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PRELIMINARY STATEMENT AND FACTS

On November 6, 2017, Plaintiff and Counterclaim Defendants (referred to herein as “BMaddox”) served a first set of interrogatories and requests for the production of documents and things on each of the Defendants, namely, Milad Oskouie (“Oskouie”), Osko M. Ltd. (“Osko”), and Platinum Avenue Holdings Pty., Ltd. (“Platinum”). On December 6, 2017, Defendants served objections and responses to BMaddox’s discovery requests that were almost entirely non-responsive. In the December 6, 2017 responses, Defendants collectively answered only three interrogatories. Each Defendant responded to all of the remaining interrogatories with references to Civil Local Rule 33.3(b) and statements that Defendants would produce documents providing the requested information or meritless objections. BMaddox received similar responses to its requests for the production of documents and things. Despite Defendants’ assurances that most of BMaddox’s discovery requests would be satisfied with Defendants’ document production, BMaddox only obtained *any* documents from Defendants after requesting an informal discovery conference before the Court. (Letter, ECF No. 99.)

After BMaddox requested an informal discovery conference but before the March 6, 2018 conference took place, Defendants did produce four hundred twenty-six pages of largely non-responsive documents in no discernible order. Most of the documents had been filed attached to previous filings on ECF and was already in BMaddox’s possession. BMaddox was only able to obtain those largely non-responsive documents because BMaddox’s counsel assiduously followed up with Defendants’ first and second attorneys as detailed in counsel’s February 9, 2018 letter to Magistrate Judge Pitman. (Letter, ECF No. 99.)

Counsel for all Parties discussed Defendants’ belated and meager production during the March 6, 2018 hearing requested by BMaddox. The result of that discussion was the Court’s Order mandating proper discovery responses from Defendants “[n]o later than March 20, 2018.”

(Order 1, ECF No. 111.) In response, Defendants produced one hundred ninety-two additional pages of which only forty-four are not exact copies of previously produced documents. (Duff Decl. ¶¶ 3 - 5.) Plaintiff's counsel is well aware that documents are frequently produced many times when litigants are faithfully complying with their discovery obligations. That is not what happened here.

After the Court's March 6, 2018 Order, Defendants rearranged discrete documents that were already produced, added an additional forty-four pages, and re-produced a chunk of the same disorganized and largely non-responsive documents that Defendants' originally produced when BMaddox was forced to raise Defendants' failure to produce documents with the Court. The re-produced documents are not attachments to email chains or documents appearing in another format that would lead to their multiplication in Defendants' document production. The re-produced items are standalone documents and exact copies of the documents previously produced. In nearly all of the re-produced documents, at least some portion of the image or text is cut off in the exact same manner as those that were originally produced. (Duff Decl. ¶ 5.) Facing the Court's order, Defendants merely reshuffled the .pdfs they had on hand, added a small number of documents, many of which were previously submitted as exhibits, and hoped BMaddox would accept their noncompliance. Neither BMaddox nor the Court should accept Defendants' failure to meaningfully participate in this lawsuit.

After reviewing all of Defendants' discovery responses and the documents Defendants have produced, Plaintiff, in accordance with Local Civil Rule 37.2 and Magistrate Judge Pitman's individual rules, requested an informal conference with the Court for a second pre-motion discovery conference "to discuss Defendants' failure to produce materials despite this Court's order." (Letter 1, ECF No. 145.) The Court scheduled a discovery conference on May 2,

2018. (Order 2, ECF No. 146.) At the hearing, Plaintiff's counsel generally described Defendants' ongoing refusal to provide meaningful discovery responses. Because Plaintiff filed a motion for sanctions on April 5, 2018, ECF No. 137, the Court granted Plaintiff leave to file a supplemental brief on or before May 16, 2018. (Order 1-2, ECF No. 148.)

ARGUMENT

Defendants have provided only seven meaningful responses to BMaddox's discovery requests. In each case, Defendants stated that no responsive information or documents exists. Many of Defendants' inadequate or absent discovery responses demonstrate that Defendants' sixteen counterclaims and other positions are without merit. For this reason, and to conserve judicial resources in the spirit of Local Civil Rule 5.1, this memorandum will not address each discovery request to which Defendants have failed to respond but will focus on Defendants' failure to provide BMaddox with information necessary to a just and efficient resolution of this case.

I. Each Defendant Has Failed to Meaningfully Respond to Interrogatories Served Upon Them on November 6, 2017

In the Southern District of New York, Local Civil Rule 33.3(a) generally limits interrogatories to those requesting "names of witnesses with knowledge of information relevant to the subject matter of the action, the computation of each category of damage alleged, and the existence, custodian, location and general description of relevant documents, including pertinent insurance agreements, and other physical evidence, or information of a similar nature." Local Civil Rule 33.3(b) states that "[d]uring discovery, interrogatories other than those seeking information described in paragraph (a) above may only be severed (1) if they are a more practical method of obtaining the information sought than a request for production or a deposition, or (2) if ordered by the Court." In response to reach of the interrogatories discussed below, the relevant

Defendant inappropriately objected citing Local Civil Rule 33.3(b). More importantly, Defendants have failed to produce responsive documents as each Defendant indicated in nearly all of their evasive responses. Each set of interrogatories stated that “[u]nless otherwise stated, these Interrogatories concern all relevant events from the period starting when Defendants Oskouie, Osko, or Platinum, or any third party acting in concert with or at their direction, first became aware of BMaddox, Brandon Maddox, or BMaddox’s website, <FFL123.com>.”

A. Defendant Oskouie’s Failure to Respond to Interrogatories

Although Defendant Oskouie only responded to two of the fourteen succinct interrogatories served upon him by BMaddox, this section focuses on Defendant Oskouie’s failure to meaningfully respond to interrogatory numbers one, three, six, seven, ten, eleven, and twelve.

i. Interrogatory Number One to Defendant Oskouie

Interrogatory number one to Defendant Oskouie asks him to “[i]dentify each person who participated in, assisted with, or provided any information used in the preparation of the website appearing at <ffltrust.com>.” In response, Defendant Oskouie stated:

Defendant specifically objects to this Interrogatory on the grounds that it is overly broad unduly burdensome, and seeks information or documents that are neither relevant to any party’s claim or defense nor proportional to the needs of the case. Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought. In this respect, Defendant anticipates that it will produce documents that will contain the information requested to the extent that Counterdefendants requested such documents via its document requests and to the extent such documents exist in Defendant’s possession, custody and control. Further, upon request and within the limits of Fed. R. Civ. P. 30 and other applicable rules and orders, Defendant will make one or more witnesses available to provide responsive deposition testimony.

Subject to and without waiving the foregoing General and Specific Objections, and subject to a stipulated confidentiality agreement and protective order, Defendant also refers Counterdefendants to Defendants' initial disclosures.

No such documents have been produced.

ii. Interrogatory Number Three to Defendant Oskouie

Interrogatory number three to Defendant Oskouie asks him to:

Identify each person who has personal knowledge concerning the management, administration, finances, financial record keeping, cash flow, or the manner in which any of Defendants Oskouie, Osko, or Platinum processed any money or benefit arising out of their respective businesses, including but not limited to <FFLTrust.com>, <InfiniteConversions.com>, and <TheUnitutor.com> during the past four (4) years.

In response, Defendant Oskouie stated:

Defendant specifically objects to this Interrogatory on the grounds that it is overly broad unduly burdensome, and seeks information or documents that are neither relevant to any party's claim or defense nor proportional to the needs of the case. Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought. In this respect, Defendant anticipates that it will produce documents that will contain the information requested to the extent that Counterdefendants requested such documents via its document requests and to the extent such documents exist in Defendant's possession, custody and control. Further, upon request and within the limits of Fed. R. Civ. P. 30 and other applicable rules and orders, Defendant will make one or more witnesses available to provide responsive deposition testimony.

Subject to and without waiving the foregoing General and Specific Objections, and subject to a stipulated confidentiality agreement and protective order, Defendant also refers Counterdefendants to Defendants' initial disclosures.

No such documents have been produced.

iii. Interrogatory Number Six to Defendant Oskouie

Interrogatory number six to Defendant Oskouie asks him to “[i]dentify each third party that has employed Defendant Oskouie, whether in a freelance, salaried, temporary, paid, or unpaid position during the past four (4) years.” In response, Defendant Oskouie stated:

Defendant specifically objects to this s Interrogatory on the grounds that it is overly broad unduly burdensome, and seeks information or documents that are neither relevant to any party’s claim or defense nor proportional to the needs of the case. Defendant also objects to this Interrogatory as in violation of Local Rule 33.3(a). Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought.

With the exception of one online conversation between Defendant Oskouie and his web developer, during which Defendant Oskouie tells his web developer, Stefan Ciobanu, not to talk to the Plaintiff, no responsive documents were produced.

iv. Interrogatory Number Seven to Defendant Oskouie

Interrogatory number seven to Defendant Oskouie asks him to “[i]dentify each resource upon which Defendant Oskouie or any party or third party acting in concert with him or at his direction relied upon to create the content that has appeared on <FFLTrust.com> at any point in time.” In response, Defendant Oskouie stated:

Defendant specifically objects to this Interrogatory on the grounds that it is overly broad unduly burdensome, and seeks information or documents that are neither relevant to any party’s claim or defense nor proportional to the needs of the case. Defendant also objects to this Interrogatory as in violation of Local Rule 33.3(a). Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought.

v. Interrogatory Number Ten to Defendant Oskouie

Interrogatory number ten to Defendant Oskouie asks him to “[i]dentify any legal claims or lawsuits filed by or against You during the past ten (10) years, including the case number,

party names, and forum in which such claims or lawsuits were asserted.” In response, Defendant Oskouie stated:

Defendant specifically objects to this s Interrogatory on the grounds that it is overly broad unduly burdensome, and seeks information or documents that are neither relevant to any party’s claim or defense nor proportional to the needs of the case. Defendant also objects to this Interrogatory as in violation of Local Rule 33.3(a). Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought.

vi. Interrogatory Number Eleven to Defendant Oskouie

Interrogatory number eleven to Defendant Oskouie asks him to “[i]dentify all online postings made by You or in which you have been involved concerning BMaddox, Brandon Maddox, the subject matter of this litigation, or any individual or entity believed by you to be associated with BMaddox or Brandon Maddox.” In response, Defendant Oskouie stated:

Defendant specifically objects to this s Interrogatory on the grounds that it is overly broad unduly burdensome, and seeks information or documents that are neither relevant to any party’s claim or defense nor proportional to the needs of the case. Defendant also objects to this Interrogatory as in violation of Local Rule 33.3(a). Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought.

No such documents have been produced.

vii. Interrogatory Number Twelve to Defendant Oskouie

Interrogatory number twelve to Defendant Oskouie asks him to “[i]dentify every alias, name, and online persona You have used during the past four (4) years.” In response, Defendant Oskouie stated:

Defendant specifically objects to this s Interrogatory on the grounds that it is overly broad unduly burdensome, and seeks information or documents that are neither relevant to any party’s

claim or defense nor proportional to the needs of the case. Defendant also objects to this Interrogatory as in violation of Local Rule 33.3(a). Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought. In this respect, Defendant anticipates that it will produce documents that will contain the information requested to the extent that Counterdefendants requested such documents via its document requests and to the extent such documents exist in Defendant's possession, custody and control. Further, upon request and within the limits of Fed. R. Civ. P. 30 and other applicable rules and orders, Defendant will make one or more witnesses available to provide responsive deposition testimony.

No such documents have been produced.

B. Defendant Platinum's Failure to Respond to Interrogatories

Defendant Platinum did not provide meaningful responses to any of the seven interrogatories served by BMaddox on November 6, 2017. This section focuses on Defendant Platinum's failure to respond to interrogatories three, five, and seven.

i. Interrogatory Number Three to Defendant Platinum

Interrogatory number three to Defendant Platinum asks it to "[i]dentify each person who has personal knowledge concerning the management, administration, finances, financial record keeping, cash flow, or the manner in which Platinum processed any money or benefit arising out of its businesses, including but not limited to <FFLTrust.com>, <InfiniteConversions.com>, and <TheUnitutor.com> during the past four (4) years." In response, Defendant Platinum stated:

Defendant specifically objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks information or documents that are neither relevant to any party's claim or defense nor proportional to the needs of the case. Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought. In this respect, Defendant anticipates that it will produce documents that will contain the information requested to the extent that Counterdefendants requested such documents via its document requests and to the extent such documents exist in Defendant's

possession, custody and control. Further, upon request and within the limits of Fed. R. Civ. P. 30 and other applicable rules and orders, Defendant will make one or more witnesses available to provide responsive deposition testimony.

Subject to and without waiving the foregoing General and Specific Objections, and subject to a stipulated confidentiality agreement and protective order, Defendant also refers Counterdefendants to Defendants' initial disclosures.

No such documents have been produced.

ii. Interrogatory Number Five to Defendant Platinum

Interrogatory number five to Defendant Platinum asks it to “[i]dentify each resource relied upon to create the content that has appeared on <FFLTrust.com> at any point in time.” In response, Defendant Platinum stated:

Defendant specifically objects to this s Interrogatory on the grounds that it is overly broad, vague as to the phrase “upon to create,” unduly burdensome, and seeks information or documents that are neither relevant to any party’s claim or defense nor proportional to the needs of the case. Defendant also objects to this Interrogatory as in violation of Local Rule 33.3(a). Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought.

No such documents have been produced.

iii. Interrogatory Number Seven to Defendant Platinum

Interrogatory number seven to Defendant Platinum asks it to “[i]dentify every office You have maintained or currently maintain.” In response, Defendant Platinum stated:

Defendant specifically objects to this s Interrogatory on the grounds that it is overly broad unduly burdensome, and seeks information or documents that are neither relevant to any party’s claim or defense nor proportional to the needs of the case. Defendant also objects to this Interrogatory as in violation of Local Rule 33.3(a). Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought.

No such documents have been produced.

C. Defendant Osko's Failure to Respond to Interrogatories

Defendant Osko provided only two meaningful responses to the eight brief interrogatories served by BMaddox on November 6, 2017. This memorandum focuses on Defendant Osko's failure to provide an adequate response to interrogatories three and five.

i. Interrogatory Number Three to Defendant Osko

Interrogatory number three to Defendant Osko asks it to “[i]dentify each person who has personal knowledge concerning the management, administration, finances, financial record keeping, cash flow, or the manner in which Osko processed any money or benefit arising out of its businesses, including but not limited to <FFLTrust.com>, <InfiniteConversions.com>, and <TheUnitutor.com> during the past four (4) years.” In response, Defendant Osko stated:

Defendant specifically objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks information or documents that are neither relevant to any party's claim or defense nor proportional to the needs of the case. Defendant further objects to this interrogatory as violating Fed. R. Civ. P. 33(a) to the extent that the total number of interrogatories (including subparts) propounded by Plaintiff exceeds twenty-five (25). Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought. In this respect, Defendant anticipates that it will produce documents that will contain the information requested to the extent that Counterdefendants requested such documents via its document requests and to the extent such documents exist in Defendant's possession, custody and control. Further, upon request and within the limits of Fed. R. Civ. P. 30 and other applicable rules and orders, Defendant will make one or more witnesses available to provide responsive deposition testimony.

Subject to and without waiving the foregoing General and Specific Objections, and subject to a stipulated confidentiality agreement and protective order, Defendant also refers Counterdefendants to Defendants' initial disclosures.

No such documents have been produced.

ii. Interrogatory Number Five to Defendant Osko

Interrogatory number five to Defendant Osko asks it to “[i]dentify each resource relied upon to create the content that has appeared on <FFLTrust.com> at any point in time.” In response, Defendant Osko stated:

Defendant specifically objects to this s Interrogatory on the grounds that it is overly broad, vague as to the phrase “upon to create,” unduly burdensome, and seeks information or documents that are neither relevant to any party’s claim or defense nor proportional to the needs of the case. Defendant further objects to this interrogatory as violating Fed. R. Civ. P. 33(a) to the extent that the total number of interrogatories (including subparts) propounded by Plaintiff exceeds twenty-five (25). Defendant also objects to this Interrogatory as in violation of Local Rule 33.3(a). Defendant further objects to this Interrogatory under Local Rule 33.3(b) because request for production of documents and/or depositions are more practical methods of obtaining the information sought.

No such documents have been produced.

II. Each Defendant Has Failed to Meaningfully Respond to Requests for the Production of Documents and Things Served Upon Them on November 6, 2017

As described in greater detail in counsel’s February 9, 2018 letter to Magistrate Judge Pitman, ECF No. 99, Defendants did not produce any documents until Plaintiff’s counsel was rebuffed several times and forced to raise the issue before the Court. After Plaintiff’s February 9, 2018 letter to Magistrate Judge Pitman but before the March 6, 2018 discovery hearing, Defendants produced four hundred twenty-six pages of unidentified material. Because Defendants’ initial production of documents failed to respond to several requests for production served by BMaddox on each of the named Defendants on November 6, 2017, BMaddox raised the issue during the March 6, 2018 discovery hearing, Defendants’ counsel was given the opportunity to respond, and 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." (Discovery Order 1, ECF No. 111.)

On or before March 20, 2018, Defendants produced one hundred ninety-two additional pages of unidentified material. A cursory comparison of these documents shows that nearly all of them are repackaged items that Defendants provided in their first round of production. The duplicate documents are not attachments to email threads or formatted in such a way that duplicate copies of discrete items would have naturally been produced more than once. Most of the documents produced for the second time contain cutoff letters, images, or other unique elements that leave no doubt that they are the exact same documents. (Duff Decl. ¶ 5.) Including documents that were previously produced in a slightly different form (for example being printed using the landscape setting rather than the portrait setting), Defendants produced forty-four new pages in response to the Court's March 6, 2018 Order.

BMaddox understands that discovery efforts are often duplicated, but the circumstances of Defendants' production of documents, which only occurred after multiple requests from Plaintiff's counsel and the Court's intervention, demonstrate that Defendants are not willing to meaningfully participate in this lawsuit. Because none of the documents produced identify the Defendant from which they originated, BMaddox construed ambiguities in favor of all Defendants insofar as any produced document could be read as responsive to any of the requests for the production of documents and things that BMaddox issued separately to each Defendant. Because Defendants responded to almost every single interrogatory from BMaddox by stating that they would produce documents containing the responsive information, Defendants' document production was eagerly anticipated by BMaddox, which had to wait for judicial intervention to receive the documents it has now reviewed.

BMaddox requested permission to file this Supplemental Memorandum because Defendants' document production does not include material responsive to many of BMaddox's crucial discovery requests. As with BMaddox's interrogatories, all requests for production were limited in scope unless otherwise stated to "all relevant events from the period starting when Defendants Oskouie, Osko, or Platinum, or any third party acting in concert with or at their direction, first became aware of BMaddox, Brandon Maddox, or BMaddox's website, <FFL123.com>." For the purposes of this memorandum, there are four main categories of information that BMaddox has requested from each Defendant, which no Defendant has provided. Defendants have only flatly objected to a small number of the relevant discovery requests discussed below, and those objections are without merit.

A. Documents Responsive to BMaddox's Interrogatories to Each Defendant

Defendant Oskouie agreed to produce documents responsive to requests one and three, which request documents responsive to BMaddox's interrogatories and documents upon which Defendant Oskouie relied to respond to those interrogatories. Defendant Oskouie also agreed to produce the broad category of communications described in request number two to Defendant Oskouie. Neither Defendant Osko nor Defendant Platinum objected to the requests one and two, which requested documents responsive to BMaddox's interrogatories and documents upon which each Defendant relied to respond to BMaddox's interrogatories. True and correct copies of BMaddox's requests for production to each Defendant with each Defendant's responses are attached as **Exhibit A**.

B. Creation, Maintenance, and Ownership of <FFLTrust.com>

The second relevant category of information sought by BMaddox concerns the creation, maintenance, and ownership of the Infringing Website, <FFLTrust.com>. This category includes

any relevant market research conducted by any of the Defendants as alleged by Counterclaim Plaintiffs Oskouie and Platinum. (Countercls. ¶¶ 26-37, ECF No. 32.) True and correct copies of the relevant requests for production to each Defendant and each Defendant's responses and objections are attached as **Exhibit B**.

Requests six, seven, twenty, twenty-one, twenty-five, twenty-eight, twenty-nine, and fifty-two to Defendant Oskouie all ask for information relating to the creation, maintenance, and ownership of the Infringing Website. Of these requests, Defendant Oskouie only flatly objected to two. Defendant Oskouie refused to produce documents responsive to request number twenty-five, which seeks “[a]ll documents and communications concerning Your knowledge of <RocketFFL.com>” because Counterclaim Plaintiffs explicitly reference <RocketFFL.com> in Paragraph 30 of their Counterclaims, ECF No. 32. Defendant Oskouie also flatly objected to request number fifty-two, which seeks information about intellectual property rights claimed or asserted by Defendants. Defendant Oskouie agreed to produce documents addressing the other requests. BMaddox is particularly interested in request number twenty-eight, which seeks information concerning Defendant Osko's involvement with the Infringing Website because Defendants have represented that Defendant Osko “has no material involvement in the operation of” the Infringing Website, <FFLTrust.com>. (Defs.' Mem. Opp'n Pl.'s Application Prelim. Injunction 3, ECF No. 25; Oskouie Decl. ¶ 3, ECF No. 27.) BMaddox is also eager for materials responsive to request number twenty-nine to Defendant Oskouie, which seeks information concerning the use of any federal firearms license in Defendants' educational or marketing materials, because BMaddox's Verified Complaint contains allegations that Defendants altered a federal firearms license owned by BMaddox listing a fictitious company president, Henry Jackson, as the owner of the license but forgot to remove BMADDOXENTERPRISES LLC

from the small print at the bottom of the license as shown in an image included within the Verified Complaint. (Compl. ¶¶ 113-114, ECF No. 6.)

Requests four, five, twelve, thirteen, eighteen, nineteen, and thirty-one to Defendant Platinum seek similar information. Of these requests, Defendant Platinum has flatly objected to request number thirty-one, which asks for information about the intellectual property claimed or asserted by Defendants. With respect to Defendant Osko, requests three, nine, ten, fifteen, sixteen, and nineteen seek this general information. Again, the only request that faced a flat objection from Defendant Osko is request number nineteen, which asks for information concerning Defendants' claimed or asserted intellectual property rights.

Defendants have not produced documents relevant to the creation of the Infringing Website, <FFLTrust.com>, and what documents they have included in previous filings are contradicted by versions of the Infringing Website that BMaddox and others have preserved. While Defendants did produce one copy of its Federal Firearms Licensing Guide, it is a different version from the same Federal Firearms Licensing Guide that BMaddox purchased from Defendants. Neither have Defendants produced the various materials such as the "print books and subscriptions to various FFL e-books on the Internet" that Defendants allege they used to create their Federal Firearms Licensing Guide and website. (Countercls. ¶ 33, ECF No. 32.)

Also missing from Defendants' production is information concerning the freelance writers and other employees Defendants allege were instrumental in creating content for Defendant's firearms licensing guide and Infringing Website. (Oskouie Decl. ¶ 12, ECF No. 27; Countercls. ¶ 32, ECF No. 32.) BMaddox's request sixteen to Defendant Platinum, thirteen to Defendant Osko, and twenty-six to Defendant Oskouie request this information. These requests and each Defendants' responses are attached as **Exhibit C**.

C. Defendant Has Not Produced Documents Responsive to BMaddox's Requests Concerning Defendants' Email Newsletter

Requests number twenty-two to Defendant Oskouie, number fourteen to Defendant Platinum, and number eleven to Defendant Osko seek information related to the email newsletter sent to all of BMaddox's clients by Defendants. As described in BMaddox's Verified Complaint, Defendants continue sending copycat email newsletters to all of BMaddox's customers. (Compl. ¶ 60, ECF No. 6.) These newsletters so closely resemble BMaddox's own email marketing, that they have created a significant amount of consumer confusion.

D. Defendant Refuses to Provide Any Financial Information, His Location, or Any of His Several Aliases

Request numbers four and six to Defendant Osko, six and nine to Defendant Platinum, and nine and fourteen to Defendant Oskouie all seek information Defendants' assets as well as how money flows through Defendants' several websites. Defendants have refused to produce such documents. Defendants have ceased their use of U.S. based financial service providers and it is unclear where Defendants' funds are located. It is also unclear where Defendant Oskouie is located. He has not provided any response to BMaddox's request number eleven seeking information on Defendant Oskouie's whereabouts. Defendant Oskouie has also failed to provide documents responsive to request number nineteen to him, which requests information about the aliases he has used or is using. Through third-party discovery early in this case, BMaddox learned that Defendant Oskouie uses several aliases that do not appear in the documents produced by Defendants or in the evasive responses to the interrogatories served on each Defendant by BMaddox. The document requests discussed in this paragraph and Defendants' responses thereto are attached as **Exhibit D**.

III. Defendants' Failure to Comply with Their Discovery Obligations is Sanctionable

With regard to, “the duration of the period of noncompliance,” a period “as brief as a few months have been held to weigh in favor of dispositive sanctions ... [a]nd periods of six months or more weigh even more heavily toward such remedies.” *Local Union No. 40 of the Int'l Ass'n of Bridge v. Car-Wi Const.*, 88 F. Supp. 3d 250, 265-66 (S.D.N.Y. 2015) (collecting cases). A defendant’s repeated failure to comply with court orders and deadlines for an extended period over several months weighs heavily in favor of dispositive sanctions. *Vargas v. Jet Peru-Courier Corp.*, No. 15-CV-6859 (RRM)(PK), 2018 WL 1545699, at *4 (E.D.N.Y. Mar. 14, 2018), *report and recommendation adopted*, No. 15CV6859RRMPK, 2018 WL 1545679 (E.D.N.Y. Mar. 28, 2018). Rule 37(b) of the Fed. R. Civ. P. states that if a Party “fails to obey an order to provide or permit discovery,” the court may issue a wide range of orders including “(vi) rendering a default judgment against the disobedient party.” Fed. R. Civ. P. 37(b)(2)(A). A district court has “wide discretion in imposing sanctions, including severe sanctions” under Rule 37. *Daval Steel Prod., a Div. of Francosteel Corp. v. M/V Fakredine*, 951 F.2d 1357, 1365 (2d Cir. 1991). The factors that should inform a court’s exercise of its wide discretion are: “(1) the willfulness of the non-compliant party or the reason for noncompliance; (2) the efficacy of lesser sanctions; (3) the duration of the period of noncompliance; and (4) whether the non-complaint party had been warned of the consequences of noncompliance.” *S. New England Tel. Co. v. Glob. NAPs Inc.*, 624 F.3d 123, 144 (2d Cir. 2010) (internal quotation marks and citations omitted).

In this case, Defendants have repeatedly made facially ridiculous claims to the Court, contradicted their own previous representations, failed to attend a scheduled hearing set to discuss their failure to participate in discovery, continued to harass Plaintiff, Plaintiff’s counsel, Plaintiff’s counsel’s other clients, and family members of several persons unlucky enough to draw the ire of Defendant Oskouie. Defendants were warned through their counsel during a

previous conference with Magistrate Judge Pitman that submitting fraudulent declarations to the Court would have dire consequences, but Defendants were hardly deterred. Instead, Defendants filed a meritless motion for sanctions pursuant to Rule 11 of the Fed. R. Civ. P. that did not even comply with the strict procedural requirements of Rule 11. Defendants have managed to frustrate every attempt to expeditiously resolve the Parties' disputes. Defendants antics have already elicited three motions for sanctions. This supplemental filing, necessitated again by Defendants' failure to comply with an unambiguous Court order, would have been a fourth motion for sanctions but for the Court's request that Plaintiff submit it as a supplemental memorandum. All four factors cut sharply against Defendants and would allow the Court to severely sanction Defendants.

IV. Defendants Should Pay Plaintiff's Attorneys' Fees and Costs

Defendants have demonstrated that they will double down on every meritless argument they make. They continue to waste judicial resources and Plaintiff's court costs. At a minimum, Defendants should be required to pay Plaintiff's attorneys' fees and costs associated with responding to: (1) Defendants' renewed motion to stay the proceedings, which does not address the underlying analysis of whether a stay should issue and instead fixates on Defendant Oskouie's claim to have leukemia; (2) Defendants' letter motion requesting a three-week extension of their time to file a reply in support of their renewed motion for a stay; and (3) Defendants' improperly filed and meritless motion for sanctions under Rule 11. In addition, Defendants should be required to pay Plaintiff's attorneys' fees and costs associated with this motion for sanctions, the hearing which Defendants' counsel did not attend, and this supplemental memorandum.

CONCLUSION

Plaintiff respectfully requests that the Court impose severe monetary sanctions or any such other sanctions as the Court deems just against Defendants to discourage abuses of the judicial system through their failure to produce documents or meaningfully respond to Plaintiff's discovery requests. Plaintiff also asks that it be awarded its attorneys' fees and costs in connection with the above-described filings.

Dated: May 16, 2018

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