

CAUSE NO. 09-09666

**'CHASE' DOUGLAS FONTENO &
HILTON HEAD PROPERTIES, INC.,
And Et Al**

Plaintiffs

VS.

Michael Ray Davis

Defendant

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IN THE 298st DISTRICT COURT

OF

DALLAS COUNTY, TEXAS

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This matter came before the court on September 01, 2010, for a Default Prove-Up hearing Texas Rules of Civil Procedure Chapter 7 Section 3.13. The damages in the Plaintiffs' petition are liquated and unliquated. The Court conducted a hearing in which the Plaintiffs presented evidence of damages and proved the amount of damages for 'Chase' Douglas Fonteno in the amount of \$4,137,000 and for Hilton Head Properties, Inc. for in the amount of \$3,804,500 during the hearing.

The Plaintiffs, 'Chase' Douglas Fonteno & Hilton Head Properties Inc, et al, appears with their attorney of record and presents to this Court their evidence of damages Default Judgment against Michael R. Davis. The Defendant did not appear by way of its attorney or *pro se*. The following eight (8) exhibits were admitted into evidence: four (4) Yahoo small business email communications, one (1) Chase Business Bank Statement, one (1) Scheef and Stone, LLP, invoice, one (1) WaMu HHF Operating Account Activity sheet, and one (1) Excel damages model, and one (1) website printout of chase-fonteno.com, and nine (9) printouts of RipOffReport.com, and one (1) printout of a twitter account, and one (1) printout of

MySpace.com account, and one (1) printout of Facebook.com account, and one (1) printout of news report by Channel 11 new, and one (1) video of new story by Channel 11 News, and one (1) investigative report by Wayne Freena related to all the prior evidence and its source.

After review of the exhibits tendered into evidence of proper notice, and from hearing the argument of the Plaintiffs' counsel; the Court make the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Plaintiffs properly served notice of this motion to the Defendant.
2. The notice to the Defendant of the default prove-up hearing was not required in that the Defendant received all the notice to which he is entitled when he was served with process and he has failed to file an answer or make an appearance.
3. The Court determined that it had jurisdiction over the subject matter and the parties of this proceeding.
4. The Court also determined that venue was not contested and it is proper in Dallas County Texas.
5. The Court takes judicial notice of the Original Petition and attached exhibits marked A-1 through A-8 filed on August 03, 2009.
6. The Court finds after a review of the evidence, the Court's file, docket sheet and testimony of all parties present that the following activity occurred in this matter:
 - A. The Plaintiffs filed their suit in this matter against Michael R. Davis on or about August 3, 2009.

- B. This Court ordered a Temporary Restraining Order on August 11, 2009, in Vol./Book 432E, Page 155, 4 pages.
- C. The Defendant was served with Notice, Citation, and a Temporary Restraining Order on or about August 12, 2009.
- D. The Plaintiffs filed a supplemental brief for a temporary injunction on August 18, 2009.
- E. This Court ordered a temporary injunction on August 19, 2009 in Vol./Book 432E, 5 pages.
- F. The Clerk of this Court issued the temporary injunction and trial notice on August 26, 2009.
- G. The Defendant was served with the temporary injunction and the trial notice on September 02, 2009.
- H. A Certificate of Last Known Address, Affidavit, and Motion for Partial Summary were filed with this Court on September 03, 2009.
- I. On September 01, 2009, the Clerk of this Court sent the Defendant notice of Motion for Default Judgment to the Defendant's last known address.
- J. The Court finds that the court record demonstrates the expiration of time for Defendant, Michael R. Davis to file an answer.
- K. The Court finds that the citation and proof of services has been on file with the clerk for more the 10 (ten) days required.
- L. The Court finds that the evidence presented is the causal nexus between the fraud and the Plaintiffs' injuries.

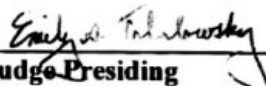
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CONCLUSIONS OF LAW

1. There is clear and convincing evidence that the Defendant, Michael R. Davis violated the Texas Wiretap Act, when he intentionally obtained access to the Plaintiffs' bank accounts without authorization.
2. There is clear and convincing evidence that the Defendant illegally broke into various online accounts belonging to Plaintiff 'Chase' Fonteno of Twitter, LinkedIn, MySpace,

- Facebook to make false statements about such Plaintiff with intent to damage Plaintiff's reputation and damage his business.
3. There is clear and convincing evidence that the Defendant intentionally made false statements about Plaintiff's Fonteno and Hilton Head Properties on various websites, including chase-fonteno.com that caused proximate damage to Plaintiff's.
 4. There is clear and convincing evidence that the Defendant intentionally made false statements about Plaintiff's Fonteno and Hilton Head Properties on website RipOffReport.com, which under the websites own rules, can never be removed and thereby caused proximate damage to Plaintiff's.
 5. There is clear and convincing evidence that the Defendant intentionally invaded upon the Plaintiffs' solitude, seclusion, private affairs or concerns by his highly offensive action to a reasonable person that caused the Plaintiffs to suffer injury.

Signed this 1st day of September, 2010.



Judge Presiding

Copies to:

Counsel for the Petitioner

Defendant