in the Spartanburg Division.

(*Id.* at 2). Because Meta and Mr. Zuckerberg maintained that they were not subject to this court's jurisdiction, the undersigned declines to find that they waived such argument through this answer. Based on the foregoing, the undersigned finds that the plaintiff has failed to carry his burden of making a prima facie showing of specific personal jurisdiction.

The undersigned also finds that it does not have general jurisdiction over Meta and Mr. Zuckerberg. "General personal jurisdiction requires 'continuous and systemic' contacts with the forum state." *Perdue Foods LLC v. BRF S.A.*, 814 F.3d 185, 188 (4th Cir. 2016) (quoting *Helicopteros*, 466 U.S. at 414-16). "For an individual, the paradigm forum for the exercise of general jurisdiction is the individual's domicile." *Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014) (citation and internal quotation marks omitted); *see Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 48 (1989) (defining "domicile" as "physical presence in a place in connection with a certain state of mind concerning one's intent to remain there"). For a corporation to be "at home" in a foreign state, the corporation must have affiliations with that state so substantial that it is "comparable to a domestic enterprise in that State." *Daimler*, 571 U.S. at 133 n.11. "[T]he threshold level of minimum contacts to confer general jurisdiction is significantly higher than for specific jurisdiction." *ESAB*, 126 F.3d at 623 (citation omitted). This standard is appropriately stringent, "because '[a] court with general jurisdiction may hear *any* claim against that defendant, even if all the incidents underlying the claim occurred in a different state.'" *Pandit v. Pandit*, 808 F. App'x 179, 184 (4th Cir. 2020) (emphasis in original) (citation omitted). The Supreme Court of the United

States has indicated that such jurisdiction will exist only in the "exceptional case." *Daimler*, 571 U.S. at 139 n.19.

The plaintiff again argues, but does not plead, that the court has general jurisdiction over Meta and Mr. Zuckerberg because of their millions of daily contacts in South Carolina through their social media platforms (doc. 30 at 15). However, even if this was alleged in the complaint, the plaintiff's argument is insufficient to make a prima facie showing of general personal jurisdiction. Meta is a Delaware corporation with its primary place of business in California. Additionally, there is no evidence of any affiliations with South Carolina that are so substantial that Meta may be considered comparable to a South Carolina company. Further, Mr. Zuckerberg is a citizen of California, and there are no allegations that he is domiciled in South Carolina. Accordingly, the undersigned finds that this court does not have general personal jurisdiction over Meta or Mr. Zuckerberg. *See, e.g., Rich*, 2023 WL 8355932, at *5 (finding no general jurisdiction over Meta); *Richard*, 2019 WL 8324749, at *2 (same); *Georgalis v. Facebook, Inc.*, 324 F.Supp.3d 955, 959-61 (N.D. Ohio 2018) (same). Based on the foregoing, the undersigned recommends that the district court grant Meta and Mr. Zuckerberg's motion to dismiss.[2]

B. The Plaintiff's Motions for Default Judgment

As set out above, the plaintiff filed a motion for entry of default (doc. 32) and a motion for default judgment (doc. 31) on October 30, 2023. In his motions, the plaintiff argues that Meta and Mr. Zuckerberg's motion to dismiss is "false" and "null and void" due to their counsel engaging in the unauthorized practice of law (docs. 31-1 at 1-4; 32-1 at 2-4). The plaintiff also seeks sanctions against Meta and Mr. Zuckerberg because of this alleged unauthorized practice of law (docs. 31-1 at 9; 32-1 at 4).

[2] Because the undersigned recommends that the district court find that it lacks personal jurisdiction over Meta and Mr. Zuckerberg, those defendants' additional arguments in their motion to dismiss will not be addressed.

Securing a default judgment is a two-step process. First, "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). Because Meta and Mr. Zuckerberg filed a timely motion to dismiss and are actively defending the plaintiff's allegations, the undersigned finds that there is no basis for entry of their default.

The undersigned also finds that the plaintiff's argument that Meta and Mr. Zuckerberg failed to timely answer the complaint - based on their counsel allegedly engaging in the unauthorized practice of law when filing the motion to dismiss - is without merit. As discussed above, Meta and Mr. Zuckerberg's motion to dismiss was electronically signed by a member of the South Carolina bar who is licensed to practice before this court. His co-counsel, who is not licensed in South Carolina, did not sign the motion, and her information appears alongside a designation that an application for admission *pro hac vice* was forthcoming. *See* Local Civ. Rule 83.I.04 (D.S.C.). This attorney has now been admitted *pro hac vice* (doc. 37). Based on the foregoing, the undersigned declines to find that the motion to dismiss is "false" or "null and void." Moreover, the undersigned recommends that the district court deny the plaintiff's request for sanctions, as the plaintiff has failed to identify any conduct by Meta, Mr. Zuckerberg, or their counsel warranting such action. Therefore, the undersigned recommends that the district court deny the plaintiff's motions for entry of default and default judgment (docs. 31; 32).

C. The Plaintiff's Motion to Dismiss Defendant Jane Doe

On January 19, 2024, the plaintiff also filed a motion to dismiss Jane Doe from the case, because Jane Doe "does not exist as a person making impossible to execute service of process" (doc. 46 at 1). As set out above, the undersigned has previously filed a report and recommendation recommending that Jane Doe be dismissed based on the

plaintiff's failure to timely serve this defendant (doc. 44). Accordingly, the undersigned recommends that the district court grant the plaintiff's motion to dismiss Jane Doe.

III. CONCLUSION AND RECOMMENDATION

Wherefore, based upon the foregoing, the undersigned recommends that the district court grant Meta and Mr. Zuckerberg's motion to dismiss (doc. 25), deny the plaintiff's motions for entry of default and default judgment (docs. 31; 32), and grant the plaintiff's motion to dismiss Jane Doe (doc. 46).

IT IS SO RECOMMENDED.

s/Kevin F. McDonald
United States Magistrate Judge

March 14, 2024
Greenville, South Carolina

The attention of the parties is directed to the important notice on the following page.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. "[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
250 East North Street, Suite 2300
Greenville, South Carolina 29601

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

IN THE SUPREME COURT OF THE UNITED STATES

No.

APPENDIX C

ORDER ENTRY No. 61 ISSUED BY THE DISTRICT COURT OF SOUTH CAROLINA DISMISSING DEFENDANT JANE DOE a/k/a IGA MARIANA

FILED ON APRIL 17, 2024

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Israel Romero, Plaintiff, v. Facebook Meta, Mark Zuckerberg, and Jane Doe, Defendants.	)	Civil Action No. 7:23-cv-3306-TMC **ORDER**

Plaintiff Israel Romero, proceeding *pro se*, filed this action against Defendants, asserting claims for breach of contract, defamation, and intentional infliction of emotional distress. (ECF No. 1). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(e) (D.S.C.), this matter was referred to a magistrate judge for all pretrial proceedings. On January 8, 2024, the magistrate judge issued a Report and Recommendation (the "Report") recommending that the Court dismiss Defendant Jane Doe for Plaintiff's failure to effectuate timely service of process upon Jane Doe and failure to provide good cause under Rule 4(m) of the Federal Rules of Civil Procedure. (ECF No. 44).

On January 19, 2024, Plaintiff filed objections to the Report in which he stated "Jane Doe a/k/a Iga Mariana does not exist. Hence it is impossible to complete service on a non-existent defendant." (ECF No. 47). On the same day, Plaintiff filed a Motion to Dismiss Defendant Jane Doe "because she does not exist as a person making it impossible to execute service of process." (ECF No. 46).

The recommendations set forth in the Report have no presumptive weight, and this court remains responsible for making a final determination in this matter. *Elijah v. Dunbar*, 66 F.4th

454, 459 (4th Cir. 2023) (citing *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). The court is charged with making a *de novo* determination of those portions of the Report to which a specific objection is made, and the court may accept, reject, modify, in whole or in part, the recommendation of the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). Thus, "[t]o trigger de novo review, an objecting party 'must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.'" *Elijah*, 66 F.4th at 460 (quoting *United States v. Midgette*, 478 F.3d 616, 622 (4th Cir. 2007)). However, the court need only review for clear error "those portions which are not objected to—including those portions to which only 'general and conclusory' objections have been made[.]" *Dunlap v. TM Trucking of the Carolinas, LLC*, 288 F. Supp. 3d 654, 662 (D.S.C. 2017); *see also Elijah*, 66 F.4th at 460 (noting that "[i]f a litigant objects only generally, the district court reviews the magistrate's recommendation for clear error only"). Furthermore, in the absence of specific objections to the Report, the court is not required to give any explanation for adopting the magistrate judge's recommendation. *Greenspan v. Brothers Prop. Corp.*, 103 F. Supp. 3d 734, 737 (D.S.C. 2015) (citing *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983)).

Additionally, since Plaintiff is proceeding *pro se*, this court is charged with construing his pleadings and filings liberally in order to allow for the development of a potentially meritorious case. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017) (noting that "when confronted with the objection of a *pro se* litigant, [the court] must also be mindful of [its] responsibility to construe *pro se* filings liberally"). Accordingly, "when reviewing *pro se* objections to a magistrate's recommendation, district courts must review *de novo* any articulated grounds to which the litigant appears to take issue." *Elijah*, 66 F.4th at 460–61.

This does not mean, however, that the court can ignore a *pro se* party's failure to allege or prove facts that establish a claim currently cognizable in a federal district court. *See Stratton v. Mecklenburg Cty. Dep't of Soc. Servs.*, 521 Fed. App'x 278, 290 (4th Cir. 2013) (noting that "'district judges are not mind readers,' and the principle of liberal construction does not require them to 'conjure up questions never presented to them or to construct full-blown claims from sentence fragments'" (quoting *Beaudett v. City of Hampton*, 775 F.2d 1274, 1277–78 (4th Cir. 1985))).

The Court has carefully reviewed the Report (ECF No. 44) and finds no error. Moreover, in light of the Plaintiff's objections and Motion to Dismiss Defendant Jane Doe, it appears Plaintiff agrees to, consents to and requests the dismissal of Defendant Jane Doe from this action. Accordingly, the Court **ADOPTS** the Report (ECF No. 44) and hereby **GRANTS** Plaintiff's Motion to Dismiss Defendant Jane Doe from this action (ECF No. 46). The Clerk of Court is directed to mail a copy of this Order to Plaintiff at the address on record with this Court.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
April 17, 2024

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

IN THE SUPREME COURT OF THE UNITED STATES

No.

APPENDIX D

(a) CERTIFICATE OF PARDON ISSUED BY THE STATE OF SOUTH CAROLINA IN BENEFIT OF PETITIONER

(b) CERTIFICATE OF ADMISSION TO PRACTICE BY THE DISTRICT COURT OF SOUTH CAROLINA

(c) DOCKET PAGE USED AS EVIDENCE IN PETITIONER'S CONVICTION: TRIED IN STATE COURT FOR REPRESENTING A PERSON IN FEDERAL COURT

*Pardon # **14738***

SOUTH CAROLINA
DEPARTMENT OF PROBATION, PAROLE,
AND PARDON SERVICES
COLUMBIA, SC

CERTIFICATE OF PARDON

KNOW ALL MEN BY THESE PRESENTS:

It having been made to appear to the SOUTH CAROLINA BOARD OF PROBATION, PAROLE, AND PARDON SERVICES *that* ***Israel Romero*** ***SS# 139-84-6406*** *and* ***SID# 01841269*** *who was convicted of* ***Practice of Law Without a License (I476052) – 04/21/2009*** *in the county of* ***Greenville*** *has lived as a law abiding citizen since* ***satisfying sentence*** *and it being the opinion of the said South Carolina Board of Probation, Parole and Pardon Services that the Pardoning of this prisoner is not incompatible with the welfare of society, and it appearing further that the Board is satisfied* ***he*** *will abide by all laws of this State.*

It is therefore ORDERED *that said* ***Israel Romero*** BE PARDONED, *effective* ***December 4, 2018*** *and by this action, is absolved from all legal consequences of the above stated crime and conviction, and all civil rights are restored.*

In witness where of this certificate bearing the approval of the SOUTH CAROLINA BOARD OF PROBATION, PAROLE AND PARDON SERVICES *is issued this date,* ***December 4, 2018****.*

By order of:

SOUTH CAROLINA BOARD OF PROBATION,
PAROLE AND PARDON SERVICES

By: _____

Derek A. Brown
Associate Deputy Director for Paroles, Pardons and Rehabilitative Services

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

OFFICE OF THE CLERK
901 RICHLAND STREET
COLUMBIA, SOUTH CAROLINA 29201-2431

LARRY W. PROPES
CLERK OF COURT

TELEPHONE
803.765.5789
FAX 803.765.5469

January 30, 2008

Israel Romero, Esq.
Law Office of Israel Romero
94 Birdsong Lane
Taylors, SC 29687

Dear Mr. Romero:

Enclosed please find your certificate to practice in the District Court for the District of South Carolina. Your attorney identification number is located at the bottom of the certificate.

Our web page (www.scd.uscourts.gov) contains valuable information for you such as federal court procedures; Local Rules; Electronic Case Filing (ECF) information and procedures; and directory listings for the court, the clerk's office, and other agencies.

If you have any questions, please do not hesitate to call.

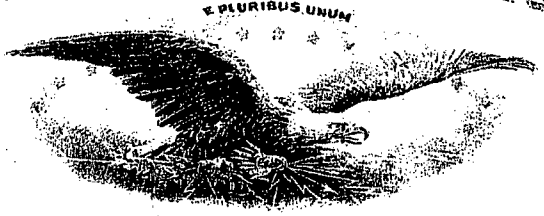
Sincerely,

JCotner

Judy Cotner

Enclosure

THE UNITED STATES OF AMERICA



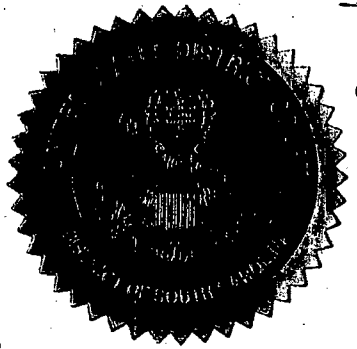
District of South Carolina

I, Larry W. Propes, Clerk of the United States District Court,

certify that

Israel Romero

was duly admitted and qualified to practice as an attorney in the District Court on the 23rd day of January 2008.



In testimony whereof, I sign my name and affix the seal of this Court on this 23rd day of January 2008.

Clerk of Court

Attorney Identification Number: 10127

CUSTODY, INTERPRETER

U.S. District Court
District of South Carolina (Greenville)
CRIMINAL DOCKET FOR CASE #: 6:08-cr-00682-HMH-1

Case title: USA v. Martinez-Olivares
Magistrate judge case number: 6:08-mj-00568-MCRI

Date Filed: 07/08/2008

Assigned to: Honorable Henry M Herlong, Jr

Defendant (1)

Juan Francisco Martinez-Olivares
also known as
Juan Olivares

represented by **Margaret A Chamberlain**
PO Box 10184
Greenville, SC 29603-0184
864-250-0505
Fax: 864-271-8097
Email: mchamberlain@margaretchamberlainlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Israel Romero
Suspended
864-640-7839
TERMINATED: 08/04/2008
Designation: Retained

Pending Counts

18:1028A(a)(1)FRAUD WITH IDENTIFICATION DOCUMENTS. January 2, 2007
(2)

Disposition

Highest Offense Level (Opening)

Felony

Terminated Counts

Disposition

IN THE SUPREME COURT OF THE UNITED STATES

No.

APPENDIX E

SLIP DECISIONS SEARCH RESULT FOR: PEOPLE v. ROMERO, 698 N.E.2d 424 N.Y. Ct. App. 1998, SHOWING

"NO RECORDS FOUND"

IN THE SUPREME COURT OF THE UNITED STATES

No.

APPENDIX F

CERTIFICATE OF EXISTENCE ISSUED BY THE SECRETARY OF STATE OF SOUTH CAROLIA MARK HAMMOND, CERTIFYING THE EXISTENCE OF CAROLINAS FACEBOOK, LLC SINCE FEBRUARY 3rd, 2012. RESPONDENT FACEBOOK ADOPTED THE NEW NAME OF META PLATFORMS, INC. IN 2022.

The State of South Carolina

Office of Secretary of State Mark Hammond

Certificate of Existence

I, Mark Hammond, Secretary of State of South Carolina Hereby Certify that:

CAROLINAS FACEBOOK, LLC, a limited liability company duly organized under the laws of the State of South Carolina on February 3rd, 2012, with a duration that is at will, has as of this date filed all reports due this office, paid all fees, taxes and penalties owed to the State, that the Secretary of State has not mailed notice to the company that it is subject to being dissolved by administrative action pursuant to S.C. Code Ann. §33-44-809, and that the company has not filed articles of termination as of the date hereof.

Given under my Hand and the Great Seal of the State of South Carolina this 9th day of October, 2024

Mark Hammond

Mark Hammond, Secretary of State

IN THE SUPREME COURT OF THE UNITED STATES

No.

APPENDIX G

CONSTITUTIONAL AND STATUTORY PROVISIONS

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution XIV Amendment rights to due process and equal protection of the laws.

28 U.S. Code § 455 – Disqualification of justice, judge, or magistrate judge
(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

In Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009), this Court held that due process requires an "objective inquiry into judicial bias." In Aetna Life Insurance Co. v. Lavoie, 475 U.S. 813 (1986), this Court left open the question whether the Constitution is violated by the bias, appearance of bias, or potential bias of a [justice, judge, or magistrate judge]. In Williams v. Pennsylvania, No. 15-5040, 579 U.S. 1 (2016), this Court answered the two pending questions in the positive: due process requires an "objective" inquiry into judicial bias; and, the bias, appearance of bias, or potential bias of a justice, judge, or magistrate judge violates the due process and equal protection of the laws rights contained in the XIV Amendment. See Rippo v. Baker, 580 U.S. ___(2017).

Fed. R. Civ. P. Rule 60 (b) (2)(3) Relief from a Judgment or Order
(b) Grounds for relief from a final judgment, order, or proceeding. On motion and just terms, the court may relieve a party... from a final judgment, order or proceeding for the following reasons: (1)...
(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a mew trial under Rule 59(b);
(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
(4) the judgment is void;

Long v. Shorebank Dev. Corp., 182 F.3d 548 (C.A. 7 Ill. 1999) "A void judgment which includes judgment entered by a court which lacks... inherent power to enter the particular judgment or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court."
Klugh v. United States, 620 F.Supp. 892 (D.S.C. 1985) "Judgment is void if court that rendered judgment... "acted in a manner inconsistent with due process."

4th Cir... "When a court renders a decision, the court must 'provide an adequate explanation for the [final order or decision].'" United States v. Jackson, Case No. 23-4580 (4th Cir. January 31, 2025)

28 US. Code § 4101 (1) Defamation.

Restatement (2nd) of Torts, § 46 (1) Extreme and outrageous conduct intentionally or recklessly causing severe emotional distress (IIED).

Fed. R. Civ. P. Rule 4, in connection to S.C. R. Civ. P. Rule 4, regarding service of process via Certified Mail Return Receipt Requested.

South Carolina Code of Laws § 33-8-102 states that, "A director [of a corporation] need not to be resident of this State or a shareholder of the corporation" to be responsible or liable for the conduct and for all acts and omissions of the corporation, other directors, officers, or employees, in application of the "piercing the corporate veil" doctrine as a matter of law, and need not to be called or alleged in the complaint.

South Carolina Code § 39-5-20 (a) (Chapter 5 – Unfair Trade Practices Act SCUTPA) declares "any unfair and deceptive acts or practices in the conduct of any trade or commerce to be unlawful."

South Carolina § 268 (d)(2) "Memorandum opinions and unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved." That means, in the same case at different level.

OTHER statutes and cases appear at the Table of Authorities