

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
FLORIDA**

Prosomnus Sleep Technologies, Inc. v. Nyree Penn

Penn · No. 0:25-cv-60110-LEIBOWITZ/AUGUSTIN-BIRCH · Decided February 9, 2026

OPINION

Penn

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:25-cv-60110-LEIBOWITZ/AUGUSTIN-BIRCH

PROSOMNUS SLEEP TECHNOLOGIES,

INC.,

Plaintiff, v.

NYREE PENN, ,

Defendants. _____/

ORDER ADOPTING MAGISTRATE’S REPORT AND RECOMMENDATION

THIS CAUSE is before the Court on United States Magistrate Judge Panayotta Augustin- Birch’s Report and Recommendation on Plaintiff’s Motion for Final Default Judgment [ECF No. 35]. [ECF No. 41 (the “R&R”)]. Judge Augustin-Birch recommends the Motion for Final Default Judgment [ECF No. 35] be granted in part and denied in part. [ECF No. 41 at 15]. Judge Augustin- Birch recommends that a final default judgment be entered in favor of Plaintiff and against Defendants Nyree Penn, Prosomnia Sleep, LLC, Prosomnia Sleep Health & Wellness of Aventura, LLC, and Prosomnia Sleep Management LLC (collectively, “Defendants”). [Id.]. Judge Augustin-Birch also recommends entry of a permanent injunction and an award of \$100,000 of statutory damages per Defendant. [Id.]. No objections were filed to the R&R. After careful review, the Court adopts Judge Augustin-Birch’s R&R in its entirety. “In order to challenge the findings and recommendations of the magistrate judge, a party must file written objections which shall specifically identify the portions of the proposed findings and recommendation to which objection is made and the specific basis for objection.” *Macort v. Prem, Inc.*, 208 F. App’x 781, 783 (11th Cir. 2006) (cleaned up). The objections must also present “supporting legal authority.” S.D. Fla. L. Mag. J.R. 4(b). Once a district court receives “objections meeting the specificity requirement set out above,” it must “make a de novo determination of those portions of the report to which objection is made and may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge.” *Macort*, 208 F. App’x at 783–84 (cleaned up). To the extent a party fails to object to parts of the magistrate judge’s report, those portions are

reviewed for clear error. Id. at 784 (cleaned up). The parties have not submitted any objections to Judge Augustin-Birch's R&R, and the time to do so has expired. As such, the Court has reviewed the R&R for clear error only. Upon this review, the Court finds not only no clear error but also notes that Judge Augustin-Birch's R&R is thorough, cogent, and compelling. The Court adopts the R&R in its entirety. Accordingly, it is hereby ORDERED AND ADJUDGED as follows:

1. Magistrate Judge Augustin-Birch's R&R [ECF No. 41] is AFFIRMED AND ADOPTED.
2. Plaintiff's Motion for Final Default Judgment [ECF No. 35] is GRANTED IN PART AND DENIED IN PART. The Court will issue a Final Default Judgment in accordance with Rule 58.
3. Defendants, their officers, directors, employees, agents, servants, attorneys, and all persons in active concert or participation with Defendants are permanently enjoined from distributing, promoting, selling, or offering for sale any of their goods or services, including their Infringing Goods and Services in connection with sleep therapy assessments, clinical sleep treatments, sleep apnea treatments, sleep-aid supplements and prescriptions, sleep therapy retreats and workshops for the general public and continuing educational courses for healthcare professionals.
4. Plaintiff is awarded \$100,000 per Defendant in statutory damages.
5. 'The Clerk is directed to CLOSE this case. All deadlines are TERMINATED, and any pending motions are DENIED as moot. DONE AND ORDERED in the Southern District of Florida on February 9, 2026. suka, 2S

DAVID S. LEIBOWITZ

UNITED STATES DISTRICT JUDGE

cc: counsel of record Nyree Penn, pro se Prosomma Sleep, LLC, pro se Prosomnia Sleep Health & Wellness of Aventura, LLC, pro se Prosomma Sleep Management, LLC, pro se