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October 22, 2019

VIA ECF ONLY

The Honorable Sarah L. Cave
United States District Court
Southern District of New York
500 Pearl Street, Room 18A
New York, New York 10007-1312

Re: *BMaddox Enterprises LLC v. Milad Oskouie, et al.*, 17-cv-1889-RA-SLC

Dear Magistrate Judge Cave:

On September 30, 2019, the Court gave Defendants a final chance to participate in the above-captioned lawsuit. (Order, ECF No. 178.) The Order stated that “[n]o later than October 21, 2019, defendants are to respond fully to plaintiff’s interrogatories” and “[n]o later than October 21, 2019, defendants are to produce to plaintiff all documents responsive to plaintiff’s document requests.” (ECF No. 178, 18.) Plaintiff served its first set of interrogatories and requests for the production of documents on Defendants almost two years ago, on November 6, 2017. (Duff Decl., ECF No. 180-1, ¶ 2.)

The Court’s Order issued, in the relevant part, in response to Plaintiff’s Supplemental Memorandum in Support of its Third Motion for Sanctions. (Order, ECF No. 178, 16; Pl.’s Suppl. Mem. Supp. Third Mot. Sanctions, ECF No. 153, 4-16.) The Court recognized that the “defendants were indisputably on notice with respect to their discovery obligations as early as [Magistrate Judge Pitman’s] March 6, 2018 Order” but found that the record did not show “that defendants were adequately warned of the potential consequences of their failure to comply” with Plaintiff’s two-year-old discovery requests. (ECF No. 178, 17.) Defendants cannot argue that they have not been adequately warned of the potential consequences after the Court’s September 30, 2019 Order. The Order states, in bold typeface, “**Defendants are warned that an unjustified failure to comply with this Order will result in the imposition of sanctions, which may include the entry of a default judgment against all defendants.**” (ECF No. 178, 18.) Defendants did not attempt to comply with the Court’s Order. On October 18, 2019, Defendant Milad Oskouie (“Oskouie”) emailed the same wholly deficient responses and objections to Plaintiff’s two-year-old discovery requests that Defendants served in 2017. (Duff Decl., ECF No. 180-1, ¶ 3, Ex. A.) Although Defendants’ discovery responses promise, as they did in 2017, to answer nearly all of Plaintiff’s requests by producing documents, Defendants did not even attempt to produce any documents in response to the Court’s Order. (Duff Decl., ECF No. 180-1, ¶ 4.) Upon receipt of Defendant Oskouie’s email, Plaintiff’s undersigned counsel responded the same day stating “You did not



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produce any documents. This is unacceptable, and we will be notifying the court unless you produce before the deadline.” (Duff Decl., ECF No. 180-1, ¶ 5, Ex. B, 2.) Defendants made no other attempt to comply with the Court’s Order. (Duff Decl., ECF No. 180-1, ¶ 6.) Instead, Defendant Oskouie intimated that the “EU GDPR and Iranian Data Protection [sic]” justified Defendants’ failure to obey the Court’s Order. (Duff Decl., ECF No. 180-1, ¶ 7, Ex. B, 1.) As an initial matter, Defendants’ discovery responses were due before the European Union’s General Data Protection Regulation (“GDPR”) went into effect in 2018. *See* Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, Art. 99 (“It shall apply from 25 May 2018.”) (available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1532348683434&uri=CELEX:02016R0679-20160504>) (last visited October 22, 2019). It is unclear what regulation, if any exists, Defendant Oskouie refers to as the “Iranian Data Protection.” Defendant Oskouie did not explain why he believes the GDPR and “Iranian Data Protection” allow Defendants to shirk their discovery obligations and refuse to comply with the Court’s Order. (Duff Decl., ECF No. 180-1, ¶ 7, Ex. B.) The Southern District of New York recognizes that the GDPR does not allow a party to refuse to participate in discovery. *See In re Hansainvest Hanseatische Investment-GmbH*, 364 F. Supp. 3d 243 (S.D.N.Y. 2018).

This is not the first time that Defendants have refused to obey an order from this Court. On March 6, 2018, after a conference “during which certain discovery issues were discussed,” the Court issued an order stating that “[n]o later than March 20, 2018, defendants shall produce all documents that are responsive to plaintiff’s document request, served on defendants’ counsel on November 6, 2017.” (Order, ECF No. 111, 1.) In response, Defendants’ second attorney shuffled several of the non-responsive documents Defendants’ originally produced together with forty-four previously unproduced but non-responsive documents and served those on Plaintiff without acknowledging that the documents were almost entirely the same as those originally produced but in a different order. (Pl.’s Suppl. Mem. Supp. Third Mot. Sanctions, ECF No. 153, 3-4; Duff Decl., ECF No. 154, ¶¶ 3-5.) Defendants previously refused to produce *any* documents until Plaintiff asked the Court to intervene. (Pl.’s Suppl. Mem. Supp. Third Mot. Sanctions, ECF No. 153, 1; Pl.’s Letter, ECF No. 99, 1-3.)

In its September 30, 2019 Order, the Court held that Defendants’ failure to meaningfully participate in discovery “would merit severe sanctions.” (Order, ECF No. 178, 16.) The Court held that “an explicit warning is required before the Court imposes severe sanctions, such as the dismissal of counterclaims or the entry of a default judgment.” (Order, ECF No. 178, 17.) The Court further held that “plaintiffs’ motion for sanctions for defendants’ alleged discovery misconduct is denied without prejudice to renewal should defendants fail to comply with the” Court’s unambiguous Order requiring



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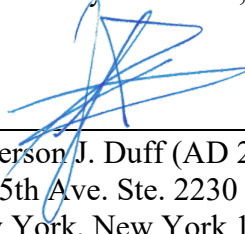
Defendants to fully respond to Plaintiff's two-year-old discovery requests on or before October 21, 2019. (Order, ECF No. 178, 17-18.)

Defendants' failure to take the Court's September 30, 2019 Order and their own discovery obligations seriously is the most recent example of Defendants' incessant bad faith attempts to frustrate adjudication of Plaintiff's claims. Defendants' abusive litigation tactics are described in several memoranda. (Pl.'s Mot. Sanctions, ECF No. 55; Pl.'s Mem. Supp. Mot. Sanctions, ECF No. 56; Pl.'s Mem. Supp. Second Mot. Sanctions, ECF No. 113; Pl.'s Mem. Supp. Third Mot. Sanctions, ECF No. 138; Pl.'s Suppl. Mem. Supp. Third Mot. Sanctions, ECF No. 153.) Defendant Oskouie has harassed the Plaintiff's owner and his family, a reporter who wrote about this lawsuit and her family, and Plaintiff's undersigned counsel and his family in several malicious ways, including posting libelous statements online asserting that each of the victims identified above sexually abuses children. (Pl.'s Mem. Supp. Second Mot. Sanctions, ECF No. 113, 2-13.) Defendant Oskouie also submitted a declaration under penalty of perjury claiming that he was diagnosed with Stage B Leukemia. (Decl. Oskouie, ECF No. 89, ¶ 2.) In support of his claim, Defendant Oskouie submitted two images he claimed were the results of tests that his doctor administered to him. (Decl. Oskouie, ECF No. 118-3, Ex. C.) In fact, the test results were stolen from a publicly available case study of a sixty-one year old man with pneumonia and leukocytosis. (Pl.'s Mem. Opp'n Defs.' Mot. Stay, ECF No. 123, 1-2; Decl. Duff, ECF No. 124, ¶ 7, Ex. C, D.) Caught lying to the Court about having cancer, Defendant Oskouie fabricated a non-sensical excuse that the Court described as "not credible." (Defs.' Letter, ECF No. 125, 1-2; Order, ECF No. 127, 1-2.)

In view of the foregoing and Defendants' most recent refusal to obey a direct order from the Court, Plaintiff hereby requests a pre-motion conference in accordance with Your Honor's Individual Practices to discuss the most efficient way for Plaintiff to renew its motion for sanctions as expressly contemplated by the Court's September 30, 2019 Order. (Order, ECF No. 178, 17.)

Respectfully submitted,

By:


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