

November 3, 2022

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
Attn: CATHERINE O'HAGAN WOLFE - CLERK OF COURT
Thurgood Marshall United States Courthouse
40 Foley Square, New York NY 10007

Re: Judicial Conduct Complaints, 02-22-90047-jm, 02-22-90048-jm

Dear Ms. O'Hagan Wolfe:

I hereby petition the judicial council for review of the Chief Judge's order Debra Ann Livingston dated September 8, 2022 pursuant to 28 U.S.C. § 352(c); Rules of Judicial-Conduct and Judicial-Disability Proceedings 18.

I request the opportunity to provide evidence and presentation of argument pursuant Rule 16 Complainants' Rights in Investigation and this complaint does not match with the dismissal decision according to ("Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse."); 11 (c)(1)(B) "lacking sufficient evidence to raise an inference that misconduct has occurred." Rule 11 (c)(1)(D).

In fact, I provide plenty of documentary evidence supporting the prejudicial conduct to the effective and expeditious administration of the business of the courts in my case EDN 20CV3361 from the judges Gary R. Brown and Anne Y. Shields published at Electronic Case Files ("ECF") including but not limited to documents [30] [37] [38] [39] [41] [42] [43] [45] [46] [48] [50] [52] [54] see annexed bates numbering ORREGO001-ORREGO120.

The Judges have allowed the Counsels to file documents containing fraudulent misrepresentations and violating discovery protocols with prejudice in my case dangerously allowing the miscarriage of justice without consequence it is scary that if I had not discovered this in time, I would not have forced Judge Shields to annul the outrages ECF doc. [41] that the Counsels were conspiring to ruin my case gross violation Model Rules of Professional Conduct Rules 3.3, 3.2, 3.4, 3.5, 4.1, 4.3, 4.4, 5.1, 8.1, 8.3, 8.4. See ECF doc. [41] [42] [43] [46] [48] [50] [52] ORREGO001-ORREGO120.

In support of my complaints filed with the Clerk's Office of the United States Court of Appeals for the Second Circuit pursuant to the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351-364, I attach more documentary evidence that shows unequal treatment and prejudice against me because I am Hispanic, a woman, Pro Se with an invisible disability, according to the annexed ECF doc. [57] [60] [63] [68] and Judge Shields' Order dated August 16, 2022, even though my case should have already been resolved with the Default Judgment ECF doc. [57]. See annexed ECF doc. [57] ORREGO121.

My motion Default Judgment ECF [57] was filed on July 7, 2022, and no decision has yet been issued on this motion even though I have already requested a resolution via Letter motion Disposition on October 10, 2022, evidence that my Civil Rights and Due Process of Law are being violated in favor to the Defendants and all the decisions are biased. See annexed ORREGO220-ORREGO221.

My constitutional rights of Due Process of Law are in danger by forcing the Discovery Process to the present even though I have never waived my rights to any dispositive motion including but not limited to ECF doc. [57] to which I am entitled by law. The Court should grant the motion ECF doc. [57] & [63] duly supported by a statement of facts, laws, and documentary evidence, pursuant to Federal Rules of Civil Procedure Rule 26 & 37.

The Judges have continued to force me to continue with the Discovery process, allowing the Defendants to excuse themselves in their opposition that I continue to participate in the discovery even though the law and previous cases support my motion to Default Judgment. See ORREGO121-ORREGO221.

This complaint is based on the lack of decisions and punishment against my former counsel and Defendants' counsel, who have lied, introduced documents with fraudulent misrepresentations, and violated the Rules and Protocols to delay my case under the Judges' protection who until today are misrepresenting the laws and processes to benefit the Defendants because my former employer is Mr. Kevin Knipfing, better known by his stage name Kevin James, American comedian, and actor who apparently is above the law and judicial processes, unfair treatment what seems to be judicial bias.

Reviewing all the evidence, we can be established that the Judges are biased toward me because I am Hispanic, a woman, Pro Se with an invisible disability therefore, they assume that I do not realize that they have been unfair in their treatment by not punishing the Counsels (my former

Counsel and Defendants' Counsel) for lying throughout the process and trying to deceive me in the Discovery process.

If I were the person who lied on documents and file false testimony, I am sure that the Judges would not ignore the Defendants' requests to punish me as they have ignored my letters ECF doc. [43] [45] [46] [51] [54] see annexed documents ORREGO026-ORREGO105.

Conclusion: Under the Judicial Conduct and Disability Act of 1980 (“Act”), 28 U.S.C. §§ 351–364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (“Rules”), as amended on March 12, 2019: Judge Gary R. Brown and Anne Y. Shields' performance has engaged in prejudicial conduct to the effective and expeditious administration of the business of the courts in my case because I am Hispanic, Women and Pro Se, whereby outside influences manipulate Judge Brown and Shields’ ruling violating all my constitutional rights.

Judge Brown and Shields’ orders and conduct are biased, partial, incompetent and abuse of power under 18 U.S.C. § 242 – Deprivation of Right under color of law. It is obvious that there is a financial or political manipulation because the Defendant is a celebrity for which Judge Brown and Shields show impropriety, bends or ignores the Constitution’s Fifth and Fourteenth Amendments, allowing lack of Due Diligence by my former Counsel and Defendants with impunity, allows violations to Due Process (the promise of legality and fair procedure), allows violations to F.R.C.P. Rules 26; 16; 37 and bending their own individual rules to help the Defendants who are avoiding the legal system process to delay the case jeopardize the American Jurisprudence and integrity of the U.S. Federal Courts.

Respectfully submitted,

Date: November 3, 2022
Rego Park, New York



Lidia M. Orrego
Complainant
Plaintiff Pro Se
95-08 Queens Blvd Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234
Email: liorrego@gmail.com

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X

LIDIA M. ORREGO,

Plaintiff,

-against-

KEVIN KNIPFING, *Employer, also known as Kevin James*; STEPHANIEANNA JAMES-KNIPFING, *Employer, also known as Steffiana de la Cruz*; OLD WESTBURY EDDIE LLC, *Company/Payroll owner Kevin Knipfing*; OLD WESTBURY LLC, *Unknown Entity under registration in NY State*; STEVE SAVITSKY, *Business Manager, Old Westbury LLC*; and TERESA A. ZANTUA,

Defendants.

**MEMORANDUM &
ORDER**

CV 20-3361 (GRB)(AKT)

-----X

GARY R. BROWN, United States District Judge:

Pro se plaintiff Lidia M. Orrego (“plaintiff”) brings this case against her former employers, Kevin Knipfing, Stephanieanna James-Knipfing, and two LLCs operated by the Knipfings, Old Westbury Eddie LLC and Old Westbury LLC; the business manager of the Westbury LLCs, Steve Savitsky; and her former supervisor (and Ms. Knipfing’s sister), Teresa Zantua (collectively, “defendants”). Before the Court is defendants’ motion to dismiss. For the reasons set forth below, defendants’ motion is GRANTED as to plaintiff’s claims under the NYCHRL, the New York Labor Law, the New York Penal Law, and plaintiff’s claims for discrimination under 42 U.S.C. § 1981 and the NYSHRL; additionally, defendants’ motion is GRANTED as to plaintiff’s retaliation claims against Savitsky and Zantua and plaintiff’s hostile work environment claims against Savitsky. Otherwise, defendants’ motion is DENIED.

I. Factual and Procedural History

As set forth in plaintiff's amended complaint (the "Complaint"), the allegations of which are accepted as true for the purposes of this motion, plaintiff began working for the Knipfings as a nanny (and, later on, as a housekeeper) on January 31, 2018. Complaint, Docket Entry ("DE") 8, at 19. Plaintiff worked in the Knipfings' home, allegedly located in Nassau County. *Id.* at 3, 19. During this time, Ms. Zantua supervised plaintiff and five other employees who worked in the Knipfings' home. *Id.* at 19. At the outset of her employment, plaintiff was given an employment agreement and nondisclosure agreement (NDA) – in English, despite Spanish being her primary language; according to plaintiff, the NDA was missing most of the constituent pages (plaintiff apparently signed these documents on February 15, 2018). *Id.* Critically for purposes of the present motion, under the NDA, plaintiff agreed not to "publish, disseminate, discuss, disclose . . . or cause or induce to be disclosed" any confidential information, including "photographs, films, videotapes, sound recordings, [or] audio tracks" of anyone in the Knipfing family or any employees of the Knipfings. *Id.* at 90-91. The various employment-related documents provided to plaintiff identify different employers: plaintiff's employer is variously identified as the Knipfings, Old Westbury Eddie LLC or Old Westbury LLC. *See, e.g.*, Complaint, DE 8, at 19, 49, 80, 88, 98-102. In any case, plaintiff completed her background check and signed these documents on February 15, 2018. *Id.* at 19.

Plaintiff alleges that she was repeatedly harassed by Zantua for being Hispanic and/or of Paraguayan descent. For example, plaintiff alleges that Zantua often ordered plaintiff not to speak Spanish in front of the Knipfing children, complained about the Knipfings "hir[ing] nannies who only speak Spanish," and wondered aloud why "Mexicans work for American families who speak only English." *Id.* at 20, 23, 24, 25, 27, 31. Zantua also made pejorative comments about

plaintiff's race; for example, at a birthday party for a family friend's son, after Zantua "ordered [plaintiff] to take pictures and videos," a child stepped on plaintiff's hand and injured plaintiff; in response, Zantua commented that plaintiff's "bones [were] useless" because "[y]ou Mexicans eat a lot of corn." *Id.* at 21. On occasions where Zantua perceived that she had been slighted by plaintiff, or that plaintiff had fallen short in her responsibilities, Zantua defaulted to insulting plaintiff "because of her race," including by calling her a "stupid Paraguayan." *Id.* at 25-26, 27. Zantua informed plaintiff that she and Skylar Testa, the house manager, "always made fun of the Plaintiff" because of her accent – an activity the Knipfing children also participated in. *Id.* at 25. Even when not directed specifically at plaintiff, Zantua often made pejorative remarks about Latinos, on one occasion ordering plaintiff to pay the "Mexicans" who cleaned her car at a carwash because the "Mexicans" were disgusting to her," and on another informing plaintiff that "she would never apologize to 'a Mexican.'" *Id.* at 21, 24. Other employees were also subjected to Zantua's race-based harassment. *See id.* at 29. By April 4, 2020, plaintiff began to write a diary documenting these events. *Id.* at 20. Plaintiff alleges that, by August 15, she "had already reported on several occasions of the discriminatory treatment and abuse received from" Zantua. *Id.* at 22. On this date, she "was offered the permanent position of Housekeeper" – apparently a demotion, instigated both by plaintiff's reporting and "because she was Hispanic." *Id.*

Plaintiff also presents certain allegations about Ms. Knipfing's conduct, starting in August 2018. For example, plaintiff alleges that on August 10, she was ignored by Ms. Knipfing when she went to help for a concert; when the event coordinator arrived at some point later, Ms. Knipfing introduced her co-workers, but not plaintiff. *Id.* at 22. Similarly, on August 15, Ms. Knipfing accused plaintiff (via another nanny, a Ms. Uzcategui) of some misstep that apparently was not plaintiff's fault; when plaintiff went to ask about the issue a few days later, Ms. Knipfing asked

plaintiff to leave the room even though “everyone else [was] walk[ing] in and out of” the room. *Id.* Later, toward the end of October, Ms. Knipfing confronted plaintiff when she was sitting down for lunch, asking her “why she was sitting” – a challenge Ms. Knipfing apparently never made to plaintiff’s co-workers. *Id.* at 32. The next day, Ms. Knipfing issued an order prohibiting plaintiff “from texting her co-workers” and “withdrew [plaintiff’s] access to money for expenses”; Ms. Knipfing also excluded plaintiff from attending the “All Saints Parade” on November 1, 2018 – restrictions that applied only to plaintiff. *Id.* at 32. In sum, plaintiff alleges that she was subject to disparate treatment at the hands of Ms. Knipfing.

However, in contrast to the allegations against Ms. Zantua, plaintiff offers little to suggest this treatment emanated from animosity toward Latinos. But on October 2, Ms. Knipfing learned of an incident where Zantua harassed plaintiff, and “started blaming [plaintiff] and making malicious remarks with her co-workers in Plaintiff’s absence” (*id.* at 26).¹ Plaintiff also alleges more generally that Ms. Knipfing “always encourag[ed] this discrimination” and “also harass[ed] the Plaintiff in front of the other workers.” *Id.* at 26. Claims of discriminatory animus on the part of Ms. Knipfing are alleged only in the most general fashion.

Plaintiff also alleges that she was subject to physical assault, specifically by one of the Knipfings’ children (and, on one occasion, their friends). For example, on June 4, 2018, at a birthday celebration held for the son of a family friend, a child “stepping on the Plaintiff’s right hand several time[s] and stood on it injuring her wrist.” *Id.* at 21. Another time, on October 23, plaintiff was assaulted in the kitchen, ostensibly by the Knipfings’ son. *Id.* at 31. Plaintiff claims

¹ Plaintiff further alleges that, in response to plaintiff requesting a sick day to visit a doctor on November 2, Ms. Knipfing “attack[ed] the Plaintiff and sabotage[ed] her work or career with unfair treatment, unjustified negative evaluations, humiliating and degrading her, using insensitive terms, continuing with discrimination and harassment.” Complaint, DE 8, at 34. However, the text messages that plaintiff refers to in support of this claim indicate that Ms. Knipfing’s response was, in fact, fairly mundane, arguably even sympathetic. *See id.* at 129-30.

that she “was the victim of several physical assaults (kick or punch her back, hand, neck, shoulders)” by the child – acts that she claims were instigated by Zantua through “her hate speech against Mexicans.” *Id.* at 31-32. Plaintiff also alleges that she developed pain in her back and neck “as a result of the work,” for example, “work[ing] with the Chef . . . carrying items that were heavy in weight” and “without taking a break,” as well from as the aforementioned assaults. *Id.* at 21, 33. These events led plaintiff to seek medical help for her back and neck pain as well as for the stress “resulting from an environment of discrimination and abuse.” *Id.* at 21. Plaintiff first went to a doctor on June 3, where the doctor referred her to physical therapy and prescribed pain killers. *Id.* She saw two other doctors on November 1 and 2, who took an X-ray and apparently diagnosed plaintiff with tachycardia. *Id.* at 34.

Plaintiff further alleges that on November 2, she submitted to Testa and Ms. Knipfing a complaint via email that she and Ms. Uzcategui had drafted, which set forth all of their allegations about “direct and indirect race discrimination, physical abuse/assault, verbal abuse, hostile work environment[, and] harassment . . . for being Hispanic,” including complaints about Zantua’s behavior. *Id.* at 34, 46. When plaintiff returned from her days off visiting the doctors, she was greeted by Mr. Knipfing, who apparently “admit[ted] that he knew about all the problems between” Zantua and Uzcategui, and “thanked the Plaintiff for letting him know of all the problems” they had in the house; however, he apparently “was unaware that it involved the Plaintiff.” *Id.* at 35. Mr. Knipfing then informed plaintiff that “an investigation would be opened” and promised to call her about the results of the investigation, then asked her to “give him [her] evidence to do the Investigation.” *Id.* Plaintiff alleges that Mr. Knipfing additionally “intimidate[d]” her by saying that “nobody should know anything about her complaint”; plaintiff interpreted this to suggest that he was “obviously concerned that it would become public.” *Id.* At

the conclusion of this conversation, Mr. Knipfing “suspended her from going to work until [the] investigation was completed” – apparently, plaintiff was the only employee subject to a suspension, “even though other co-workers were involved in the complaint.” *Id.* Plaintiff further claims that Testa and Mr. Knipfing “mocked [her] for being Hispanic,” but without any further detail. *Id.*

Two days later, on November 8, plaintiff sent Mr. Knipfing “all the evidence that support[ed] her complaint.” *Id.* at 36. A few days later, Testa texted plaintiff directing her “to meet with Investigators in a Starbucks Coffee location in Rego Park.” *Id.* The next day, plaintiff met with the two investigators, but claims that she “was not physically or emotionally well” at the time “especially for the way she was treated” by Ms. Knipfing “after receiving her complaint.” *Id.* at 36-37. The investigators also asked if she ever saw the complaint that Uzcategui wrote, or her notes or videos; plaintiff answered that she “never saw any of that evidence,” but that Uzcategui had “told her about it all the time.” *Id.* at 37. The investigators then asked “if she would continue working with” Ms. Uzcategui, which ultimately led plaintiff to believe that the investigators “avoided talk about and discrimination and abuse [and] focused more on the issues between her and” Uzcategui. *Id.* Thus, plaintiff claims that the Knipfings used the investigators “to cover the complaint of discrimination and physical assault and other[] abuses in addition to intimidating the Plaintiff.” *Id.*

On November 14, Testa messaged plaintiff requesting her diary; she emailed Mr. Knipfing over the next two days the evidence she had on hand “with Pictures, Videos, Voice Messages, Diary with dates and times [documenting] all acts of discrimination and abuses.” *Id.* at 37. While the investigation was in progress, on November 24, Ms. Knipfing texted plaintiff a photo of a priest or minister overlaid with the message, “Inasmuch as you pray with all your soul for the one who

has slandered you so much will God reveal the truth to them who have believed the slander.” *Id.* at 38. Plaintiff took this to mean that Ms. Knipfing was accusing plaintiff of slander. *Id.* Plaintiff ultimately received a termination letter on November 27 from Old Westbury LLC; the letter was signed by Steve Savitsky,² who identified himself as the business manager of Old Westbury LLC.³ *Id.* at 38, 49. The letter sets forth the following grounds for her termination: (a) “Breach of [plaintiff’s] Non-Disclosure Agreement” including by recording a conversation with Uzcategui in public and taking “recordings and photographs” of the Knipfings’ home; plaintiff’s “statement that [she was] unwilling to continue working with” Uzcategui; and “[their] conclusion that [she] made statements in [her] complaint that [she] know[s] to be false.” *Id.* at 49. The letter also notified plaintiff that she had health insurance through United Healthcare that would be terminated on November 30, and that she was eligible for COBRA benefits. *Id.*

Plaintiff contests the grounds set forth in the termination letter, claiming that she “never received . . . any written warnings or performance reviews related to the content of the Termination Letter.” *Id.* at 38. Plaintiff specifically contests that she violated the NDA, observing that (a) the recording she made of her and Uzcategui’s conversation “was not shared with a third party or disclosed,” and (b) Uzcategui did not seem subject to the same punishment, despite the fact that she “disclosed information . . . about the Knipfing[] Family in a public place and in the presence of a third party[.]” *Id.* Plaintiff also claims that the photographs referred to are “the photographs of the candies” sent to Mr. Knipfing on November 15 “that prove the abuse against” one of the

² Plaintiff claims that, by sending this letter, Savitsky “actively participated in retaliation and discrimination” against her. Complaint, DE 8, at 38.

³ Plaintiff therefore claims that this letter was “illegal because it came from an unknown entity who was not the Plaintiff’s employer.” Complaint, DE 8, at 41. To be sure, as noted above, the Knipfings identified a number of different persons as plaintiff’s employer. Nevertheless, plaintiff concedes that she was terminated by the Knipfings on this date, claiming that Mr. Knipfing “gave the order to Steve Savitsky . . . to manufacture the Termination Letter dated November 27, 2018 under the name of the unknown Entity Westbury LLC.” *Id.* at 38.

children,⁴ but reiterates (as noted above) that other employees also took photographs inside the house (and, apparently, occasionally published those photographs on social media). *Id.* at 39-40, 42. As for the claim that plaintiff was unwilling to work with Uzcategui, plaintiff asserts that the investigators criticized Uzcategui, such that it was unreasonable for them to ask if plaintiff would continue working with her. *Id.* at 40. Finally, plaintiff claims that “according to all the evidence” she had presented, everything in her complaint was true. *Id.*

Following her termination, plaintiff claims that that the Knipfings and Savitsky “discriminated and retaliated against” her by “immediately canceling her medical plan” and denying her COBRA benefits. *Id.* at 41. Plaintiff further alleges that on November 29, two days after her termination, her “Health Insurance [carrier] confirmed that [her former] employers didn’t submit the application for COBRA,” such that plaintiff could not “be covered by insurance.” *Id.* Additionally, the Knipfings “refused to provide reference[s]” for plaintiff to get another job. *Id.* Plaintiff then raises allegations about certain post-termination events that are not relevant here.

Plaintiff filed this action on July 23, 2020, asserting claims for discrimination, retaliation, and hostile work environment under 42 U.S.C. § 1981, the New York State Human Rights Law (“NYSHRL”), and the New York City Human Rights Law (“NYCHRL”); plaintiff also brings claims under New York Labor Law § 195(6), and sections 170 and 210 of the New York Penal Law. Following the submission of a pre-motion letter in anticipation of a motion to dismiss filed by all defendants to this action, the undersigned set forth a briefing schedule for the anticipated motion. *See* Electronic Order of September 22, 2020. The fully briefed motion was filed on December 11, 2020. This opinion follows.

⁴ In essence, plaintiff alleges that Uzcategui was over-feeding one of the children candy on a regular basis in order to placate the child.

II. Discussion

It has been well established that “[a] document filed *pro se* is ‘to be liberally construed,’ and ‘a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.’” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (citations omitted). Nevertheless, many of plaintiff’s claims may be dismissed in short order. First, as to plaintiff’s NYCHRL claim, “[t]o state a claim under the NYCHRL, plaintiff must allege that the defendant discriminated against her ‘within the boundaries of New York City.’” *Robles v. Cox & Co.*, 841 F. Supp. 2d 615, 623 (E.D.N.Y. 2012) (quoting *Shah v. Wilco Sys., Inc.*, 27 A.D.3d 169, 175 (N.Y. App. Div. 1st Dep’t 2005)). Nearly all of the activities set forth above that are relevant to a NYCHRL claim are alleged to have occurred in the Knipfings’ household, which, as asserted in the complaint, is located outside of New York City. While plaintiff does allege that Zantua harassed plaintiff during a trip to the NYC Children’s Museum, DE 8 at 26, “[t]he fact that certain acts leading to discrimination may occur in New York City will not necessarily give rise to a claim under the City HRL. *Salvatore v. KLM Royal Dutch Airlines*, No. 98 CIV. 2450 (LAP), 1999 WL 796172, at *16 (S.D.N.Y. Sept. 30, 1999). It is undisputed that the “impact of the offensive conduct” – the lion’s share (indeed, all but one incident) of the harassment, as well as the suspension of plaintiff’s employment privileges, her alleged demotion, and her ultimate termination – all occurred outside of New York City. *See Robles*, 841 F. Supp. 2d at 62. Accordingly, the NYCHRL claim must be dismissed.

Second, as to plaintiff’s New York Labor Law claim, § 195(6) holds that “[e]very employer shall . . . notify any employee terminated from employment, in writing, of the exact date of such termination as well as the exact date of cancellation of employee benefits connected with such termination. In no case shall notice of such termination be provided more than five working days

after the date of such termination.” Plaintiff affirmatively alleges that she was provided such notice by defendants and attached her termination letter which clearly establishes that defendants met this requirement. Although plaintiff contests that this notice was insufficient as § 195(6) also requires the letter to include the “name of [the] employer” – which, as noted above, plaintiff contests - § 195(6) does not, in fact, contain such a requirement. Accordingly, plaintiff’s New York Labor Law claim must also be dismissed.

Finally, plaintiff’s claims under the New York Penal Law (for forgery and perjury) fail, as “forgery[] and perjury . . . are crimes and therefore do not give rise to civil causes of action.” *Lockett v. Bure*, 290 F.3d 493, 497 (2d Cir. 2002). Furthermore, plaintiff asserts in her opposition brief that the complaint “requested no relief in connection with” these claims. DE 22-5 at 26. For both reasons, then, plaintiff’s claims under the New York Penal Law are dismissed.

Plaintiff’s claims under 42 U.S.C. § 1981 and the NYSHRL merit closer examination. First, as to plaintiff’s discrimination claims, “Section 1981[] and NYSHRL discrimination claims [are analyzed] under the same burden shifting framework as first set forth by the Supreme Court in *McDonnell Douglas Corp. v. Green*.” *McGill v. Univ. of Rochester*, 600 F. App’x 789, 790 (2d Cir. 2015). As the Second Circuit noted in *McGill*:

Under the *McDonnell Douglas* framework, a “plaintiff bears the initial burden of establishing a prima facie case of discrimination.” To establish a prima facie case of discriminatory discharge, “a plaintiff must show that (1)[s]he is a member of a protected class; (2)[s]he was qualified for the position [s]he held; (3)[s]he suffered an adverse employment action; and (4) the adverse action took place under circumstances giving rise to the inference of discrimination.”

Id. at 790–91 (citations omitted). Defendants limit their arguments to the fourth element, as there can be little dispute that plaintiff’s allegations meet the first three. First, defendants cite the well-established principle that “[w]hen the same actor hires a person already within the protected class, and then later fires that same person, ‘it is difficult to impute to her an invidious motivation that

would be inconsistent with the decision to hire.” *Carlton v. Mystic Transp., Inc.*, 202 F.3d 129, 137 (2d Cir. 2000) (citation omitted). Likewise, “where the termination occurs within a relatively short time after the hiring there is a strong inference that discrimination was not a motivating factor in the employment decision.” *Id.* at 137-38 (collecting cases finding that this inference applies where the time between hiring and firing was under two years). There can be little dispute that the Knipfings were the ones to both hire and fire plaintiff, and that they did both in a period of under a year. Second, defendants contend that plaintiff “has failed to offer *any* non-conclusory facts or evidence demonstrating that the Knipfings . . . harbored any discriminatory animus against her because of her race or national origin.” DE 22-3 at 18. The allegations set forth in the complaint do not establish any overt acts of discrimination by the *Knipfings*. “[A]bsent direct evidence of discrimination,” then, plaintiff must allege “at least minimal support for the proposition that the employer was motivated by discriminatory intent.” *Littlejohn v. City of New York*, 795 F.3d 297, 311 (2d Cir. 2015). Plaintiff fails to meet even this lesser burden: though she alleges disparate treatment at the hands of Ms. Knipfing, any allegations that such treatment was “motivated by discriminatory intent” are, at best, conclusory. Any allegations about Mr. Knipfing’s discriminatory motives, to the extent they even exist, are even sparser. Otherwise, the same conclusion appears to apply to the corporate defendants, and plaintiff fails to allege that any other defendant instituted an “adverse employment action” (e.g., demotion, suspension, or termination) against her.⁵ Accordingly, plaintiff’s discrimination claims must be dismissed.⁶

⁵ “Examples of materially adverse employment actions include termination of employment, a demotion evidenced by a decrease in wage or salary, a less distinguished title, a material loss of benefits, significantly diminished material responsibilities, or other indices unique to a particular situation.” *Bowen-Hooks v. City of New York*, 13 F. Supp. 3d 179, 211 (E.D.N.Y. 2014). To be sure, plaintiff alleges that Savitsky signed her termination letter, but once again, any allegations that his conduct was in any way “motivated by discriminatory intent” are merely conclusory.

⁶ Defendants also argue that plaintiff’s discrimination claim fails because, “at the time Plaintiff was employed, the Knipfings employed a very diverse group of people, including Uzcategui, who is also Hispanic and remains employed.” DE 22-3 at 17. However, “an employer may not escape liability for discriminating against a given

Plaintiff's retaliation claims are analyzed under the same burden-shifting framework. Thus, "to establish a *prima facie* case of retaliation, a plaintiff must demonstrate that (1) she engaged in protected activity; (2) the employer was aware of that activity; (3) the plaintiff suffered a materially adverse action; and (4) there was a causal connection between the protected activity and that adverse action." *Guzman v. City of New York*, 93 F. Supp. 3d 248, 261 (S.D.N.Y. 2015) (citation omitted). "As to the first element of the *prima facie* case, '[t]he term "protected activity" refers to action taken to protest or oppose statutorily prohibited discrimination,' and may take the form of either formal or informal complaints." *Id.* (citations omitted). However, such complaints "qualif[y] as protected activity only if 'the employee has a good faith, reasonable belief that the underlying challenged actions of the employer violated the law.'" *Id.* at 261-62. Defendants only contest the fourth element of this test, claiming that plaintiff "has failed to allege sufficient facts to show that her termination was motivated by" the November 2 email, pointing instead to the rationales set out in the termination letter. DE 22-3 at 25. However, "[p]roof of causation can be shown . . . indirectly, by showing that the protected activity was followed closely by discriminatory treatment." *Hicks v. Baines*, 593 F.3d 159, 170 (2d Cir. 2010). Less than a week elapsed between plaintiff's complaint and her suspension, while less than three weeks elapsed between her complaint and her termination. Moreover, the November 2 email is not the only protected activity alleged by plaintiff: as noted above, plaintiff also alleges that by August 15, she had already "reported on several occasions of the discriminatory treatment and abuse received from" Zantua. It is notable, then, that plaintiff *also* alleges that her disparate treatment at the hands of Ms. Knipfing – including her alleged demotion – began around this time. Given the solicitude granted *pro se* complaints, plaintiff appears to have alleged a sufficient causal connection between her

employee on the basis of race simply because it can prove it treated other members of the employee's group favorably." *Graham v. Long Island R.R.*, 230 F.3d 34, 43 (2d Cir. 2000).

protected activity and the adverse employment actions via temporal proximity. *See Littlejohn*, 795 F.3d at 319-20 (finding “allegations that the [adverse employment action] occurred within days after [plaintiff’s] complaints of discrimination” to be “sufficient to plausibly support an indirect inference of causation”). Thus, plaintiff has pleaded plausible retaliation claims under § 1981 and the NYSHRL against the Knipfings and the corporate defendants. However, as noted above, plaintiff fails to allege that any other defendant instituted an “adverse employment action” against her, so plaintiff’s retaliation claims against Zantua and Savitsky are dismissed.

Finally, “[t]o establish a hostile work environment” claim, “a plaintiff must show that ‘the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment.’” *Littlejohn*, 795 F.3d at 320–21; *see also Westbrook v. City Univ. of New York*, 591 F. Supp. 2d 207, 232 (E.D.N.Y. 2008). “The incidents complained of must be more than episodic; they must be sufficiently continuous and concerted in order to be deemed pervasive.” *Littlejohn*, 795 F.3d at 321 (citation omitted). A plaintiff “must show not only that she subjectively perceived the environment to be abusive, but also that the environment was objectively hostile and abusive.” *Guzman*, 93 F. Supp. 3d at 263 (quoting *Demoret v. Zegarelli*, 451 F.3d 140, 149 (2d Cir.2006)). Additionally, a plaintiff must establish that “‘a specific basis exists for imputing’ the objectionable conduct to the employer” and, of course, that “the hostile conduct occurred because of a protected characteristic.” *Tolbert v. Smith*, 790 F.3d 427, 439 (2d Cir. 2015). In evaluating such claims, a court must consider “the totality of the circumstances, . . . including ‘the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance.’” *Demoret*, 451 F.3d at 149 (quoting *Harris v. Forklift*

Sys., Inc., 510 U.S. 17, 23 (1993)). However, the Second Circuit “ha[s] repeatedly cautioned against setting the bar too high” in this context, holding that “a plaintiff need only plead facts sufficient to support the conclusion that she was faced with ‘harassment ... of such quality or quantity that a reasonable employee would find the conditions of her employment altered for the worse.’” *Patane v. Clark*, 508 F.3d 106, 113 (2d Cir. 2007) (citation omitted).

Defendants compare plaintiff’s allegations to those in another case, in which the hostile work environment claim was dismissed because the conduct at issue entailed, “at most, isolated and sporadic incidents that occurred over the course of a year.” DE 22-3 at 21 (quoting *Alvarado v. Mount Pleasant Cottage Sch. Dist.*, 404 F. Supp. 3d 763, 781 (S.D.N.Y. 2019)). Indeed, defendants acknowledge that, in *Alvarado*, exactly four incidents occurred. *Id.*; see also *Alvarado*, 404 F. Supp. 3d at 781 (holding that the plaintiff in that case “ha[d] pointed to four incidents”). These cases are far from comparable. Plaintiff here sets forth a continuing pattern of race-based abuse and harassment at the hands of Zantua, a course of conduct that seems to have prevailed over the duration of plaintiff’s tenure in the Knipfing household. Even more troubling, plaintiff alleges that Zantua encouraged other members of the household staff, and even the Knipfings’ children, to participate in this harassment. Indeed, plaintiff alleges that Zantua’s harassment was pervasive enough to drive her to seek assistance from her co-workers in presenting a complaint to the Knipfings – arguably an understandable concern, given that Zantua is Ms. Knipfing’s sister – and to complain to the Knipfings on multiple occasions about Zantua’s behavior. At this early juncture, plaintiff seems to have satisfied the pleading standard.

Much of the remainder of defendants’ argument hinges on whether Zantua was actually plaintiff’s supervisor (or even an employee of the Knipfings). “For the purpose of vicarious liability under § 1981, a supervisor is a person empowered by the employer to take tangible

employment actions against the victim, *i.e.*, to effect a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits.” *Lamarr-Arruz v. CVS Pharmacy, Inc.*, 271 F. Supp. 3d 646, 659 (S.D.N.Y. 2017) (quoting *Vance v. Ball State Univ.*, 570 U.S. 421, 431 (2013)) (quotations omitted). To be sure, “[t]his is not a case where supervisory status is readily determinable.” *Id.* Zantua engaged in none of these activities. However, this list is merely illustrative, not exhaustive; moreover, plaintiff alleges that Zantua “ordered” her to engage in, or cease, certain conduct – and suggests that Zantua had similar power over other employees. Thus, at this early stage, particularly in light of the liberal construction applied to *pro se* pleadings, the Court must accept plaintiff’s allegation that Zantua was her supervisor for the purposes of evaluating plaintiff’s hostile work environment claims. Given that Zantua herself did not impose any “tangible employment action,” the Knipfings “may escape liability by establishing, as an affirmative defense, that (1) [they] exercised reasonable care to prevent and correct any harassing behavior and (2) that the plaintiff unreasonably failed to take advantage of the preventive or corrective opportunities that the employer provided.” *Lamarr-Arruz*, 271 F. Supp. 3d at 659 (quoting *Vance*, 570 U.S. at 424).

Defendants therefore contest whether the Knipfings should have known about this harassment, pointing out that, in her November 2 email, plaintiff stated the following: “I am writing to you this letter because I have not had the opportunity to speak or explain personally to you because of all the restrictions I have to communicate with you Mrs. Steffiana,” arguing that this makes it “clear” that this was “the first time Plaintiff put the Knipfings on notice about any issues she may have been having with Zantua.” DE 22-3 at 23-24; DE 8 at 46. Defendants conveniently omit the sentence immediately preceding this one, however, in which plaintiff states that “I am

writing to you and to Skylar as house manager, *about matters as I previously did on several occasions for different reasons* and which I will expose in this email.” DE 8 at 46 (emphasis added). Thus, if anything, the November 2 email only further establishes the conclusion noted above, *i.e.*, that plaintiff had complained to the Knipfings about Zantua’s abuse on multiple occasions prior to the email. Otherwise, defendants do not attempt to claim either that (a) the Knipfings exercise reasonable care to prevent or correct Zantua’s harassment prior to November 2, or that (b) plaintiff failed to take advantage of corrective opportunities. Indeed, the allegations in the complaint clearly lead to the opposite conclusion on both counts. Accordingly, plaintiff has pleaded plausible claims for hostile work environment under § 1981 and the NYSHRL against Zantua, the Knipfings, and the corporate defendants. However, plaintiff fails to allege either that Savitsky either engaged in any harassment or that he functioned as plaintiff’s employer; therefore, plaintiff’s retaliation claims against Savitsky are dismissed.

III. Conclusion

Based on the foregoing, it is hereby Ordered that defendants' motion is GRANTED as to plaintiff's claims under the NYCHRL, the New York Labor Law, the New York Penal Law, and plaintiff's claims for discrimination under 42 U.S.C. § 1981 and the NYSHRL; additionally, defendants' motion is GRANTED as to plaintiff's retaliation claims against Savitsky and Zantua and plaintiff's hostile work environment claims against Savitsky. Otherwise, defendants' motion is DENIED.

Dated: Central Islip, New York
September 30, 2021

/s/ Gary R. Brown
Gary R. Brown
United States District Judge

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

November 9, 2021

Honorable Judge Gary R. Brown
United States District Court
Eastern District of New York
Central Islip, NY 11722
Attn: Pro Se Office

★ NOV 09 2021 ★
LONG ISLAND OFFICE

Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AKT

Dear Judge Gary R. Brown,

In accordance with the Rule VI Pro Se Litigants of Your Honor's Individual Rules and Federal Rules of Civil Procedure ("F.R.C.P."), the Plaintiff, Lidia M. Orrego, respectfully submit Reply to Defendants' Opposition to Motion to Withdraw Defendants' Answer to Amended Complaint ("AC") ¶ 73¹ (pages 19 & 20) and Answer to Counterclaims dated November 5, 2021, Doc [36]".

Plaintiff requests remove from the record contained in the Defendants' Answer to AC

The Defendants continue to make false statements of facts, laws and procedures in their pleadings with fraudulent misrepresentations, manipulating facts and with half-truths to mislead this Court and avoid answering the direct, documentary and testimonial evidence.

- Claim with the New York State Worker's Compensation Board ("WCB") Case G2584330, the Claimant did not lose her case, in fact, it was established on November 5, 2019 according to "Notice of Decision", Judge Barry Greenberg ruled in the Claimant's favor under New York New York Workers Compensation Law ("WCL") § 28: 'I FIND PRIMA FACIE MEDICAL EVIDENCE' based on Claimant's MRI's, supporting evidence to **Claim for Occupational Disease**. Plaintiff's lawyers committed fraud among other gross violations. See Exhibit 9 annexed AC Doc. [8], Page 4. Also, Exhibits 58-60 attached hereto pages 5-14.

The Form RB89.2 – Full Review Board for Fraud, Judicial Bias among other filed July 8, 2021 is still pending. See documentary Evidence: Exhibit 46-51 annexed the Plaintiff's Objection dated September 20, 2021, Doc [27]. Also, attached hereto Exhibits 46-49, Doc [27] pages 15-28.

Also, Plaintiff is the one who was filing the Criminal Complaint with the Queens District Attorney requesting the indictment. See Exhibit 61 attached hereto pages 29-30.

- Claim Supreme Court of the State of New York, Queens County, filed August 24, Plaintiff's

¹ Paragraphs Defendants' Answer to AC dated October 14, 2021, Doc [33], Pages 1-25.

former employers 2019-2020 offered to settle but Plaintiff refused because she prefers that a Court decide the amount for her damages. See documentary Evidence: Exhibits 52-53 annexed the Plaintiff's Objection dated September 20, 2021, Doc [27].

The Plaintiff's former employers were hiding to avoid the server process; therefore, the Plaintiff showing good faith insists that they respond instead to file the Motion to Default Judgment. See Exhibit 62 attached hereto pages 31 -33.

The same "Bad Faith" behavior from the Defendants in this Federal Action, who were blocked on September 21, 2021, Doc. [28] ordered by the Honorable A. Kathleen Tomlinson - R.I.P. a humanist, who served 15 years in this Court advocating in defense of women and children. Judge Tomlinson will always be in the hearts of the unprotected and powerless whom she has defended.

- Claim Supreme Court of the State of New York, Queens County, filed March 18, 2021, under index number 706324/2021, the order confirms the Plaintiff's legal actions has grounds (viable), the Defendants want to believe otherwise. Decision based on an absolute privilege and a document that does not exist. The case is pending with the Plaintiff's Motion Reargue and Renew. See documentary Evidence: Exhibits 54-57 annexed the Plaintiff's Objection dated September 20, 2021, Doc [27]. See, Exhibit 49 attached hereto pages 34-37.

Plaintiff's answer to a Counterclaims

Defendants try to distract with the judicial pending cases (insufficient defense, immaterial and prejudicial) to avoid talking about the other victim and bystander intervention, Ms. Rebeca Uzcategui, Plaintiff's former co-worker, because they cannot explain how two people who suffered the same abuse, discrimination and made the same complaint, among others, were treated unequal: a) Plaintiff was terminated, harassed, suffer all the kind of retaliations and defamations as "Slander" or "delusional", however, b) Ms. Uzcategui, continues working for the Knipfings. Plaintiff looking forward to facts and evidence that somehow support this gross inconsistency.

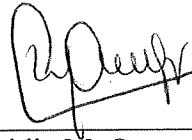
The Defendants are wrong to point out about what Plaintiff "believe" can prove, because at this stage only the EVIDENCE matters and so far, the Defendants NO have any evidence other than tampering documentation / witnesses and fraudulent misrepresentations.

CONCLUSION

WHEREFORE, the Plaintiff respectfully request that her Letter Motion be GRANTED to remove from the record the judicial pending cases because are insufficient defense, immaterial and prejudicial according with the F.R.C.P. 12(f).

Respectfully submitted,

Date: November 9, 2021
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd Apart 3E
Rego Park, NY, 11374

To: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq.
Via ECF and email.

ORREGO021

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

November 22, 2021

★ NOV 22 2021 ★

RECEIVED

NOV 23 2021

LONG ISLAND OFFICE

EDNY PRO SE OFFICE

Honorable Judge Gary R. Brown
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AKT

Dear Judge Gary R. Brown,

In accordance with the Rule VI Pro Se Litigants of Your Honor's Individual Rules, the Plaintiff, Lidia M. Orrego, respectfully submit the Clarification Letter to Your Honor related to her "Reply to Defendants' Opposition to Motion to Withdraw Defendants' Answer to Amended Complaint ("AC") ¶ 73¹ (pages 19 & 20) and Answer to Counterclaims dated November 5, 2021, Doc [35] and Your Honor's order denying [37] Motion to Withdraw Answer to AC (pages 19 & 20) dated November 16, 2021.

According with the order the Plaintiff should show 3 essential elements for her motion: "Under Federal Rule of Civil Procedure 12(f), "[t]he court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." "Accordingly, [t]he standard to prevail on a motion to strike is demanding, requiring that the moving party demonstrate that (1) there may be no question of fact which might allow the defense to succeed; (2) there may be no substantial question of law, a resolution of which could allow the defense to succeed; and (3) the party would be prejudiced by the inclusion of the defense." *Grewal v. Cuneo*, No. 13-CV-6836(RA), 2016 WL 308803, at *4 (S.D.N.Y. Jan. 25, 2016) (citations and internal quotation marks omitted)." See doc. [35]

Plaintiff explain the reasons may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter accordingly with the standard: (1) Constitute as part of the character assassination strategy against the Plaintiff with misleading, half-truths, fraudulent misrepresentations and defamatory statements in the continuous attempt to damage the Plaintiff's reputation because the Defendants have no direct or documentary evidence about the issues in the present Federal Case. Defendants have lied in their pleadings in this Court, also filed false or tampering evidence and witnesses' testimony just as they did in the pending cases; (2) according to the Propensity Evidence²

¹ Paragraphs Defendants' Answer to AC dated October 14, 2021, Doc [33], Pages 1-25.

² Federal Rule of Evidence Rule 404: *Pine v. Koelber*, 389 So. 2d 1191, 1193 (Fla. Dist. Ct. App. 1980), citing 1 S. Gard, *Jones on Evidence* §4: 34 (6th ed. 1972) and *McCormick on Evidence* § 188 (2d ed. 1972): "When a person's character is an essential element in the case, evidence of his character is always admissible because it is in question. On the other hand, evidence of a person's character is offered only to prove probability that he acted consistently with that character on a particular occasion is generally inadmissible."

ORREGO021

that character of evidence is inadmissible in the Trial unless it is the issue of the case; (3) the Plaintiff would be prejudiced (included but no limited) with the defenses contained Defendants' Answer to Amended Complaint ("AC") ¶ 73¹ (pages 19 & 20) because the distorted explanation, misleading, half-truths among others can damage the Plaintiff's image and negatively influence the Jury to unconscious bias or implicit bias as prejudice or unsupported judgments against the Plaintiff as compared to another person, in a way that is considered unfair.

In fact, the Supreme Court Queens ("SCQ") Index # 719137/2021 dated August 24, 2021 has no relation to this case, and it also constitutes Propensity Evidence, prejudicial in her character because the was not something caused by the Plaintiff. The Defendants' actions were as matter as fact the causes, when they breach of contract and later retaliated against the Plaintiff, many times, when she claimed her rights and the amount owed with the help of the New York State Department of Labor Case # LS 223 ISSUE=1346010 PROJ=30 dated January 24, 2020. Status: Initial Stage.

In the same way, the New York State Worker's Compensation Board ("WCB") Case # G2584330 dated September 5, 2019 (Plaintiff's lawyers voluntarily and consciously failed) and SCQ Index # 706324/2021 dated March 18, 2021 contained in the Defendants' Answer. Doc. [33], both cases prevail plenty evidence of judicial bias and impropriety for that reason the unfavored outcome against the Plaintiff, through misapplying the laws, overlooked facts and evidence, proof that the rulings were tainted because outsider agents or influences manipulate the Courts' decisions, without any legally permitted explanation how to support their decisions and orders. Indeed, the SCQ Index # 706324/2021 were also the consequences of the Defendants' actions, who filing the last element on defamation and other civil torts in their pleadings.

The plaintiff would be prejudiced in her health condition because her occupational disease is getting worse since the emotional distress continues to rise when she discovered that she must fight the grossly violation of Code Judicial Conduct Canon 1, 2, 3, and Obstruction of Justice because Judges applied the wrong rules, wrong statute of limitations, they made an error regarding the facts, abuse in their discretion and authority, ruling under shadow of law, through manufacture and using the legal instrument to obscure the truth, where the errors are obvious because the allegations, elements and evidence introduced clearly does not support their decisions and orders that were completely unreasonable in both cases. (WCB # G-2584330 / SCQ Index # 706324/2021)

The Plaintiff, despite her health condition, physical and legal knowledge limitations, continue with appeals these decisions to leave these outrageous and scandalous actions as a precedent of a gross

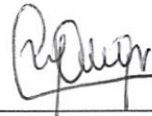
miscarriage of justice to support other possible victims in the same Courts.

Including these 3 defenses, also it would unnecessarily lengthen the process in prejudice to the Plaintiff, denying her right to Due Process and to quickly resolve the case. Defendants' intention is installing their "Dilatory Tactic" because it will force the Plaintiff to bring all the evidence in the 3 cases so that the Jury can understand that the defendants made false statements that were made intentionally or with reckless disregard the truth.

Plaintiff apologizes for not including all the elements for which her motion was Denied and appreciates Your Honor's support pointing out the missing element to properly file her pleadings or evidence to pursuing respect, inclusion, diversity and equity for the Trial with the objective of seek truth and justice.

Respectfully submitted,

Date: November 22, 2021
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq.
Via ECF and email.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego,

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury, LLC,
Steve Savitsky and Teresa A. Zantua.

Defendants,
_____X

Affirmation of Service

____ 20 ____ CV ____ 3361 ____ (GRB) (AKT)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Clarification Letter of "Reply to Defendants' Opposition to Motion to Withdraw Defendants' Answer to Amended Complaint paragraph 73 (pages 19 & 20) and Answer to Counterclaims dated November 9, 2021, Doc. [37]", and attached documents upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minahh-Donkoh, Esq. and Mr. Alex D. Dumas, Esq., Edward E. Warnke, Esq. via ECF and email, whose physical address:

Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004

By email address: kminnahdonkoh@grsm.com; adumas@grsm.com;
kminnahdonkoh@gordonrees.com; ewarnke@grsm.com

Dated: November 22, 2021

Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234

FILED
2021 NOV 22 PM 2:14
U.S. DISTRICT COURT
E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND FEDERAL COURTHOUSE
824 FEDERAL PLAZA
CENTRAL ISLIP, NEW YORK 11722-4450

CHAMBERS OF
WILLIAM D. WALL
U.S. MAGISTRATE JUDGE
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

Lidia Drago
20-cv-03361
Judge Brown

February 11th, 2022

Honorable Judge Gary R. Brown
Magistrate Judge Anne Y. Shields
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

Re: Orrego v. Knipping, et al, 20-CV-03361-GRB-AYS

Dear Judge Gary R. Brown,

In accordance with the Rule VI Pro Se Litigants of Your Honor's Individual Rules, the Plaintiff, Lidia M. Orrego, respectfully submit the following:

I request that attorney, Mr. Brian Dratch, Esq. be removed as my Pro Bono Counsel because we had an agreement that this representation will be contingent upon my review of all documents prior to their filings for my review and approval and this agreement was violated.

The attached document "Doc. #42 [1] [2] CASE MANAGEMENT STATEMENT for Employment Cases with Discovery Plan Worksheet (Attachments: # (1) Proposed Order) (Warnke, Edward)" was submitted on February 10th, 2022, without my knowledge of the content, review, approval, and signature. I object to its content and for this reason, both documents must be annulled.

Please, Your Honor, I request a new Counsel / Attorney – bilingual Spanish be assigned to my case to avoid misunderstandings in the future with my instructions.

Respectfully submitted,

Date: February 11th, 2022
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq. and Mr. Brian Dratch, Esq.
Via ECF and email.

KUUKU MINNAH-DONKOH
KMINNAHDONKOH@GRSM.COM

EDWARD E. WARNKE
EWARNKE@GRSM.COM

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

GORDON & REES ★
SCULLY MANSUKHANI
YOUR SO STATE PARTNER
LONG ISLAND OFFICE

ATTORNEYS AT LAW
1 BATTERY PARK PLAZA, 28TH FLOOR
NEW YORK, NY 10004
(212) 269-5500
(212) 269-5505 (F)
WWW.GRSM.COM

February 10, 2022

VIA ECF

The Honorable Anne Y. Shields
United States Magistrate Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *Lidia Orrego v. Kevin Knipfing, et al.*,
Case No. 20-cv-03361-GRB-AYS

Dear Magistrate Judge Shields:

Our office represents defendants, Kevin Knipfing a/k/a Kevin James ("Mr. Knipfing"), Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz, Old Westbury EDDIE LLC, Old Westbury, LLC, and Teresa A. Zantua (collectively, "Defendants"), in connection with the above-referenced action. We, together with counsel for plaintiff Lidia Orrego ("Plaintiff"), submit this joint letter in accordance with the Court's Order dated December 2, 2021 (ECF Doc. No. 41-2,3), directing the parties to provide the Court with certain information in advance of the upcoming initial conference in this matter currently scheduled for Monday, February 14, 2022 at 11:30 a.m.

1. **Name of the Case**

LIDIA M. ORREGO v. KEVIN KNIPFING, et al.¹

2. **Basis for Federal Jurisdiction**

Per Plaintiff, "[t]he basis for federal jurisdiction is 42 U.S.C. 1981."

¹ Defendants note that all claims against Defendant Steve Savitsky were dismissed pursuant to the September 30, 2021 Memorandum and Order. (ECF Doc No. 30). The caption, however, still lists Mr. Savitsky as a defendant. Defendants respectfully request the Court amend the case caption to reflect the dismissal of Mr. Savitsky as a defendant in this action.

February 10, 2022
Page 2

3. Service upon Defendants and Their Answer

All Defendants have been served, and filed their Answer to Amended Complaint on 10/14/2021 (ECF Doc. No. 33).

4. Counterclaims and/or Cross-claims

There are no cross-claims or counterclaims.

5. Plaintiff's Explanation of the Facts

Plaintiff alleges that during her employment with defendants she was subjected to a hostile work environment based on her race by Zantua which the defendants Knipfings failed to address and/or take action against Zantua for creating a hostile work environment against plaintiff.

6. HIPAA Authorizations

Plaintiff will provide authorizations for plaintiff's medical records on or before March 14, 2022.

7. Joint Statement Concerning Discovery

At this time, the parties believe formal document requests will be needed.

8. Proposed Status Letter and Status Conference

Proposed Status Letter due at least 1 week before the Status Conference; and
Status Conference: TBD by This Court.

9. Outstanding Protocols

As of the date of this submission, all discovery protocols remain outstanding.

10. Settlement Position

Plaintiff's Position: Plaintiff is willing to discuss Settlement.

Defendant's Position: Prior to commencing this action, Plaintiff filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission ("EEOC"), alleging claims of discrimination, hostile work environment, and retaliation under Title VII of the Civil Rights Act of 1964 ("Title VII"). Although none of the Defendants qualify as an "employer" under Title VII, which applies only to employers with 15 or more employees – and although it is Defendants' position that Plaintiff's claims are completely meritless, Defendants nonetheless agreed to participate in mediation before the EEOC to see whether an amicable resolution could be reached. On August 20, 2019, the parties participated in mediation before the EEOC, but

February 10, 2022
Page 3

mediation unfortunately was unsuccessful due to positions taken by Plaintiff that were completely unreasonable and utterly devoid from reality.

Since the August 20, 2019 EEOC mediation, Plaintiff has gone through at least three different sets of attorneys, with each relationship ending acrimoniously and Plaintiff filing complaints against each of her former attorneys. Moreover, since the August 20, 2019 EEOC mediation, Plaintiff has engaged in what Defendants can only describe as a scorched-earth campaign of extortion, harassment, and patently false claims against Defendants and others, including judges. For a summary of some of the meritless complaints and accusations Plaintiff has made since August 20, 2019, the Court is respectfully referred to the letter Defendants filed on September 13, 2021, in opposition to Plaintiff's motion for leave to file a Second Amended Complaint. (ECF Doc No. 25).

Based on Plaintiff's past conduct, Defendants are not optimistic about the chances of settlement in this matter.

11. Proposed Dates

The parties respectfully refer the Court to their joint proposed Discovery Plan Worksheet filed contemporaneously with this joint letter.

Respectfully submitted,

GORDON REES SCULLY
MANSUKHANI, LLP

Kuuku Minnah-Denkoh
Kuuku Minnah-Donkoh
Edward E. Warnke

cc: All Counsel of Record (By ECF)

DISCOVERY PLAN WORKSHEET

Tier I Pre-Settlement Discovery TO BE COMPLETED IN ALL CASES

Deadline for completion of Rule 26(a)
initial disclosures and HIPAA-
complaint records authorizations: 03/14/2022

Completion date for
Phase I Discovery as
agreed upon by the
parties: 04/12/2022
(See paragraph 7 of joint letter requirement)

Status conference TBD by the court:
(Generally 15 days post Tier I Discovery) _____

Tier II Discovery and Motion Practice

Motion to join new parties or amend the pleadings:
(Presumptively 15 days post status conference) N/A

All fact discovery completed
by: (Presumptively 9 months
after deadline for joining
parties/amend the pleadings) 02/13/2023

Expert discovery
completed by: 05/15/2023
(Presumptively 3 months
after close of fact
discovery)

Final date to take first step in dispositive
motion practice: (Parties are directed to
consult the District Judge's individual
rules regarding such motion practice.
(Presumptively 30 days after close of
discovery) 06/14/2023

Joint Proposed
Pretrial Order to
be submitted: 09/9/2023
(30 days after dispositive motion
practice deadline)

February 17th, 2022

Honorable Judge Gary R. Brown
Magistrate Judge Anne Y. Shields
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ FEB 17 2022 ★

LONG ISLAND OFFICE

Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Dear Judge Gary R. Brown and Magistrate Judge Anne Y. Shields,

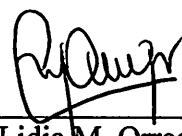
In accordance with Rules VI, IV, Pro Se Litigants of Your Honors' Individual Rules, Plaintiff, Lidia M. Orrego, respectfully submit this letter in support of my ECF Doc. # 43 with the following statement:

According to the records in my possession on February 14th, 2022, I requested my counsel and the Defendants' counsels a copy of my file but I have not received this copy. Entails events compliance litigation process applicable rule F.R.C.P.¹ – Rule 26 (F), Rule 26 (a) (1), Rule 16.

I respectfully request Your Honors intervention because it is very important for me to obtain my file to provide it to my new Counsel / Attorney – bilingual Spanish who will be appointed by the Court.

Respectfully submitted,

Date: February 17th, 2022
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To:
Plaintiff's Counsel: Mr. Brian Dratch, Esq.
Defendants' Counsels: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq.
Via ECF and email.

¹ Federal Rules of Civil Procedure (F.R.C.P.)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
Lidio Orrego,

Plaintiff(s),

-against-

Kevin Knipfing, et al

Defendant(s).

-----X
SHIELDS, Magistrate Judge:

Conference Date: 2/14/2022 at 11:30 AM. The parties are directed to call the ATT teleconferencing center at (877) 810-9415 and to enter Access Code 9005911 when prompted. The parties are directed to confirm the date and time of this conference with each other. In the event that an adjournment is requested, any such request must be made pursuant to this Court's individual rules regarding adjournments and must be electronically filed as a "Motion," and not as a letter.

The above captioned matter has been assigned to United States Magistrate Judge Anne Y. Shields for the purposes of scheduling discovery, resolution of discovery disputes, settlement conferences, and any other purpose set forth in 28 U.S.C. §636(b)(1)(A). Counsel for each represented party and any party proceeding without an attorney (a "*pro se*" party) must appear in person for an initial conference at the date and time indicated above.

Prior to the conference all counsel and/or *pro se* parties are directed to meet and confer regarding the discovery needs of this case, including a discussion of the exchange of electronically stored information ("ESI") and to prepare a proposed discovery plan. To assist in this process, the Court attaches to this Order a "Discovery Plan Worksheet" that must be completed and submitted to the Court via ECF, at least two days prior to the conference. The Worksheet sets forth a date for completion of all discovery. The parties are directed to establish reasonable interim discovery deadlines to meet the needs of their case. At the conference, the Court will consider the parties' suggested deadlines and, upon consideration of the rules and practices of the assigned District Judge, enter an appropriate scheduling order.

Dated: Central Islip, New York
December 2, 2021

SO ORDERED:

/s/ Anne Y. Shields
ANNE Y. SHIELDS
United States Magistrate Judge

DISCOVERY PLAN WORKSHEET

Tier I Pre-Settlement Discovery TO BE COMPLETED IN ALL CASES

Deadline for completion of Rule 26(a)
initial disclosures and HIPAA-
complaint records authorizations:

Completion date for
Phase I Discovery as
agreed upon by the
parties:

(See paragraph 7 of joint letter requirement)

Status conference TBD by the court:
(Generally 15 days post Tier I Discovery)

Tier II Discovery and Motion Practice

Motion to join new parties or amend the pleadings:
(Presumptively 15 days post status conference)

All fact discovery completed
by: *(Presumptively 9 months
after deadline for joining
parties/amend the pleadings)*

Expert discovery
completed by:
*(Presumptively 3 months
after close of fact
discovery)*

Final date to take first step in dispositive
motion practice: *(Parties are directed to
consult the District Judge's individual
rules regarding such motion practice.
(Presumptively 30 days after close of
discovery)*

Joint Proposed
Pretrial Order to
be submitted:
*(30 days after dispositive motion
practice deadline)*

INDIVIDUAL PRACTICE RULES OF
MAGISTRATE JUDGE ANNE Y. SHIELDS

100 Federal Plaza
P.O. Box 830
Central Islip, New York 11722
Courtroom 830

For All Communications with Chambers Refer to Rule II. B

Chambers E-mail: shields_chambers@nyed.uscourts.gov

Chambers (631) 712-5710

Courtroom Deputy: Jasmine Torres (631) 712-5714

Law Clerk: Deanna Minerva (631) 712 -5713 (Even docket numbers)

Law Clerk: Dina Mucciaccio (631) 712-5712 (Odd docket numbers)

I. Electronic Case Filing (ECF)

- A. All documents in civil actions, except for voluminous documents, must be filed electronically. Documents may be electronically filed under seal only if filed pursuant to the Court's settlement rules or with prior permission of the Court. Information regarding electronic filing is available on the Eastern District website. Questions regarding ECF filing or training on ECF should be directed to the Central Islip Clerk's office at (631) 712-6030
- B. All attorneys representing parties in cases assigned to this court must file a Notice of Appearance and register to receive ECF notifications prior to filing any documents, and prior to making a personal appearance before the court.
- C. Orders of the Court will be electronically docketed. No hard copies will be mailed to counsel.
- D. Any document seeking relief of any kind from the court must be electronically filed as a "Motion," and not as a "Letter" under the ECF "Other Documents" option.
- E. Unless otherwise ordered, and subject to the exceptions set forth herein, courtesy copies of electronically filed documents should not be provided to the court. Courtesy copies of the following documents must be provided to the court: (1) motions with all exhibits; (2) motions referred for decision to this court by District Court Judges. All courtesy copies submitted to Chambers must be marked "Courtesy Copy," "Original Filed ECF" with the assigned docket entry indicated. Courtesy copies of exhibits and appendices are to be clearly labeled and tabbed and where appropriate may be submitted in a binder. Such copies should not be "Velobound." Courtesy copies should be mailed to Chambers on the filing date; overnight or expedited mail is

not required unless otherwise ordered by the Court.

F. Counsel need not electronically file documents that cannot be readily converted to a form that may be electronically filed. In such cases, counsel must electronically file the letter or notice of motion to which the non-electronically filed material is attached. A hard copy (for filing) and a courtesy copy of such documents must be provided to the court. Copies of such documents must also be provided to opposing counsel. Questions regarding such documents may be addressed to the court.

II. Communication with Chambers

A. Telephone Calls Permitted

Telephone calls to chambers are permitted. Calls regarding scheduling of criminal matters should be directed to the Courtroom Deputy at (631) 712-5714. Calls regarding civil matters should be directed to the Law Clerks at (631) 712-5710. Calls regarding the substance of any matter should be made only jointly with opposing counsel on the line. As officers of the court, counsel are responsible for informing all adversaries of any communication with Chambers.

B. Email Communication Prohibited Without Prior Authorization

In order to avoid inappropriate ex parte communication with Chambers, communication via Chambers email is prohibited without prior authorization of this Court. Counsel shall always endeavor to confer and then submit a joint communication via ECF. In the event a joint communication is impracticable, counsel may submit a letter to the Court via ECF. The Court monitors ECF filings diligently and will receive the communication. At the same time all parties will be aware of the communication.

III. Adjournments and Extensions of Time

In the absence of extraordinary circumstances, all requests for adjournments of any kind are to be made via an ECF motion, and are to be made no later than 48 hours prior to the scheduled appearance date or deadline. Prior to seeking any adjournment, the parties are expected to confer and grant each other the courtesy of agreeing to reasonable requests to adjourn, especially upon the first request for any adjournment. All requests for adjournments must include the following information:

- A. The original date of the appearance or deadline;
- B. Whether there have been prior requests for adjournment;

C. Whether all parties consent to the adjournment, and in the event that any party refuses to consent to the adjournment, the reason for that refusal;

D. Three agreed upon suggested dates for adjournment (in the absence of consent, the requesting party may suggest three dates that are acceptable).

In the event that the requested adjournment affects any other scheduled dates, a proposed revised scheduling order must be attached to the motion.

This Court cannot extend deadlines, including discovery deadlines, set by the assigned District Court Judge. Accordingly, any extensions of such deadlines must be made to the District Court Judge.

IV. Pro Se Litigants

Questions and assistance regarding pro se litigation may be addressed to the Court's pro se office at (631) 712-6060.

Pro se litigants are advised of the limited legal representation available at the Pro Se Legal Assistance Program, located in Room 124B of the Central Islip Courthouse. The clinic is independently operated and is not affiliated with the Court. Consultations are available by appointment. The clinic can be reached at (631) 297-2575 or at PSLAP@Hofstra.edu.

Unless otherwise ordered, pro se litigants are exempt from ECF filing requirements. Parties represented by counsel in cases involving pro se litigants are not similarly exempt. Unless otherwise ordered, the Court will mail copies of orders to pro se litigants. Pro se litigants are responsible for keeping contact information and, if ordered, an e-mail address, on file with the Court or risk dismissal of claims.

Pro se parties without ECF access must make filings via hand delivery or U.S. mail: to the designated "pro se clerk" in the clerk's office, to the attention of Magistrate Judge Shields and the assigned District Judge, and by U.S. mail to the attorneys for all other parties. Copies of court orders will be provided by the court to pro se litigants via U.S. mail and need not be served by opposing counsel, unless directed by the court. All pro se litigants and represented parties opposing pro se litigants are directed to the relevant Local Civil Rules, including Rules 7.1, 12.1, 33.2 and 56.2.

V. Initial Conferences

The court will schedule a Rule 16 initial conference after issue is joined and the parties have had the opportunity to conduct a Rule 26 conference. Pursuant to Rule 26(f), the parties must confer prior to the conference to discuss the claims and defenses in the lawsuit as well as the nature and extent of disclosure and discovery necessary to reach a prompt disposition of the matter. The parties are required to collaborate regarding the completion of the Joint Letter as well as any form required to be submitted by this Court prior to the initial conference. The

parties' Rule 26 conference should also include a discussion of the exchange of electronically stored information ("ESI").

VI. Forms to be Completed Prior to Initial Conference

Counsel are directed to familiarize themselves with forms to be submitted prior to the initial conference. In all cases, counsel must confer and prepare Exhibit B (Discovery Plan Worksheet) as well as the required Joint Letter. In all cases alleging an FLSA violation Counsel must confer and also complete form Appendix C hereto prior to the Initial Conference. In FLSA cases the dates in the Discovery Plan Worksheet should conform to the dates in Appendix C.

All forms required **must** be submitted to the court via ECF no later than **three business days** prior to the initial conference.

VII. Discovery

A. General Discovery Rules

1. Uniform Definitions in Discovery Requests

Counsel are directed to consult Local Rule 26.3 which sets forth "Uniform Definitions in Discovery Requests." The definitions set forth therein are deemed incorporated in all discovery requests and counsel are directed to refrain from the use of any other definitions of the terms set forth therein. Counsel need not draft specific definitions in discovery requests but may reference the local rule in such requests.

2. Claims of Privilege

Counsel are directed to consult Local Rule 26.2 for directions as to the proper way to assert claims of privilege.

B. Tiered Discovery

Discovery shall proceed in tiers designed to minimize the expense and burden to the parties and to facilitate the earliest possible settlement or trial.

1. Tier One Discovery in General

Tier One Discovery shall consist of the exchange of initial disclosures and any other readily available documentary evidence supporting claims or defenses. Counsel shall confer to consider the scope of such discovery and, if appropriate, include the exchange of documents addressed to the existence of personal and federal subject matter jurisdiction and venue. During

Tier One discovery, the parties should engage in initial discussions regarding the production of electronically stored information (“ESI”). Tier One discovery is expected to be completed no later than 60 days of the initial conference. The scope of Tier One discovery (including any agreements reached regarding the exchange of ESI) must be discussed prior to the initial conference and the parties should appear at the conference ready to enter into agreement as to the scope of such discovery.

At the conclusion of Tier One Discovery, the parties should be in a position to enter into meaningful settlement discussions or be able to identify additional limited discovery necessary to put the matter into a meaningful settlement posture. A settlement conference may be scheduled following the completion of such discovery. That conference will be governed by the “Settlement Conference” rules set forth below.

2. Discovery in Particular Cases (FLSA, Employment, and ADA Cases)

Tier One Discovery in cases alleging violation of the FLSA is governed by this Court’s Order appearing in Appendix C hereto. In cases alleging violation of the FLSA, the parties will be referred for mediation with the Eastern District FLSA mediation program. Tier Two discovery in such cases will not begin until after the parties take part in that mediation.

In cases where the parties agree to conditional collective action certification, they are directed to utilize the forms annexed hereto as Appendices D (stipulation regarding conditional collective action certification) and E (court authorized notice of lawsuit). These forms have been developed by the Court and are presumptively appropriate for use without any requirement for prior approval by the Court.

Tier One Discovery in cases alleging employment discrimination is governed by this Court’s initial employment protocols appearing in Appendix F hereto.

Tier One Discovery in cases alleging lack of access pursuant to the Americans with Disabilities Act (the “ADA”) shall consist of the exchange of Plaintiff’s statement describing in detail the access that is alleged to be denied under the ADA, and Defendant’s response thereto. Counsel shall be prepared to discuss such access issues at the initial conference. During Tier I discovery, the parties are expected to reach an agreement as to dates certain for the exchange of expert reports detailing their positions regarding the access alleged to have been unlawfully denied.

3. Tier Two Discovery

Tier Two Discovery is the balance of discovery necessary to prepare for trial. Tier Two discovery includes documentary discovery not previously undertaken, including the full production of ESI, the taking of all depositions and expert discovery.

C. Discovery Disputes/Motions

Counsel must first undertake a good faith effort to resolve any discovery disputes, including a request to limit or terminate a deposition, without court intervention. Where attorneys

cannot agree upon resolution of a discovery dispute, they shall initiate a conference call with this court by calling chambers at (631) 712-5710. Attorneys may **not** bring a discovery motion before the court until they have complied with these rules. This court does not accept letter motions unless authorized to do so after the telephone conference is held. In the event that a discovery dispute raised in a telephone conference is not resolved during the telephone conference, counsel will be instructed as to the procedure and time frame for the making of a formal motion.

D. Form Stipulation and Order of Confidentiality

A “Stipulation and Order of Confidentiality” in the form annexed hereto as Appendix A is to be used in cases requiring the exchange of what the parties deem to be confidential information. This form order is presumptively entitled to approval by this court. Any changes to this form of order are to be submitted for court review along with an explanation as to why the proposed change is necessary.

VIII. Settlement Conferences

Settlement conference may be scheduled upon the close of Tier One discovery and/or upon the request of the parties. Cases alleging violation of the FLSA will be referred to the Eastern District’s FLSA Mediation Program. All settlement conferences held by this Court will be governed by the following procedure:

A. Exchange of Demand and Offer

Prior to any settlement conference the parties must exchange a demand and offer. At least fourteen (14) days prior to the conference, Plaintiff’s counsel must communicate a written demand to Defense counsel. That demand must explain the reason why the demand is appropriate. The demand must also reference any mathematical calculation used to support the demand.

No later than seven (7) days prior to the scheduled conference, Defense counsel must respond to Plaintiff’s counsel’s demand. That response must contain a clear reply to the offer of settlement, and an explanation as to its propriety.

B. Settlement Statements

No later than three (3) business days prior to the settlement conference, each party shall e-mail a confidential settlement statement, not exceeding three pages, (exclusive of exhibits) to shields_chambers@nyed.uscourts.gov.

The settlement statement shall set forth the current demand and offer. It must also specify the terms under which the party is willing to settle the matter. The settlement statement must indicate whether the terms are negotiable and include all material terms of the proposed settlement, including the settlement amount, time for payment, requests regarding injunctive relief and confidentiality, and the inclusion of attorney’s fees.

Failure to timely submit the required settlement statement may result in cancellation of the settlement conference.

C. Settlement Conference

Parties and insurers with authority to settle must attend the settlement conference. Remote appearances are not allowed. If a settlement requires approval of a governmental body or board of directors, the individual attending the conference must be authorized to approve and submit a recommendation to that entity. In lieu of a settlement conference parties may request a referral to the EDNY Mediation Program.

X. Motions

A. Judge to Whom Motions are to be Made

In the first instance Counsel must conform with the Rules of the assigned District Court Judge when determining whether a motion is properly filed with that Court. All dispositive motions are to be made to the assigned District Court Judge in accord with the rules of that Court. Unless specifically ordered otherwise, all non-dispositive motions are to be made to this Court.

B. Motions for Admission *Pro Hac Vice*

Motions for admission *pro hac vice*, together with a proposed order admitting the attorney shall be served and filed. Counsel are directed to consult Local Rule 1.3(c) and sample forms available on the Eastern District website.

C. Pre-Motion Conferences in Civil Cases

For procedures regarding discovery motions, see Rule VI(C) requiring that discovery disputes be raised first by way of conference call. For all other motions where parties are represented by counsel, a pre-motion conference is necessary. A pre-motion conference can be requested by way of an electronically filed letter. Such letters are to be filed as ECF motions seeking a court conference. Letters requesting pre-motion conferences shall state, in brief, the grounds for the motion, shall not exceed two pages, and shall not include affidavits or exhibits. All parties served with a pre-motion letter shall serve and file a letter response, not to exceed two pages, within seven days from service of the pre-motion conference letter.

A briefing schedule will be established at the pre-motion conference. Absent extraordinary circumstances or unless this court orders otherwise, pre-motion conferences shall be held in person and not via telephone conference.

D. Motions in Cases in Which Parties Have Consented to Magistrate Judge Shields

Parties may consent to refer a civil case to Magistrate Judge Shields for all purposes,

including entry of judgment. In cases that are before Magistrate Judge Shields for all purposes, a pre-motion conference is necessary before any motion is made. A pre-motion conference can be requested by way of an electronically filed letter pursuant to the procedure set forth in Rule VIII(C) above.

Parties may also consent to the jurisdiction of Magistrate Judge Shields for the limited purpose of rendering a decision on a dispositive motion that has been referred to Magistrate Judge Shields for Report and Recommendation.

E. Memoranda of Law

Memoranda of law in support of and in opposition to motions shall not exceed twenty five pages in length. Reply memoranda of law shall not exceed ten pages in length. With the exception of bringing newly decided cases or law to the attention of the court, and unless otherwise ordered, there shall be no additional briefing. All memoranda of law shall contain a table of contents and authorities. All memoranda of law shall use at least one inch margins, double spacing and be in 12 point type. Footnotes are discouraged. However if the use of footnotes is unavoidable, they need not be double spaced, but must be in the same 12 point type as text.

F. Service and Filing of Motion Papers

No motion papers are to be filed electronically until the motion is fully briefed. The notice of motion and all supporting papers are to be served on all other parties along with a cover letter setting forth whom the movant represents and identifying the papers being served. A copy of this cover letter is to be electronically filed. A party responding to a motion shall serve the moving party with a courtesy copy of the responding papers, for later filing with the court.

On the date that the motion is fully briefed, each party shall be responsible for the electronic filing of its own motion papers. It is not necessary to file separately each exhibit to a motion. However, to ensure ease of reference, exhibits filed electronically must be described on the electronic docket, and not be referred to merely by exhibit letter or number. For example, it is insufficient to file an exhibit only as "Exhibit A." Instead, it must be made clear, on the docket, the nature of the Exhibit. For example, it is appropriate to describe an Exhibit attaching a deposition as "Exhibit A- Plaintiff's Deposition."

The moving party shall be responsible for furnishing Chambers with a full set of courtesy copies of the motion papers, together with a cover letter specifying each document in the package. A copy of this cover letter is to be sent to opposing counsel.

G. Motions Implicating Rule 4(a)(4)(A) of the Federal Rules of Appellate Procedure or Similar Time-Limiting Rules

If any party concludes in good faith that delaying the filing of a motion, in order to comply with any aspect of these individual practices, will deprive the party of a substantive right, the party may file the motion within the time required by the Federal Rules of Civil and/or Appellate Procedure, together with an explanation for the basis of the conclusion.

H. Oral Argument

In the ordinary course motions are taken on submission. Parties may request oral argument. The Court will determine whether oral argument will be heard and, if so, will advise counsel of the date for argument.

XI. Pretrial Procedures in Cases Where Parties Consent to Trial Before This Court

A. Joint Pretrial Order: Shall include:

A full caption of the action;

i. The names, addresses, telephone numbers and email addresses of all trial counsel;

ii. A statement as to whether the issues of: (1) subject matter jurisdiction (2) personal jurisdiction and (3) venue are contested. In the event that any of these issues are contested, a statement shall be provided by the party raising the objection regarding the basis for such objection.

iii. A statement identifying the claims to be tried. Such statement should not include a recitation of facts or evidence but must include citation to the statutory basis for any claims or defenses.

iv. A statement as to whether the case is to be tried to the court or before a jury;

vi. An estimate as to the number of trial days that will be needed;

vii. A list by each party of all fact and expert witnesses that are expected to testify as part of its case in chief. For each witness, indicate whether the witness will testify live, via deposition or via any other agreed upon means. In the absence of the giving of prompt notice and good cause for supplementing the exchanged witness list, only those witnesses listed will be permitted to testify.

viii. A list by each party of exhibits to be offered as part of its case in chief. All exhibits listed must be marked and exchanged among the parties. This exchange is required even if the exhibits are already in the possession of the other party. Exhibit lists must indicate whether there are objections to admissibility or whether the exhibits are stipulated as admissible. Counsel are expected to resolve prior to trial all objections as to authenticity or chain of custody. In the absence of the giving of prompt notice and good cause shown for supplementing the exhibit list, only those exhibits listed will be permitted to be used at trial.

ix. A designation by each party of deposition testimony to be offered in its case in chief, along with any cross-designations and objections by any other party.

B. Filings To Be Made Prior To Jury Trials

Unless otherwise ordered by this court, two weeks prior to the date set for jury selection, each party shall file:

- i. A statement of issues that any party intends to raise as a motion in limine. In the event that any such issues are raised, the Court will schedule a pre-motion conference.
- ii. Any agreed upon stipulation as to what shall be received in evidence.
- iii. Proposed jury charges. Counsel need only prepare charges as to the elements of the claims. The Court will prepare a jury charge regarding general instructions. After review of the Court's general charge, counsel may request any additional charge deemed appropriate for the facts of the case to be tried.
- iv. On the first day of trial, counsel shall provide the Court with a copy of all exhibits, appropriately labeled and indexed. Exhibits should be placed in clearly tabbed binders.

C. Filings Required For Non-Jury Trials

- i. One week prior to trial, the parties shall file a trial memorandum of law setting forth a brief statement of facts and the legal issues to be tried, along with an analysis of the applicable law. The trial brief shall also contain a statement as to the relief sought.
- ii. Unless otherwise ordered, two weeks after the transcript of the trial is prepared and available for ordering, the parties shall simultaneously file via ECF, with a courtesy copy to Chambers, proposed findings of fact and conclusions of law. Such submissions shall include precise citations to the trial transcript and exhibits, together with supporting legal authority.

APPENDIX A

STIPULATION AND ORDER REGARDING CONFIDENTIAL INFORMATION

The following provisions shall govern the exchange of confidential information in this matter:

1. Counsel for any party may designate any document, information contained in a document, information revealed in an interrogatory response or information revealed during a deposition as confidential if counsel determines, in good faith, that such designation is necessary to protect the interests of the client. Information and documents designated as confidential are to be stamped "CONFIDENTIAL." "Confidential" information or documents may be referred to collectively as "Confidential Information."
2. Unless ordered by the court or otherwise provided for herein, the Confidential Information disclosed will be held and used by the person receiving such information solely for use in connection with the above-captioned action.
3. In the event that a party challenges another party's designation, counsel shall make a good faith effort to resolve the dispute, and in the absence of a resolution, the challenging party may thereafter seek resolution by the court. Nothing in this Protective Order constitutes an admission by any party that Confidential Information disclosed in this case is relevant or admissible. Each party specifically reserves the right to object to the use or admissibility of all Confidential Information disclosed, in accordance with applicable laws and court rules.
4. Information or documents designated as "Confidential" shall not be disclosed to any person except:
 - a. The requesting party and counsel, including in-house counsel;
 - b. Employees of such counsel assigned to and necessary to assist in the litigation;
 - c. The Court (including the clerk, court reporter or stenographer, or other person having access to Confidential Information by virtue of his or her position with the Court) or the jury at trial or as exhibits to motions.
 - d. Subject to the condition set forth in Paragraph 6 below: consultants or experts in the prosecution or defense of the matter, to the extent deemed necessary by counsel;
 - e. Subject to the condition set forth in Paragraph 6 below: any person from who testimony is taken or is to be taken in this action, except that such a person may only be shown Confidential Information during and in preparation for his/her testimony and may not retain the Confidential Information; and

5. Prior to disclosing or displaying Confidential Information to any person, counsel shall:
 - a. inform the person of the confidential nature of the information or documents;
 - b. inform the person that this Court has enjoined the use of the information or documents by him/her for any purpose other than this litigation and has enjoined the disclosure of that information or documents to any other person.
6. The Confidential Information may be displayed to and discussed with the persons identified in Paragraphs 4(d) and (e) only on condition that prior to any such display each person must sign an agreement to be bound by this Order in the form attached hereto as Exhibit A. In the event that such person refuses to sign an agreement in the form attached as Exhibit A, the party desiring to disclose the Confidential Information may seek appropriate relief from the Court.
7. The disclosure of a document or information without designating it as “confidential” shall not constitute a waiver of the right to designate such document or information as Confidential Information provided the material is designated pursuant to the procedures set forth herein no later than fourteen (14) days after that close of discovery or fourteen (14) days after the production of the document or information. If so designated, the document or information shall thenceforth be treated as Confidential Information subject to all of the terms of the Stipulation and Order.
8. All information subject to confidential treatment in accordance with the terms of this Stipulation and Order that is filed with the Court, including any pleadings, motions or other papers filed with the Court that includes Confidential Information, shall be filed under seal to the extent permitted by law (including, without limitation any applicable rules of court) and shall be kept under seal until further order of the Court. To the extent that the Court requires any further act by the parties as a precondition to the filing of documents under seal (beyond the submission of this Stipulation and Order Regarding Confidential Information), it shall be the obligation of the producing party of the documents to be filed with the Court to satisfy any such precondition. Where possible, only confidential portions of the filings with the Court shall be filed under seal.
9. At the conclusion of the litigation, the Confidential Information and any copies thereof shall be promptly (and in no event no later than thirty (30) days after entry of final judgment no longer subject to further appeal) returned to the producing party or certified as destroyed, except that the parties’ counsel shall be permitted to retain their working files on the condition that such files will remain confidential.

The foregoing is without prejudice to the right of any party to apply to the Court for any further Protective Order relating to Confidential Information; or to object to the production of documents or information; or to apply to the Court for an order compelling production of documents or information; or for modification of this order. This Order may be enforced by any

party and any violation of this order may result in the imposition of sanctions by the Court.

Exhibit A to Stipulation and Order Regarding Confidential Information

I have been informed by counsel that certain documents or information to be disclosed to me in connection with the matter entitled:_____ have been designated as confidential. I have been informed that any such documents or information labeled “CONFIDENTIAL” are confidential by Order of the Court.

I hereby agree that I will not disclose any information contained in such documents to any other person. I further agree not to use any such information for any purpose other than this litigation.

_____ DATED:

Signed in the presence of:

__ (Attorney)

APPENDIX B

DISCOVERY PLAN WORKSHEET

**Tier I Pre-Settlement Discovery
TO BE COMPLETED IN ALL CASES**

Deadline for completion of Rule 26(a) initial disclosures
and HIPAA-complaint records authorizations:

Completion date for Phase I Discovery
as agreed upon by the parties:

(See paragraph 7 of joint letter requirement)

Status conference TBD by the court:

(Generally 15 days post Tier I Discovery)

Tier II Discovery and Motion Practice

Motion to join new parties or amend the pleadings:
(Presumptively 15 days post status conference)

All fact discovery completed by:
*(Presumptively 9 months after deadline for
joining parties/amend the pleadings)*

Expert discovery completed by:
*(Presumptively 3 months after close of fact
discovery)*

Final date to take first step in dispositive motion practice:
*(Parties are directed to consult the District Judge's
individual rules regarding such motion practice.
(Presumptively 30 days after close of discovery)*

Joint Proposed Pretrial Order to be
submitted:
*(30 days after dispositive motion
practice deadline)*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Plaintiff

Case No.

, VS.

Defendant.

ORDER IN FLSA CASE REQUIRING
DISCOVERY AND SETTING INITIAL PRETRIAL
SCHEDULE

The Federal Rules of Civil Procedure require a pretrial schedule tailored to the circumstances of each case. Fed. R. Civ. P. 16, 1. The following order implements that requirement for cases based on the Fair Labor Standards Act (FLSA).

The Rule 26(a)(1) provisions on initial disclosures are waived in this case. Instead, the parties must utilize the following discovery protocol and comply with the following deadlines and requirements:

1. By [DATE], the parties must serve on each other (but not file) copies of the following:

Plaintiff¹ The documents in the Plaintiff's possession, custody, or control that pertain to the unpaid wages claimed in the Complaint.

Defendant. The time sheets or other time records and payroll records in the Defendant's possession, custody, or control that pertain to work the Plaintiff performed during the period for which the Plaintiff claims unpaid wages.

the policies and practices on compensating workers performing the relevant type of work.

1. If there is more than one Plaintiff or Defendant, the singular reference to the Plaintiff or Defendant includes the plural.

1. By [Date, 2 weeks later], the Plaintiff must answer the Court's Interrogatories attached to this Order, under oath or penalty of perjury and serve a copy on the Defendant.

2. In collective actions, the exchange of documents in Paragraph 1 will occur for the named Plaintiffs and for the opt-in Plaintiffs who join the action before a court-approved opt-in notice is issued. This document exchange will occur within 21 days after the opt-in notices are filed with the Court. Each opt-in Plaintiff will file and serve his or her respective answers to the Court's Interrogatories within an additional 21 days.

3. By [DATE, 30 days] after the Plaintiff serves answers to the Court's Interrogatories, counsel for the Plaintiff and the Defendant must meet and confer in person in good-faith effort to settle all pending issues, including attorneys' fees and costs.²The parties, including a representative of each corporate party with full authority, will at a minimum, be available by telephone during the conference to consider and approve any settlement.

4. By [DATE], within 7 days after the conference referenced above, counsel must jointly file a Report Regarding Settlement that notifies the Court:

(1) whether the parties have reached an agreement in principle to settle the case and will be submitting that agreement to the Court for review and approval;(2) whether the parties have not settled the case but want to continue settlement discussions with each other for a specific period, not to exceed two weeks; (3) whether the parties are unable to reach settlement, at which point the Court will refer the action to mediation.

5. Until the parties file the Discovery Planning Report, all discovery in this case is STAYED, except as provided in this Order.

6. In the event no settlement is reached under these procedures, and this Court later grants a motion permitting notice to be sent to similarly situated individuals advising them of their right to opt-in, the limitations period for any person receiving notice will be tolled from the date of this Order until the parties file their Rule 26(f) Discovery Planning Report lifting the stay on these proceedings.

7. If the parties settle at a later time, they must immediately advise the Court and promptly submit a joint motion to approve the settlement.

8. Due to the volume of cases based on the FLSA, the Court expects strict adherence to these deadlines and requirements. Exceptions will be granted only for compelling reasons.

9. The parties may move to alter this schedule for good cause. Any such request shall only be made after the parties confer, and shall be made by joint letter request filed via this Court's ECF system.

Dated: Central Islip, New York

Counsel of Record
Unrepresented Party

ANNE Y. SHIELDS
United States Magistrate Judge

1. During what period of time did you work for the Defendant?
2. Who was your immediate supervisor?
3. Did you have a regularly scheduled work period? If so, specify.
4. What was your title or position? Briefly describe your job duties.
5. What was your regular rate of pay?
6. What is the nature of your claim (check all that apply)?

Off the clock work (Defendant failed to record, or prohibited you
from recording, all of your working time;

Misclassification (Defendant mistakenly classified you as exempt
from overtime);

Misclassification (Defendant failed to correctly calculate your compensation);

Other (Please describe);

7. Provide an accounting of your claim, including: (a) dates
 - (b) regular hours worked
 - (c) over-time hours worked
 - (d) pay received versus pay claimed
 - (e) total amount claimed
8. If you have brought this case as a collective action:
 - (a) Describe the class of employees you seek to include in this action.
 - (b) Has an opt-in notice been filed for every potential opt-in Plaintiff who has identified himself or herself as a person who wishes to join this action?
9. Please specify all attorney's fees and costs incurred to date. With respect to attorney's fees, please provide the hourly rate(s) sought and the number of hours expended by each person who has billed time to this case.
10. When did you (or your attorney) first complain to your employer about alleged violations of the FLSA?

12. What was your employer's response? (If a written response, please attach a copy).

STATE OF _____ COUNTY OF _____

BEFORE ME, the undersigned authority, on this day, personally appeared Plaintiff Name, who being first duly sworn, deposes and says that he/she has read the foregoing Answers to Interrogatories, knows the contents of same, and to the best of his/her knowledge and belief, the same are true and correct.

SWORN TO AND SUBSCRIBED before me on this _____ day of _____, _____.

NOTARY

PUBLIC

NOTARY STAMP

Signature of Person Taking
Acknowledgement Print Name:
Title Notary Public
Serial No. (if any):
Commission Expires:

UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF
NEW YORK

Case No. [Docket number]

-----X

[Case Caption]

-----X

**STIPULATION AND ORDER REGARDING
CONDITONAL CERTIFICATION, ISSUANCE
OF COLLECTIVE ACTION NOTICE AND
DISCLOSURE OF CONTACT INFORMATION**

Plaintiff and Defendants, by and through their undersigned counsel, hereby stipulate and agree as follow upon the following premises.

WHEREAS, Plaintiff commenced this action, bringing claims under the Fair Labor Standards Act, as a collective action [and under the New York Labor Law, as class action]¹, in the United States District Court for the Eastern District of New York; and,

WHEREAS, Plaintiff alleges [he/she] was employed by Defendants as [JOB DESCRIPTION]² for Defendants' business, and seeks to represent a collective and class comprised of similarity situated workers under the Fair Labor Standards Act [and New York Labor Law]³; and,

WHEREAS, instead of expending resources litigating Plaintiff's anticipated motion for collective action conditional certification and notice pursuant to 29 U.S.C. § 216(b), the parties, without prejudice to Defendants' rights to challenge collective action certification at a later date, have negotiated the terms of a proposed notice to be sent to members of the alleged collective ("the Notice") and the process for disseminating the Notice;

WHEREAS, the parties have reached agreement on the scope, form and manner of distribution of the Notice in this matter, subject to the Court's approval; and

NOW THEREFORE IT IS STIPULATED AND AGREED AS FOLLOWS:

1. Within fourteen (14) business days after the Court has "So Ordered" this Stipulation, Defendants shall provide to Plaintiff's counsel the names and last known mailing addresses of all [JOB DESCRIPTION]⁴ employed by Defendants at any point in time from _____, [NUMBER⁵ YEARS PRIOR TO THE DATE OF THE COMPLAINT] ("Collective List" or putative collective members") for the purpose of mailing the Notice as set forth herein.

2. Within twenty-one (21) days after Plaintiff's receipt of the names and mailing addresses noted in Paragraph 1, Plaintiff's counsel shall mail the Notice to each individual on the 4.

The individuals on the Collective List shall have 60 days from the date on which the Notice is mailed (the "Opt-in Period") to return the "Consent to Join" form in the manner set forth in the Notice. Individuals whose initial Notice is returned as undeliverable and for whom a forwarding address is supplied shall have 10 additional days from the date on which a second Notice is sent to return the "Consent to Join" form to Plaintiff's counsel. Only individuals submitting a "Consent to Join" form by the deadlines set forth herein shall be eligible to join the collective action in this matter unless Defendants consent otherwise, in writing, or Plaintiffs make an application to the Court demonstrating that good cause exists for accepting any untimely submission;

United States Magistrate
Judge Central Islip, New
York [DATE]

¹ Insert only if appropriate.

² Insert job title/job description. ³ Insert only if appropriate.

⁴ Insert job title/job description.

⁵ While the parties are not expected to agree to any issues of willfulness, this order provides for the insertion of three (3) years for FLSA claims and six (6) years for cases that assert both NYLL and FLSA claims.

Collective List. Plaintiff's counsel may re-mail notice to any putative collective member whose Notice is returned as undeliverable, with a forwarding address;

3. All names and addresses of individuals on the Collective List provided by Defendants to Plaintiff's counsel shall remain confidential pursuant to this Court's Stipulation and Order regarding Confidential Information;

5. During the sixty (60) day period which putative class members may opt-in to the lawsuit, Defendants shall post an English [and _____ translated]⁶ copy of the Notice of Lawsuit in a conspicuous location.

6. Within seven (7) days of receipt of a "Consent to Join" form, Plaintiff's counsel shall electronically file such form via the Court's electronic case filing system ("ECF") on the docket in this matter.

Dated:

[Defendants'
Counsel]

[Plaintiff's
Counsel]

By:

By: _____

SO ORDERED:

Hon. Anne Y. Shields

6. Insert translated languages if applicable.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

[Case Caption]

Case No. [Docket number]

-----X

COURT AUTHORIZED NOTICE OF LAWSUIT

If you worked at [DEFENDANTS' BUSINESS] between [NUMBER¹ YEARS FROM DATE OF THE COMPLAINT] and the present, a collective action lawsuit may affect your legal rights.

*Important: You are NOT being sued. This Notice is NOT a solicitation from a lawyer.
The Court authorized this Notice.*

- Plaintiff, [Plaintiff's name] is a former employee of [Defendants' business], where he worked as a [job description]². Plaintiff, [Plaintiff's name] brought this lawsuit against Defendants on behalf of himself and all other potential, current, and former [similarly situated persons/JOB DESCRIPTIONS] employed by the Defendants as of [NUMBER YEARS FROM DATE OF THE COMPLAINT]. Plaintiff claims that Defendants did not pay its hourly employees [all minimum wages and overtime due to them]³.

Defendants deny any wrongdoing and/or liability and maintain that all of their employees are paid in compliance with [TYPE OF]⁴ law.

- THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF NEW YORK. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFF'S CLAIMS OR OF THE DEFENDANTS' DEFENSES. UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK.

ORREGO059

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

ASK TO BE INCLUDED

If you choose to be included in this collective action, you will be bound by any ruling, settlement or judgment in this case. You may also share in any proceeds from a settlement or judgment if those bringing the claims are successful. If you choose to be included you will give up any rights to separately sue the Defendants about the same legal claims in this lawsuit

DO NOTHING

asserting a [minimum wage or overtime claim under federal]⁵ law. This means that you give up the possibility of getting money or benefits that may come from a trial or settlement of the [minimum wage or overtime claims under federal]⁶ law asserted in this lawsuit, if those bringing the lawsuit are successful.

u

1. Why did I get this notice?

By doing nothing, you will not be included in this lawsuit for the purpose of om

You are getting this notice because Defendants' records show that you may have worked as a [JOB DESCRIPTION] in [DEFENDANTS' BUSINESS] from [NUMBER OF YEARS FROM DATE OF THE COMPLAINT] to the present. Plaintiff sued the Defendants claiming they violated various provisions of [TYPE OF] laws.

2. What is a collective action and who is involved?

In a collective action lawsuit, one or more persons can bring a lawsuit on behalf of others who have similar claims. The individual who brought this lawsuit is called the Plaintiff. The corporate entities and individuals that they have sued are called the Defendants. One Court resolves the issues for everyone who decides to join the case.

3. What is this collective action lawsuit about?

This collective action lawsuit is about whether Defendants' compensation practices violate [TYPE OF] law. The lawsuit alleges that Defendants violated [TYPE OF] law by not paying Plaintiff and other employees similarly situated [minimum wages and overtime owed to them]⁷. Plaintiff is seeking to recover unpaid wages, in addition to liquidated damages, attorneys' fees, and costs.

Defendants deny any wrongdoing and/or liability and maintain that all of their employees were and continue to be paid in accordance with [TYPE OF] law.

ORREGO059

4. How do I join this collective action lawsuit?

ORREGO060

To participate in this lawsuit through the Plaintiff's attorney, you must fill out the enclosed form called "Consent to Join" and mail it in the enclosed, postage -paid envelope to Plaintiff's lawyers. Should the enclosed envelope be lost or misplaced, the "Consent to Join" Form must be sent to:

[Plaintiff's Attorney's
Information]

You can also fax the "Consent to Join" form to [FAX #] or scan and email it to
[EMAIL ADDRESS]

The signed "Consent to Join" form must be postmarked, faxed, or e-mailed by [60 days from mailing of notice]. If your signed "Consent to Join" form is not postmarked, faxed, or e -mailed by [60 days from mailing of notice], you may not be allowed to participate in the federal law portion of this lawsuit.

You have a right to be represented by your own attorney, but you will be responsible for making arrangements for payment of the fees of the attorney you select. The attorney you hire must file with the court a "Consent to Join" form by [60 days from mailing of notice] and must enter a formal appearance as attorney on your behalf.

5. What happens if I join the collective action lawsuit?

You will be bound by any ruling, settlement, or judgment, whether favorable or unfavorable. If there is a favorable resolution, either by settlement or judgment, and you qualify under the law, you will be entitled to some portion of the recovery.

If you join this lawsuit and send your "Consent to Join" form to [Plaintiff's Attorney], you agree to have the Plaintiff and his counsel act as your representative and make decisions on your behalf concerning the case, including approving any settlement. Decisions made and agreements entered into by the Plaintiff and his counsel will be binding on you if you join this lawsuit, subject only to the Court's discretion. If you hire your own attorney, you will be bound by decisions and agreements that your attorney makes on behalf of this lawsuit.

If you join this lawsuit, you may be asked to give testimony and information about your work for [DEFENDANTS] to help the Court decide whether you are owed any money. Plaintiff's counsel will assist you with this process. For this reason, if you join this lawsuit, you should preserve all documents relating to your employment currently in your possession.

6. What happens if I do nothing at all?

You will not be included in this lawsuit for the purpose of asserting a [minimum wage or overtime claim under federal]⁸ law. Therefore, you will not be entitled to any recovery in this case should there be any for those claims. The limitations period on your claims continues to run.

7. If I join, will there be any impact on my employment?

The law prohibits Defendants from discharging or retaliating against you because you join this case or have in any other way exercised your rights under the law.

ORREGO060

8. Do I have a lawyer in this case?

Plaintiff is represented by [Plaintiff's Attorney's name]. If you join by sending your opt -in to the Plaintiff's attorney, [Plaintiff's Attorney's name] will represent you on a contingency fee basis, meaning you will not owe any attorneys' fees unless you are successful and win the case, or obtain a settlement.

9. Do the Defendants have a lawyer in this case?

The Defendants in this case are represented by [Defendants' Attorney's name and information].

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

[Case Caption]

Case No. [Docket number]

-----X

IF YOU RECEIVED THIS FORM AND WANT TO JOIN THIS LAWSUIT, PLEASE COMPLETE THESE TWO STEPS:

1. COMPLETE AND SIGN THIS CONSENT TO JOIN LAWSUIT FORM; AND
2. USE THE ENCLOSED ENVELOPE TO RETURN THIS FORM TO THE ADDRESS BELOW NOT LATER THAN [60 days from mailing of notice].

[Plaintiff's
Attorney's
Information]

YOU CAN ALSO FAX THE CONSENT TO JOIN FORM TO [FAX
NUMBER] OR SCAN AND EMAIL IT TO:
[EMAIL ADDRESS]

I consent to join the collective action and authorize [Plaintiff's Attorney] to act on my behalf in all matters relating to this action, including any settlement of my claims.

SIGNATURE

City, State, Zip Code

Email Address

Address _____

Telephone Number _____

PRINT NAME

ORREGO062

Start Date

End Date

¹ While the parties are not expected to agree to any issues of willfulness, this order provides for the insertion of three (3) years for the FLSA claims and six (6) years for cases that assert both NYLL and FLSA claims.

² Insert title/job description.

³ Specify the allegations against Defendants.

⁴ Insert either federal (FLSA) or federal and state (FLSA/NYLL).

⁵ Specify alleged violations and type of laws violated (federal or federal and state).

⁶ Specify alleged violations and type of laws violated (federal or federal and state). ⁷ Specify the allegations against Defendants.

⁸ Specify alleged violations and type of laws violated (federal or federal and state).

INITIAL DISCOVERY
PROTOCOLS
FOR EMPLOYMENT CASES ALLEGING
ADVERSE ACTION

PART 1: INTRODUCTION AND DEFINITIONS.

(1) Statement of purpose.

a. These Initial Discovery Protocols for Employment Cases Alleging Adverse Action (the “Protocols”) were prepared by a group of highly experienced attorneys from across the country who regularly represent plaintiffs and/or defendants in employment matters. The information and documents identified are those most likely to be requested automatically by experienced counsel in any similar case. They are unlike initial disclosures pursuant to F.R.C.P. 26(a)(1) because they focus on the type of information most likely to be useful in narrowing the issues for employment discrimination cases.

b. The Protocols apply to all employment cases that challenge one or more actions alleged to be adverse, except:

i. Class actions;

ii. Cases in which the allegations involve only the following:

1. Discrimination in hiring;
2. Harassment/hostile work environment;
3. Violations of wage and hour laws under the Fair Labor Standards Act (FLSA) (for such actions see this Court’s rules with respect to discovery in FLSA cases);
4. Failure to provide reasonable accommodations under the Americans with Disabilities Act (ADA);
5. Violations of the Family Medical Leave Act (FMLA); 6. Violations of the Employee Retirement Income Security Act (ERISA).

Notwithstanding the foregoing, counsel may use these protocols in any action they deem such use appropriate.

If any party believes that there is good cause why a particular case should be exempted,

c. Disclosure obligations below are separated into “Production” obligations, and obligations to provide “Information.” “Production” obligations take the place of formal document requests and “Information” obligations are used in lieu of formal interrogatories. While particular cases may require additional limited documents requests, the requests for information are intended to displace the need for interrogatories. Instead, it is expected that next step in discovery following completion of the obligations under this Rule will be deposition discovery.

d. These Initial Discovery Protocols are not intended to preclude or to modify the rights of any party for discovery as provided by the Federal Rules of Civil Procedure (F.R.C.P.) and other applicable local rules, but **they are intended to supersede the parties’ obligations to make initial disclosures pursuant to F.R.C.P. 26(a)(1).** The purpose of the protocols is to encourage parties and their counsel to exchange the most relevant information and documents early in the case, to assist in framing the issues to be resolved and to plan for more efficient and targeted discovery.

e. **Protective Order** If counsel deem a protective order necessary, they are directed to consult and execute this Court’s form protective order, which includes an order under Rule 502 of the Federal Rules of Evidence

(2) Definitions. The following definitions apply to cases proceeding under the Initial Discovery Protocols.

a. **Concerning.** The term “concerning” means referring to, describing, evidencing, or constituting.

b. **Document.** The terms “document” and “documents” are defined to be synonymous in meaning and equal in scope to the terms “documents” and “electronically stored information” as used in F.R.C.P. 34(a).

c. **Identify (Documents).** When referring to documents, to “identify” means to give, to the extent known: (i) the type of document; (ii) the general subject matter of the document; (iii) the date of the document; (iv) the author(s), according to the document; and (v) the person(s) to whom, according to the document, the document (or a copy) was

d. ***Identify (Persons).*** When referring to natural persons, to “identify” means to give the person’s: (i) full name; (ii) present or last known address and telephone number; (iii) present or last known place of employment; (iv) present or last known job title; and (v) relationship, if any, to the plaintiff or defendant. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

(iii) Instructions.

a. For this Initial Discovery, the relevant time period begins three years before the date of the adverse action, unless otherwise specified.

b. This Initial Discovery is not subject to objections except upon the ground of privilege or those set forth in F.R.C.P. 26(b)(1).

c. If a partial or incomplete answer or production is provided, the responding party shall state the reason that the answer or production is partial or incomplete. Any document withheld must be described with specificity, and the grounds for such withholding must be similarly stated.

d. This Initial Discovery is subject to F.R.C.P. 26(e) regarding supplementation and F.R.C.P. 26(g) regarding certification of responses.

e. This Initial Discovery is subject to F.R.C.P. 34(b)(2)(E) regarding form of production.

PART 2: PRODUCTION BY PLAINTIFF.

(1) Timing.

a. The plaintiff’s Initial Discovery shall be provided within 30 days after the defendant has submitted a responsive pleading or motion, unless the court rules otherwise.

(2) Documents that Plaintiff must produce to Defendant.

a. All communications concerning the factual allegations or claims at issue

b. Claims, lawsuits, administrative charges, and complaints by the plaintiff that rely upon any of the same factual allegations or claims as those at issue in this lawsuit.

c. Documents concerning the formation and termination, if any, of the employment relationship at issue in this lawsuit, irrespective of the relevant time period.

d. Documents concerning the terms and conditions of the employment relationship at issue in this lawsuit.

e. Diary, journal, and calendar entries maintained by the plaintiff concerning the factual allegations or claims at issue in this lawsuit.

f. The plaintiff's current resume(s).

g. Documents in the possession of the plaintiff concerning claims for unemployment benefits, unless production is prohibited by applicable law.

h. Documents concerning: (i) communications with potential employers; (ii) job efforts; and (iii) offer(s) of employment, job description(s), and income and benefits of subsequent employment. The defendant shall not contact or subpoena a prospective or current employer to discover information about the plaintiff's claims without first providing the plaintiff 30 days notice and an opportunity to file a motion for a protective order or a motion to quash such subpoena. If such a motion is filed, contact will not be initiated or the subpoena will not be served until the motion is ruled upon.

i. Documents concerning the termination of any subsequent employment.

j. Any other document(s) upon which the plaintiff relies to support the plaintiff's claims.

(3) Information that Plaintiff must produce to Defendant.

a. Identify persons the plaintiff believes to have knowledge of the facts concerning the claims or defenses at issue in this lawsuit, and a brief description of that knowledge.

b. Describe the categories of damages the plaintiff claims.

c. State whether the plaintiff has applied for disability benefits and/or social security disability benefits after the adverse action, whether any application has been granted, and the nature of the award, if any. Identify any document concerning any such application.

PART 3: PRODUCTION BY DEFENDANT.

(1) Timing.

a. The defendant's Initial Discovery shall be provided within 30 days after the defendant has submitted a responsive pleading or motion, unless the court rules otherwise.

(2) Documents that Defendant must produce to Plaintiff.

- a. All communications concerning the factual allegations or claims at issue in this lawsuit among or between:
 - i. The plaintiff and the defendant;
 - ii. The plaintiff's manager(s), and/or supervisor(s), and/or the defendant's human resources representative(s).
- b. Responses to claims, lawsuits, administrative charges, and complaints by the plaintiff that rely on the same factual allegations or claims as those at issue in this lawsuit.
- c. Documents concerning the formation and termination, if any, of the employment relationship at issue in this lawsuit, regardless of the relevant time period.
- d. The plaintiff's personnel file, in any form, maintained by the defendant, including files concerning the plaintiff maintained by the plaintiff's supervisor(s), manager(s), or the defendant's human resources representative(s), regardless of the relevant time period.
- e. The plaintiff's performance evaluations and any formal discipline.
- f. Documents relied on to make the employment decision(s) at issue in this

lawsuit.

g. Workplace policies or guidelines relevant to the adverse action in effect at the time of the adverse action. Depending upon the case, those may include policies or guidelines that address:

- i. discipline;
- ii. termination of employment; iii. promotion;
- iv. discrimination;
- v. performance reviews or evaluations;
- vi. misconduct;
- vii. retaliation; and
- viii. nature of the employment relationship.

h. The table of contents and index of any employee handbook, code of conduct, or policies and procedures manual in effect at the time of the adverse action.

i. Job description(s) for the position(s) that the plaintiff held.

j. Documents showing the plaintiff's compensation and benefits. Those normally include retirement plan benefits, fringe benefits, employee benefit summary plan descriptions, and summaries of compensation.

k. Agreements between the plaintiff and the defendant to waive jury trial rights or to arbitrate disputes.

l. Documents concerning investigation(s) of any complaint(s) about the plaintiff or made by the plaintiff, if relevant to the plaintiff's factual allegations or claims at issue in this lawsuit and not otherwise privileged.

m. Documents in the possession of the defendant and/or the defendant's agent(s) concerning claims for unemployment benefits unless production is prohibited by applicable law.

n. Any other document(s) upon which the defendant relies to support the defenses, affirmative defenses, and counterclaims, including any other document(s) describing the reasons for the adverse action.

iii. Information that Defendant must produce to Plaintiff.

- a. Identify the plaintiff's supervisor(s) and/or manager(s).
- b. Identify person(s) presently known to the defendant who were involved in making the decision to take the adverse action.
- c. Identify persons the defendant believes to have knowledge of the facts concerning the claims or defenses at issue in this lawsuit, and a brief description of that knowledge.
- d. State whether the plaintiff has applied for disability benefits and/or social security disability benefits after the adverse action. State whether the defendant has provided information to any third party concerning the application(s). Identify any documents concerning any such application or any such information provided to a third party.

Judge Shields' Initial Joint Letter Requirements

2 DAYS PRIOR TO THE INITIAL CONFERENCE, COUNSEL MUST SUBMIT A JOINT LETTER ON THE DOCKET stating:

1. Name of the case
2. Basis for federal jurisdiction
3. Statement confirming that all defendants have been served and answered
4. Statement as to whether there are counterclaims or crossclaims; descriptions of such claims; and confirmation that all parties have been served with respect to such claims
5. Plaintiff's explanation of the facts of the case as known to the plaintiff as of the date of the writing of the letter
6. Where appropriate to case, a statement that all HIPPA compliant authorizations have been provided or the date upon which those authorizations will be provided and, where applicable, that authorizations will be provided on a rolling basis
7. Joint statement describing in detail the paper discovery that can be exchanged — without the necessity for formal document requests. Such statement must include the date by which such paper discovery will be complete. Absent unusual circumstances, that date shall be no longer than 60 days following the date of the status letter
8. A date for submission of a joint status letter and proposed date for a telephone status conference with the Court.

If counsel fails to timely submit the required joint letter, the Court will require that counsel immediately submit the letter along with a one-page explanation as to counsels' failure to comply with this Court's rules.

Judge Shields' Requirements for Employment Cases

The parties must review and initiate Judge Shields' "Initial Discovery Protocols for Employment Cases," found at Appendix E to Judge Shields' Individual Practice Rules.

2 DAYS PRIOR TO THE INITIAL CONFERENCE counsel must submit a joint letter on ECF setting forth:

1. Statement as to what of the protocols remains to be completed
2. Statement as to parties' positions regarding settlement
3. Detailed statement reflecting that the parties have conferred as to remaining discovery and setting forth, in detail, all discovery remaining for case to be trial ready. This statement must include the identity of all fact witnesses that will be deposed; a detailed plan for expert discovery, including the number of experts and as to each, the field of expertise
4. A proposed date for the completion of all discovery
5. A proposed date for taking first step in dispositive motion practice
6. A proposed date for submission of joint pretrial order.

If counsel fails to timely submit the required joint letter, the Court will require that counsel immediately submit the letter along with a one-page explanation as to counsels' failure to comply with this Court's rules.



1 message

Thu, Feb 10, 2022 at 5:53 PM

Eastern District of New York

ORREG0073

5/8/22, 10:00 PM

Gmail - Activity in Case 2:20-cv-03361-GRB-AYS Orrego v. Knipfing et al Case Management Statement

ORREGO074

[6e947530a4d737b8acfa6a52feee3577615423ad9eb034037f456ffdfa47529010ce
94b6759b5045b4b65143477a52146e02f476ff97456edf5d6b9e35f7cc88]]

ORREGO074

KUUKU MINNAH-DONKOH
KMINNAHDONKOH@GRSM.COM

EDWARD E. WARNKE
EWARNKE@GRSM.COM



ATTORNEYS AT LAW
1 BATTERY PARK PLAZA, 28TH FLOOR
NEW YORK, NY 10004
(212) 269-5500
(212) 269-5505 (F)
WWW.GRSM.COM

February 10, 2022

VIA ECF

The Honorable Anne Y. Shields
United States Magistrate Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *Lidia Orrego v. Kevin Knipfing, et al.*,
Case No. 20-cv-03361-GRB-AYS

Dear Magistrate Judge Shields:

Our office represents defendants, Kevin Knipfing a/k/a Kevin James (“Mr. Knipfing”), Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz, Old Westbury EDDIE LLC, Old Westbury, LLC, and Teresa A. Zantua (collectively, “Defendants”), in connection with the above-referenced action. We, together with counsel for plaintiff Lidia Orrego (“Plaintiff”), submit this joint letter in accordance with the Court’s Order dated December 2, 2021 (ECF Doc. No. 41-2,3), directing the parties to provide the Court with certain information in advance of the upcoming initial conference in this matter currently scheduled for Monday, February 14, 2022 at 11:30 a.m.

1. Name of the Case

LIDIA M. ORREGO v. KEVIN KNIPFING, et al.¹

2. Basis for Federal Jurisdiction

Per Plaintiff, “[t]he basis for federal jurisdiction is 42 U.S.C. 1981.”

¹ Defendants note that all claims against Defendant Steve Savitsky were dismissed pursuant to the September 30, 2021 Memorandum and Order. (ECF Doc No. 30). The caption, however, still lists Mr. Savitsky as a defendant. Defendants respectfully request the Court amend the case caption to reflect the dismissal of Mr. Savitsky as a defendant in this action.

February 10, 2022
Page 2

3. Service upon Defendants and Their Answer

All Defendants have been served, and filed their Answer to Amended Complaint on 10/14/2021 (ECF Doc. No. 33).

4. Counterclaims and/or Cross-claims

There are no cross-claims or counterclaims.

5. Plaintiff's Explanation of the Facts

Plaintiff alleges that during her employment with defendants she was subjected to a hostile work environment based on her race by Zantua which the defendants Knipfings failed to address and/or take action against Zantua for creating a hostile work environment against plaintiff.

6. HIPAA Authorizations

Plaintiff will provide authorizations for plaintiff's medical records on or before March 14, 2022.

7. Joint Statement Concerning Discovery

At this time, the parties believe formal document requests will be needed.

8. Proposed Status Letter and Status Conference

Proposed Status Letter due at least 1 week before the Status Conference; and
Status Conference: TBD by This Court.

9. Outstanding Protocols

As of the date of this submission, all discovery protocols remain outstanding.

10. Settlement Position

Plaintiff's Position: Plaintiff is willing to discuss Settlement.

Defendant's Position: Prior to commencing this action, Plaintiff filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission ("EEOC"), alleging claims of discrimination, hostile work environment, and retaliation under Title VII of the Civil Rights Act of 1964 ("Title VII"). Although none of the Defendants qualify as an "employer" under Title VII, which applies only to employers with 15 or more employees – and although it is Defendants' position that Plaintiff's claims are completely meritless, Defendants nonetheless agreed to participate in mediation before the EEOC to see whether an amicable resolution could be reached. On August 20, 2019, the parties participated in mediation before the EEOC, but

February 10, 2022

Page 3

mediation unfortunately was unsuccessful due to positions taken by Plaintiff that were completely unreasonable and utterly devoid from reality.

Since the August 20, 2019 EEOC mediation, Plaintiff has gone through at least three different sets of attorneys, with each relationship ending acrimoniously and Plaintiff filing complaints against each of her former attorneys. Moreover, since the August 20, 2019 EEOC mediation, Plaintiff has engaged in what Defendants can only describe as a scorched-earth campaign of extortion, harassment, and patently false claims against Defendants and others, including judges. For a summary of some of the meritless complaints and accusations Plaintiff has made since August 20, 2019, the Court is respectfully referred to the letter Defendants filed on September 13, 2021, in opposition to Plaintiff's motion for leave to file a Second Amended Complaint. (ECF Doc No. 25).

Based on Plaintiff's past conduct, Defendants are not optimistic about the chances of settlement in this matter.

11. Proposed Dates

The parties respectfully refer the Court to their joint proposed Discovery Plan Worksheet filed contemporaneously with this joint letter.

Respectfully submitted,

GORDON REES SCULLY
MANSUKHANI, LLP

Kuuku Minnah-Donkoh

Kuuku Minnah-Donkoh
Edward E. Warnke

cc: All Counsel of Record (By ECF)

DISCOVERY PLAN WORKSHEET

Tier I Pre-Settlement Discovery TO BE COMPLETED IN ALL CASES

Deadline for completion of Rule 26(a)
initial disclosures and HIPAA-
complaint records authorizations: 03/14/2022

Completion date for
Phase I Discovery as
agreed upon by the
parties: 04/12/2022
(See paragraph 7 of joint letter requirement)

Status conference TBD by the court:
(Generally 15 days post Tier I Discovery) _____

Tier II Discovery and Motion Practice

Motion to join new parties or amend the pleadings:
(Presumptively 15 days post status conference) N/A

All fact discovery completed
by: (Presumptively 9 months
after deadline for joining
parties/amend the pleadings) 02/13/2023

Expert discovery
completed by: 05/15/2023
(Presumptively 3 months
after close of fact
discovery)

Final date to take first step in dispositive
motion practice: (Parties are directed to
consult the District Judge's individual
rules regarding such motion practice.
(Presumptively 30 days after close of
discovery) 06/14/2023

Joint Proposed
Pretrial Order to
be submitted: 09/9/2023
(30 days after dispositive motion
practice deadline)

February 11th, 2022

Honorable Judge Gary R. Brown
Magistrate Judge Anne Y. Shields
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

Re: Orrego v. Knipping, et al, 20-CV-03361-GRB-AYS

Dear Judge Gary R. Brown,

In accordance with the Rule VI Pro Se Litigants of Your Honor's Individual Rules, the Plaintiff, Lidia M. Orrego, respectfully submit the following:

I request that attorney, Mr. Brian Dratch, Esq. be removed as my Pro Bono Counsel because we had an agreement that this representation will be contingent upon my review of all documents prior to their filings for my review and approval and this agreement was violated.

The attached document "Doc. #42 [1] [2] CASE MANAGEMENT STATEMENT for Employment Cases with Discovery Plan Worksheet (Attachments: # (1) Proposed Order) (Warnke, Edward)" was submitted on February 10th, 2022, without my knowledge of the content, review, approval, and signature. I object to its content and for this reason, both documents must be annulled.

Please, Your Honor, I request a new Counsel / Attorney – bilingual Spanish be assigned to my case to avoid misunderstandings in the future with my instructions.

Respectfully submitted,

Date: February 11th, 2022
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq. and Mr. Brian Dratch, Esq.
Via ECF and email.

KUUKU MINNAH-DONKOH
KMINNAHDONKOH@GRSM.COM

EDWARD E. WARNKE
EWARNKE@GRSM.COM

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

FEB 14 2022
GORDON & REES ★
SCULLY MANSUKHANI
YOUR SO STATE PARTNER
LONG ISLAND OFFICE

ATTORNEYS AT LAW
1 BATTERY PARK PLAZA, 28TH FLOOR
NEW YORK, NY 10004
(212) 269-5500
(212) 269-5505 (F)
WWW.GRSM.COM

February 10, 2022

VIA ECF

The Honorable Anne Y. Shields
United States Magistrate Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *Lidia Orrego v. Kevin Knipfing, et al.*,
Case No. 20-cv-03361-GRB-AYS

Dear Magistrate Judge Shields:

Our office represents defendants, Kevin Knipfing a/k/a Kevin James ("Mr. Knipfing"), Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz, Old Westbury EDDIE LLC, Old Westbury, LLC, and Teresa A. Zantua (collectively, "Defendants"), in connection with the above-referenced action. We, together with counsel for plaintiff Lidia Orrego ("Plaintiff"), submit this joint letter in accordance with the Court's Order dated December 2, 2021 (ECF Doc. No. 41-2,3), directing the parties to provide the Court with certain information in advance of the upcoming initial conference in this matter currently scheduled for Monday, February 14, 2022 at 11:30 a.m.

1. **Name of the Case**

LIDIA M. ORREGO v. KEVIN KNIPFING, et al.¹

2. **Basis for Federal Jurisdiction**

Per Plaintiff, "[t]he basis for federal jurisdiction is 42 U.S.C. 1981."

¹ Defendants note that all claims against Defendant Steve Savitsky were dismissed pursuant to the September 30, 2021 Memorandum and Order. (ECF Doc No. 30). The caption, however, still lists Mr. Savitsky as a defendant. Defendants respectfully request the Court amend the case caption to reflect the dismissal of Mr. Savitsky as a defendant in this action.

February 10, 2022
Page 2

3. Service upon Defendants and Their Answer

All Defendants have been served, and filed their Answer to Amended Complaint on 10/14/2021 (ECF Doc. No. 33).

4. Counterclaims and/or Cross-claims

There are no cross-claims or counterclaims.

5. Plaintiff's Explanation of the Facts

Plaintiff alleges that during her employment with defendants she was subjected to a hostile work environment based on her race by Zantua which the defendants Knipfings failed to address and/or take action against Zantua for creating a hostile work environment against plaintiff.

6. HIPAA Authorizations

Plaintiff will provide authorizations for plaintiff's medical records on or before March 14, 2022.

7. Joint Statement Concerning Discovery

At this time, the parties believe formal document requests will be needed.

8. Proposed Status Letter and Status Conference

Proposed Status Letter due at least 1 week before the Status Conference; and
Status Conference: TBD by This Court.

9. Outstanding Protocols

As of the date of this submission, all discovery protocols remain outstanding.

10. Settlement Position

Plaintiff's Position: Plaintiff is willing to discuss Settlement.

Defendant's Position: Prior to commencing this action, Plaintiff filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission ("EEOC"), alleging claims of discrimination, hostile work environment, and retaliation under Title VII of the Civil Rights Act of 1964 ("Title VII"). Although none of the Defendants qualify as an "employer" under Title VII, which applies only to employers with 15 or more employees – and although it is Defendants' position that Plaintiff's claims are completely meritless, Defendants nonetheless agreed to participate in mediation before the EEOC to see whether an amicable resolution could be reached. On August 20, 2019, the parties participated in mediation before the EEOC, but

February 10, 2022
Page 3

mediation unfortunately was unsuccessful due to positions taken by Plaintiff that were completely unreasonable and utterly devoid from reality.

Since the August 20, 2019 EEOC mediation, Plaintiff has gone through at least three different sets of attorneys, with each relationship ending acrimoniously and Plaintiff filing complaints against each of her former attorneys. Moreover, since the August 20, 2019 EEOC mediation, Plaintiff has engaged in what Defendants can only describe as a scorched-earth campaign of extortion, harassment, and patently false claims against Defendants and others, including judges. For a summary of some of the meritless complaints and accusations Plaintiff has made since August 20, 2019, the Court is respectfully referred to the letter Defendants filed on September 13, 2021, in opposition to Plaintiff's motion for leave to file a Second Amended Complaint. (ECF Doc No. 25).

Based on Plaintiff's past conduct, Defendants are not optimistic about the chances of settlement in this matter.

11. Proposed Dates

The parties respectfully refer the Court to their joint proposed Discovery Plan Worksheet filed contemporaneously with this joint letter.

Respectfully submitted,

GORDON REES SCULLY
MANSUKHANI, LLP

Kuuku Minnah-Denkoh
Kuuku Minnah-Donkoh
Edward E. Warnke

cc: All Counsel of Record (By ECF)

DISCOVERY PLAN WORKSHEET**Tier I Pre-Settlement Discovery
TO BE COMPLETED IN ALL CASES**

Deadline for completion of Rule 26(a)
initial disclosures and HIPAA-
complaint records authorizations:

03/14/2022

Completion date for
Phase I Discovery as
agreed upon by the
parties:
(See paragraph 7 of joint letter requirement)

04/12/2022

Status conference TBD by the court:
(Generally 15 days post Tier I Discovery)

Tier II Discovery and Motion Practice

Motion to join new parties or amend the pleadings:
(Presumptively 15 days post status conference)

N/A

All fact discovery completed
by: (Presumptively 9 months
after deadline for joining
parties/amend the pleadings)

02/13/2023

Expert discovery
completed by:
(Presumptively 3 months
after close of fact
discovery)

05/15/2023

Final date to take first step in dispositive
motion practice: (Parties are directed to
consult the District Judge's individual
rules regarding such motion practice.
(Presumptively 30 days after close of
discovery)

06/14/2023

Joint Proposed
Pretrial Order to
be submitted:
(30 days after dispositive motion
practice deadline)

09/9/2023

February 17th, 2022

Honorable Judge Gary R. Brown
Magistrate Judge Anne Y. Shields
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ FEB 17 2022 ★

LONG ISLAND OFFICE

Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Dear Judge Gary R. Brown and Magistrate Judge Anne Y. Shields,

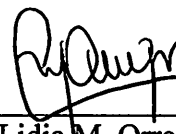
In accordance with Rules VI, IV, Pro Se Litigants of Your Honors' Individual Rules, Plaintiff, Lidia M. Orrego, respectfully submit this letter in support of my ECF Doc. # 43 with the following statement:

According to the records in my possession on February 14th, 2022, I requested my counsel and the Defendants' counsels a copy of my file but I have not received this copy. Entails events compliance litigation process applicable rule F.R.C.P.¹ – Rule 26 (F), Rule 26 (a) (1), Rule 16.

I respectfully request Your Honors intervention because it is very important for me to obtain my file to provide it to my new Counsel / Attorney – bilingual Spanish who will be appointed by the Court.

Respectfully submitted,

Date: February 17th, 2022
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To:
Plaintiff's Counsel: Mr. Brian Dratch, Esq.
Defendants' Counsels: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq.
Via ECF and email.

¹ Federal Rules of Civil Procedure (F.R.C.P.)

ORREGO085

FILED

IN CLERK'S OFFICE

February 22, 2022 U.S. DISTRICT COURT E.D.N.Y.



FEB 22 2022



Magistrate Judge Anne Y. Shields
 United States District Court
 Eastern District of New York
 100 Federal Plaza, Central Islip, NY 11722
 Attn: Pro Se Office

2022 FEB 22 AM 7:49

LONG ISLAND OFFICE

Re: *Orrego v. Knipping, et al*, 20-CV-03361-GRB-AYS

RECEIVED

Dear Magistrate Judge Anne Y. Shields,

FEB 22 2022

In accordance with Rule IV, Pro Se Litigants of Your Honor's Individual Rules, Plaintiff, Lidia M. Orrego, respectfully submit this letter for the following reasons:

EDNY PRO SE OFFICE

1) For the scheduled telephone conference date March 8, 2022, at 1:30 pm, I request the agenda to this conference to be able to prepare properly.

2) I need the assignment of my new bilingual Spanish counsel appointed by the Court to attend this conference.

3) I urgently reiterate my request to remove the ECF 42¹ annulled from the docket and a new date to comply with your order ECF 41².

4) Your Honor, Mr. Dratch failed to provide me with a copy of my file disclosing communications with Defendants violating the ECF 41², F.R.C.P.³, and my rights to due process of law. In light of the above-mentioned contempt of court, it is at your discretion to apply for a sanction under inherent power. The supporting letter was filed on February 17th, 2022 (not yet published).

Respectfully submitted,

Date: February 22nd, 2022
 Rego Park, New York



Lidia M. Orrego
 Plaintiff Pro Se
 95-08 Queens Blvd. Apart 3E
 Rego Park, NY, 11374
 Phone (347) 4532234

¹ ECF 42 - Case Management Statement for Employment Cases with Discovery Plan Worksheet (Attachments: (1) Proposed Order) (Warnke, Edward) dated February 10th, 2022.

² ECF 41 - Initial Order, Judge Shields' Individuals Rules, Requirements for Employment Cases - Initial Discovery Protocols dated December 2nd, 2021.

³ Federal Rules of Civil Procedure (F.R.C.P.) entails events compliance Rules 26 (F); Rule 26 (a) (1); Rule 16; Rule 37.

To: Plaintiff's Former Counsel: Mr. Brian Dratch, Esq.
 Defendants' Counsels: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq.
 Via ECF and email.

ORREGO085

ORREGO086

CLERK OF U.S. DISTRICT COURT, EDNY

POST OFFICE BOX 9014

CENTRAL ISLIP, NEW YORK 11722-9014

OFFICIAL BUSINESS

2022 FEB 22 AM 7:49

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ FEB 22 2022 ★

LONG ISLAND OFFICE

RECEIVED

FEB 22 2022

EDNY PRO SE OFFICE

ATTN: PROSE OFFICE - MS.
JESSICA
CASE 20CV3361 (GRB) (AYS)

ORREGO086

March 17, 2022

Magistrate Judge Anne Y. Shields
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ **MAR 17 2022** ★

Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS LONG ISLAND OFFICE

Dear Magistrate Judge Anne Y. Shields,

In accordance with Rule IV, Pro Se Litigants of Your Honor's Individual Rules, Plaintiff, Lidia M. Orrego, respectfully submit this letter about your order dated March 14, 2022:

I am currently analyzing the 3 options to continue with my case, but I need to expose the following points in order to make my decision:

1) Regarding filing a new Motion for a Bilingual-Spanish counsel. I am hesitating to file again due to the fact that I already filed the same motion on July 23, 2020, where I stated the language that I speak "Spanish" and "I need counsel in a language other than English" more reasons why a replacement is more appropriate than a new motion. See attached ECF [3], attached page 2.

2) To choose the option to continue Pro Se, I have not yet received a response on my request to assign an interpreter that contains my Reconsideration letter ECF [48] with my legal arguments and quote H. Judge Brown's order dated September 22, 2020, that my request for an interpreter to be present at the conference it was subject to discussion. The interpreter would not be necessary if directly replaced the Spanish-bilingual counsel based on the request dated July 23, 2020. See ECF [3], attached page 2.

I will be communicating my final decision to the Court as soon as possible, well before the deadline, May 9, 2022, when I am sure to obtain all the factors and implications related to each option because Language Access is a Matter of Due Process.

Respectfully submitted,

Date: March 17, 2022
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To:
Defendants' Counsels: Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq.
Via ECF and email.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ JUL 23 2020 ★

LONG ISLAND OFFICE

Lidia M. Orrego

Plaintiff,

APPLICATION FOR THE COURT TO
REQUEST COUNSEL

-against-

Kevin Knipfing a/k/a Kevin James, Stephanicanna James-Knipfing
a/k/a Steffiana de la Cruz, Old Westbury EDDIE LLC,
Old Westbury LLC, Steve Savitsky, Teresa A. Zantua.
Defendant(s).

CV () 3361
CV - 20

BROWN, J.

1. Name of applicant Lidia M. Orrego
2. Explain why you feel you need a lawyer in this case. (Use additional paper if necessary.) TOMLINSON, M.

My request is because I can't afford to pay for a lawyer due to complications in my case in order to be able to comply with the processes

required by the Court without jeopardizing my case since I am at disadvantage in not knowing the procedures and rules that apply in

Federal Court. Also, for health reasons, due to my disabilities that make me unable to handle the stressful situations to carry the case alone.

3. Explain what steps you have taken to find an attorney and with what results. (Use additional paper if necessary.)

Since I have no money to pay a lawyer, all lawyers of the past were Fee Contingency agreements and I did not pay anything to

any of them since I discharged them for "Just or Good Cause".

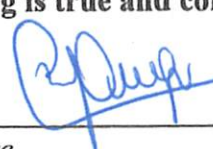
See the Letter that I attach to this form with the list of attorneys, events and results. Letter 9 Page.-

4. If you need a lawyer who speaks in a language other than English, state what language you speak:

Spanish

5. I understand that if a lawyer volunteers to represent me and my lawyer learns that I can afford to pay for a lawyer, the lawyer may give this information to the Court. I understand that if the Court grants this application in a complaint against the Commissioner of Social Security, the pro bono attorney, if successful, has the statutory right to request that the Court award a fee of up to 25% of the accrued Social Security or Supplemental Security Income Benefits. See 42 U.S.C. § 406.
6. I understand that if my answers on my Request to Proceed *In Forma Pauperis* are false, my case may be dismissed.
7. I declare under penalty of perjury that the forgoing is true and correct.

Dated: 07-23-2020


Signature

ORREGO088

April 22, 2022

Magistrate Judge Anne Y. Shields
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

APR 22 2022 ★

Re: *Orrego v. Knipfing, et al*, 20-CV-03361-GRB-AYS LONG ISLAND OFFICE

Dear Magistrate Judge Anne Y. Shields,

In accordance with Rule IV, Pro Se Litigants of Your Honor's Individual Rules, Plaintiff, Lidia M. Orrego, respectfully submit this letter for the following:

1) Your Honor, the Order ECF doc. [52] dated April 19, 2022, stated: "The claims that remain in this action are Plaintiff's claims of retaliation and hostile work environment pursuant to 42 U.S.C. §1981 and the NYSHRL. As to those claims: (1) Plaintiff's claim of retaliation remains only against Defendants Kevin Knipfing, Stephanieanna James-Knipfing and the LLC Defendants. Her claim of a hostile work environment remains only as to Defendants Zantua, Stephanieanna James-Knipfing, and the LLC Defendants. As noted, there are no pending claims against Savitsky."

Clearly, by involuntary omission, Mr. Kevin Knipfing aka Kevin James has not been included under my claim of hostile work environment Order ECF doc. [52], according to H. Judge Brown's order ECF doc. [30] page 16, stated: "Accordingly, plaintiff has pleaded plausible claims for hostile work environment under § 1981 and the NYSHRL against Zantua, the Knipfings, and the corporate defendants." Therefore, a must be included to defendant Kevin Knipfing a/k/a Kevin James.

2) Your Honor, the Order ECF [52] omitted the compliance to Individual Rules: **Rule V. Initial Conferences and VI. Forms to be Completed Prior to Initial Conference**, that should have been completed with the Order [41]¹, as shown in my Proposal Join Letter and Initial Disclosure filed ECF [51]. So, to expeditiously follow Your Honor's Individuals *Rule VII. Discovery (B) (1) (2) "Tier One Discovery in cases alleging employment discrimination is governed by this Court's initial employment protocols appearing in Appendix F hereto"* as shown in my ECF doc. [51] and that must apply to the Knipfings and LLC corporations that were ignored the Order ECF doc. [41] since December 2, 2021, for which they are in contempt of the Order. One of the main reasons because the corporation that terminated (Adverse Action) my employment is unrelated/unregistered to the Knipfings. See ECF doc. [51] shows gross violations of Due Process of Law as well as ECF doc. [45][46][48][50].

¹Order ECF doc, [41] vacated on April 19, 2022, through Order ECF doc. [52]. Following the Defendants' pattern of conduct, they will continue to disobey/violate laws, orders, protocols and rules.

Your Honor, in good faith, I tried to confer or attempted to confer with the Defendants to make initial disclosures or discovery in an effort to obtain it without court action according to Your Honor's Order ECF [41]¹. I attached the emails proving that the Defendants are in contempt of court Order ECF [41]¹ dated December 2, 2021, because they believe they are above the law, the Federal Rules, and any order issued by this Court: 1st attempt dated February 14, 2022; February 15, 2022.

2nd attempt was on February 16, 2022, when I invoked Your Honor's Order, but the Defendants ignored any way who are playing games in the discovery Process depriving me of my constitutional rights to Due Process of Law. 3rd attempt was on April 14, 2022, the Defendants until today have not complied with the Federal Rules of Civil Procedure ("F.R.C.P."), Protocols, or Court Orders.

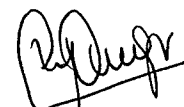
Likewise, for the record, I have requested the Court's intervention to compel the Defendants' initial disclosure see ECF doc. [45] filed February 17, 2022, in compliance with the F.R.C.P. Rule 26 and Order ECF doc. [41]¹. I received no response from the Court.

3) Your Honor, Defendants went from accusing me to "delusional", filed contradictory statements in their pleadings, witnesses' false testimony (Mr. Knipfing and Selga), production of false documents (Exhibit A signed by Savistky). Since none of this works due to the evidence (recordings, messages from text, and emails) that prove their lies. Defendants, again, change as last resort, their arguments to facts irrelevant to this matter that does not respond to any fact to my Amended Complaint (AC) or the frame time of my employment with the Knipfings, until finally accusing me of "extortionist" but after 3 attempts and more than 4 months waiting to exchange "evidence" that supports their "changing contradictory arguments or positions", Defendants still haven't sent me a single piece of evidence or responded to my emails. The Court never applied judicial estoppel doctrine to avoid the Defendants' cynical and outrageous behavior toward Your Honor, Laws, and F.R.C.P. that I have exposed with evidence in all my pleadings.

4) I respectfully request for future Conferences, to attend in-person following all safety and social distancing guidelines in order to avoid miscommunications so I can have a meaningful understanding of what happens in the Court. Also, request in advance the agenda to be discussed at the Conference in order to prepare my statements and be able to read them if necessary.

Respectfully submitted,

Date: April 22, 2022
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To: Defendants' Counsels: Mr. Kuuku Minnah-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq. Via ECF and email.



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Lidia Orrego <liorrego@gmail.com>

Mon, Feb 14, 2022 at 9:56 PM

To: Brian Dratch <bdratch@njcounsel.com>

Cc: Alex Dumas <adumas@grsm.com>, Feryanda James <FJames@njcounsel.com>, Julissa Martinez <jxmartinez@grsm.com>, Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>, dlrivera@grsm.com, ewarnke@grsm.com, fnjcounsel@gmail.com, pcella@grsm.com, tgalzarza@grsm.com, vcanarte@grsm.com, Lidia Orrego <liorrego@gmail.com>

Good evening, Mr. Dratch,

Please, I request you send me a copy of the complete record of all the information you exchanged with the Defendants including but not limited to: List of documents or evidence from the defendants (See below pic 1,2 - Initial Disclosures items i, ii, iii, iv), such as a copy of my file, notes, emails, reports, etc from November 30, 2021, to February 10, 2022, etc. If these records and documents are not delivered by email to me within 2 (two) days (until February 17, 2022) I will report this to the Honorable Judge Gary R. Brown and the Honorable Judge Anne Y. Shields. See below "Initial Disclosures" - Federal District Court Litigation Overview - Litigation Process Hofstra University – Pro Se Legal Assistance Program.

Mr. Dratch, since you never asked me for the list or copy of the evidence by category (See Initial Disclosures Pics 1, 2) I will now begin to make this COMPLETE list to send to the Defendants.

I don't understand how you could agree on the content of Doc. 42 [1] [2] if you never asked me for the list's evidence or a copy of all the evidence in my possession that includes more than 1000 pictures and videos in addition to text messages, emails, recordings, transcriptions, etc. from January 2018 where it can be verified that 3 (three) excuses contained in their termination letter is a lie such as the pleadings that the Defendants filed in the EDNY 20CV3361 (GRB) (AKT).

Also, I was wondering how you compute damages if we never get to talk about this point? or Do you have a copy of any insurance agreement?

Mr. Dratch, I see that you allowed the "Parties' Discovery Planning Conference & Report" to be skipped from the proceedings see Pic 1. Why did You allow this to be overlooked?

For the record, we had only one conversation for a few minutes, and I only emailed you a Summary by email. Likewise, documents 42 [1] [2] are null and void according to the Letter I submitted today 02/14/2022 in Court.

EDNY case 20CV3361 - (GRB) (AYS) - Summary: **"All physical and emotional assaults, verbal abuse, harassment, etc. the Plaintiff was subjected during her employment with Defendants as evidence based on her race by Zantua which the Defendants Knifings and the Corporations (one unregistered**

ORREGO091

corporation) failed to address and/ or take against Zantua for creating a dangerous work environment affecting Plaintiff's physical and emotional well-being resulting in irreversible damages." Here is on trial what happened to me since I was employed by the Defendants.

Looking forward to all the records, information, a list of evidence by Defendants that you exchanged without my knowledge participation, and without the list by category of all the evidence in my possession. See below Pic 1,2 - Initial Disclosures items i, ii, iii, iv.

Thank you.

Best regards,

Lidia M. Orrego
 Plaintiff Pro Se
 95-08 Queens Blvd Apart 3E
 Rego Park, NY, 11374
 Phone (347) 4532234

Federal District Court Litigation Overview - Litigation Process Hofstra University - Pro Se Legal Assistance Program

Pic 1

Parties' Discovery Planning Conference & Report	Parties meet and confer about discovery planning and report on what is agreed to (Rule 26(f))	At least 21 days before Rule 16 Scheduling Conference/Order with Judge	If the case survives a Motion to Dismiss and/or following an Answer, the next step is for the parties to meet and confer about discovery and other pre-trial matters, and then report to the judge about what they have agreed upon.
Initial Disclosures	Each party must disclose certain information to the other parties, without being requested or ordered to do so (Rule 26(a)(1))	Unless parties agree or court order indicates otherwise, at or within 14 days of parties' Rule 26(f) conference	Parties are required to disclose the following information: - The contact information for each individual likely to have discoverable information; - A copy or a description by category, of all documents, electronically stored information, and tangible

PIC 2

			things the disclosing party has in its possession; iii. A computation of each category of damages claimed by the disclosing party; iv. Any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgement or to indemnify or reimburse.
Scheduling Conference with the Judge	Generally, the parties will meet with the judge at a Scheduling Conference, after which the Judge issues a Scheduling Order (Rule 16)	90 days after defendant is served, unless otherwise ordered by the Judge	• The Judge will generally hold a conference with the parties to set the schedule based on the parties' agreement and the Court's schedule. • The Scheduling Order will set a timeframe for the different aspects of discovery.

PIC 3

			discovery.
Discovery	Each party engages in formal fact investigation supervised by the Court (Rules 26, 30, 33, 34, 35, 36, 45)	The Scheduling Order will layout the time frame for discovery, and parties may at times seek to modify it by agreement or by seeking permission from the Judge	• In order to gather information and documents to support each party's claims and defenses, the parties can use discovery tools, such as the taking of Depositions, submitting a list of Interrogatories, making Requests for Documents, making a Request for Admissions, or conducting Physical or Mental Examinations. • Refer to the Overview of the Discovery Process and Timeline for more information on what discovery entails. • Parties can also use informal discovery, such as interviewing non-party witnesses and obtaining

PIC 4

			affidavits, or seeking FOIL/FOIA requests from government agencies.
	Pre-Trial Conference (Rule 56)	After discovery has concluded, generally up to 30 days after discovery closes, unless the local rules or the Court orders otherwise	• Any party may wish to move for summary judgment, asking the Court to decide the case without going to trial because there is no dispute about the material facts and wins as a matter of law. • The Court may hold a pre-trial conference and order a timeline for the submission



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Brian Dratch <BDratch@njcounsel.com>
To: Lidia Orrego <liorrego@gmail.com>

Tue, Feb 15, 2022 at 7:39 AM

I have not exchanged anything as of yet

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Lidia Orrego <liorrego@gmail.com>
Sent: Monday, February 14, 2022 9:56:41 PM
To: Brian Dratch <bdratch@njcounsel.com>
Cc: Alex Dumas <adumas@grsm.com>; Feryanda James <fjames@njcounsel.com>; Julissa Martinez <jxmartinez@grsm.com>; Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>; dlrivera@grsm.com <dlrivera@grsm.com>; ewarnke@grsm.com <ewarnke@grsm.com>; fjnjcounsel@gmail.com <fjnjcounsel@gmail.com>; pcella@grsm.com <pcella@grsm.com>; tgalarza@grsm.com <tgalarza@grsm.com>; vcanarte@grsm.com <vcanarte@grsm.com>; Lidia Orrego <liorrego@gmail.com>
Subject: "Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

[Quoted text hidden]

Total Control Panel

[Login](#)

To: bdratch@njcounsel.com
From: liorrego@gmail.com

Message Score: 1
My Spam Blocking Level: Low

High (60): **Pass**
Medium (75): **Pass**
Low (90): **Pass**

[Block this sender](#)
[Block gmail.com](#)

This message was delivered because the content filter score did not exceed your filter level.

4 attachments

Parties' Discovery Planning Conference & Report	Parties meet and confer about discovery planning and report on what is agreed to (Rule 26(f)).	At least 21 days before Rule 15 Scheduling Conference Order with Judge	• If the case survives a Motion to Dismiss filed or following an Answer, the next step is for the parties to meet and confer about discovery and other pre-trial matters, and then report to the judge about what they have agreed upon. (Parties are required to disclose the following information: 1. The central information for each individual likely to have discoverable information. 2. A copy or a description by category, of all documents, electronically stored information, and tangible
Initial Disclosures	Each party must disclose certain information to the other parties, without being requested or ordered to do so (Rule 26(a)(1)).	Unless parties agree or court order indicates otherwise, at or within 14 days of parties' Rule 26(f) conference	

image.png
245K

Scheduling Conference with the Judge	Currently, the parties will meet with the Judge at a Scheduling Conference, after which the Judge issues a Scheduling Order (Rule 15).	90 days after the initial is served unless otherwise ordered by the Judge	• The Judge will generally hold a conference with the parties to set the schedule based on the parties' agreement and the Court's schedule. • The Scheduling Order will set a timeframe for the different aspects of discovery.
--------------------------------------	--	---	--

image.png
199K

image.png

ORREGO094

6



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Brian Dratch <BDratch@njcounsel.com>
To: Lidia Orrego <liorrego@gmail.com>

Tue, Feb 15, 2022 at 8:02 AM

As i have indicated. I have not exchanged anything. You tell me exactly what to exchange and i will exchange it. I think ur documents should be bate stamped for ease of reference

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: bdratch@njcounsel.com <bdratch@njcounsel.com>
Sent: Tuesday, February 15, 2022 7:39:31 AM
To: Lidia Orrego <liorrego@gmail.com>
Subject: Re: "Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

[Quoted text hidden]

4 attachments

Pretrial Discovery Planning Conference & Report	Parties meet and confer about discovery planning and report on what is agreed to (Rule 26(f)).	At least 21 days before Rule 19 Scheduling Conference Order with Judge	• If the court receives a Motion to Dismiss and/or following an Answer, the next step is for the parties to meet and confer about discovery and what pre-trial matters, and then report to the judge about what they have agreed upon. Parties are required to discuss the following information: i. The content information for each individual likely to have discoverable information. ii. A copy or a description by category, of all documents, electronically stored information, and tangible
Initial Disclosures	Each party must disclose certain information to the other parties, without being requested or ordered to do so (Rule 26(a)(1)).	Unless parties agree in court or by stipulation, at or within 14 days of parties' Rule 26(f) conference	i. The content information for each individual likely to have discoverable information. ii. A copy or a description by category, of all documents, electronically stored information, and tangible

image.png
245K

Scheduling Conference with the Judge	Generally, the parties will meet with the judge at a Scheduling Conference, after which the judge issues a Scheduling Order (Rule 16).	90 days after the Scheduling Conference is served, unless otherwise ordered by the judge	describes the discoverable party has in its possession, custody, or control: ii. A description of each category of damages claimed by the discovering party. iv. Any insurance agreement under which an insurance beneficiary may be liable in whole or in part for a personal injury or death. • The judge will generally hold a conference with the parties to set the schedule based on the parties' agreement and the court's schedule. • The Scheduling Order will set a timeline for the different types of discovery.
--------------------------------------	--	--	--

image.png
199K

Discovery	Each party engages in formal fact investigation supervised by the Court (Rules 26, 34, 35, 36, 37, 43).	The Scheduling Order will lay out the time frame for discovery, and parties may at times seek to modify it by agreement or by seeking permission from the judge	• In order to gather information and documents to support each party's claims and defenses, the parties can use discovery tools, such as the taking of depositions, submitting a list of interrogatories, making Requests for Documents, making a Request for Admission, or conducting Physical or Mental Examinations. • Refer to the Discovery of the Discovery Process and Timeline for more information on what discovery entails. • Parties can also use informal discovery, such as interviewing non-party witnesses and consulting
-----------	---	---	---

image.png
214K

Pre Trial Conference (Rule 16)	After discovery has concluded, generally up to 30 days after discovery closes, unless the judge orders otherwise	Attorneys, or seeking PGE, PVE or requests from government agencies, ... • Any party may seek to move for summary judgment, asking the court to decide the case without going to trial because there is no dispute about the material facts and issues, or a number of facts. • The court may hold a pre-trial conference and enter a timeline for the submission
--------------------------------	--	---

image.png
108K

ORREGO095

7



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Lidia Orrego <liorrego@gmail.com>

Wed, Feb 16, 2022 at 7:34 AM

To: Brian Dratch <bdratch@njcounsel.com>, Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>, ewarnke@grsm.com
Cc: Alex Dumas <adumas@grsm.com>, Feryanda James <FJames@njcounsel.com>, Julissa Martinez <jxmartinez@grsm.com>, dlrivera@grsm.com, fnjcounsel@gmail.com, pcella@grsm.com, tgalarza@grsm.com, vcanarte@grsm.com, Lidia Orrego <liorrego@gmail.com>

Good morning,

Mr. Dratch, Mr. Minnah-Donkoh and Mr. Warnke,

Mr. Dratch confirmed by email that no evidence, information, etc. were exchanged between you in violation of Due Process of Law – Initial Disclosures - Rule 26 (a) (1) PRECEDING compliance with Rule 16 corresponding to ECF Doc. 42 [1] [2]. See Federal District Court Litigation Process.

In light of this confirmation, I am entitled to request more specifically that all of you send me the report of all the records such as dates, hours, notes, emails, letters, authorizations, etc. on which the drafting was based and the final LETTER ECF Doc. 42 [1] [2] (only signed by Defendants' lawyer) filed on February 10, 2022, including the authorization of Mr. Dratch to file the Letter and Worksheet without my knowledge, review, and authorization in writing with my signature for which I object and categorically reject the content of these documents which means they are annulled. Time limit 02/16/2022 at 6 pm.

Any response must be in writing with CC to all recipients in this email to respect transparency and we can be all on the same page.

[Quoted text hidden]

[Quoted text hidden]



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>

Wed, Feb 16, 2022 at 7:52 AM

To: Lidia Orrego <liorrego@gmail.com>

Cc: Brian Dratch <BDratch@njcounsel.com>, Edward Warnke <ewarnke@grsm.com>, Alex Dumas <adumas@grsm.com>, Feryanda James <FJames@njcounsel.com>, Julissa Martinez <jxmartinez@grsm.com>, Dallas Rivera <drlivera@grsm.com>, "fjnjcounsel@gmail.com" <fjnjcounsel@gmail.com>, Peter Cella <pcella@grsm.com>, Tiara Galarza <tgalarza@grsm.com>, Veronica Canarte <vcanarte@grsm.com>

Ms. Orrego:

My office does not take directions from you. All of the information and documents you have requested/demanded can and should be obtained from your attorney.

Best,

KUUKU MINNAH-DONKOH | Partner**GORDON REES SCULLY MANSUKHANI**
YOUR 50 STATE PARTNER™

1 Battery Park Plaza, 28th Floor
New York, NY 10004

D: 212-453-0709 | kminnahdonkoh@grsm.com

www.grsm.com
vCard | Bio

On Feb 16, 2022, at 7:34 AM, Lidia Orrego <liorrego@gmail.com> wrote:

[Quoted text hidden]

This email communication may contain CONFIDENTIAL INFORMATION WHICH ALSO MAY BE LEGALLY PRIVILEGED and is intended only for the use of the intended recipients identified above. If you are not the intended recipient of this communication, you are hereby notified that any unauthorized review, use, dissemination, distribution, downloading, or copying of this communication is strictly prohibited. If you are not the intended recipient and have received this communication in error, please immediately notify us by reply email, delete the communication and destroy all copies.

GORDON REES SCULLY MANSUKHANI, LLP
YOUR 50 STATE PARTNER®
<http://www.grsm.com>

4 attachments

image.png
245K

ORREGO097**9**



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Lidia Orrego <liorrego@gmail.com>

Wed, Feb 16, 2022 at 8:32 AM

To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>

Cc: Alex Dumas <adumas@grsm.com>, Brian Dratch <BDratch@njcounsel.com>, Dallas Rivera <drrivera@grsm.com>, Edward Warnke <ewarnke@grsm.com>, Feryanda James <FJames@njcounsel.com>, Julissa Martinez <jxmartinez@grsm.com>, Peter Cella <pcella@grsm.com>, Tiara Galarza <tgalarza@grsm.com>, Veronica Canarte <vcanarte@grsm.com>, "fjnjcounsel@gmail.com" <fjnjcounsel@gmail.com>

Mr. Kuuku:

They are not instructions from me, it is from H. Magistrate Judge Anne Y. Shields' order in compliance with Due Process of Law - Rule 26 (a) (1).

Thank you.

Best regards,

Lidia M. Orrego
Plaintiff Pro Se

[Quoted text hidden]

--

Lidia Orrego



Lidia Orrego <liorrego@gmail.com>

Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

1 message

Lidia Orrego <liorrego@gmail.com>

Thu, Apr 14, 2022 at 7:24 AM

To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>, Alex Dumas <adumas@grsm.com>, Edward Warnke <ewarnke@grsm.com>

Cc: Julissa Martinez <jxmartinez@grsm.com>, Peter Cella <pcella@grsm.com>, Dallas Rivera <dldriversa@grsm.com>, Tiara Galarza <tgalarza@grsm.com>, Veronica Canarte <vcanarte@grsm.com>, Lidia Orrego <liorrego@gmail.com>

To: Defendants' Counsels: Mr. Kuuku Minnah-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq. Via email.

In accordance with Magistrate Judge Anne Y. Shields' Order and Protocols ECF 41:

1. The ECF 42, annulled, intentionally **failed** **Basis for Federal Jurisdiction:**

Per Plaintiff, "[t]he basis for federal jurisdiction": **Retaliation, Hostile Work Environment**, under 42 U.S.C. § 1981 ("§ 1981") and New York State Human Rights Law ("NYSHRL"): "Thus, plaintiff has pleaded plausible retaliation claims under § 1981 and the NYSHRL against the Knipfings and the corporate defendants.".... Accordingly, plaintiff has pleaded plausible claims for hostile work environment under § 1981 and the NYSHRL against Zantua, the Knipfings, and the corporate defendants." Memorandum and Order by Honorable Judge Brown. ECF [30]

Claims for Retaliation: "allegations that the [adverse employment action] occurred within days after [plaintiff's] complaints of discrimination" **against Kevin Knipfing aka Kevin James, Stephanieanna James-Knipfing aka Steffiana De la Cruz, Old Westbury EDDIE LLC, Old Westbury LLC.** ECF [30]

Claims for Hostile Work Environment against ALL Defendants.

2. The ECF 42, annulled, **failed** to comply with Judge Shields' Order: "*Prior to the conference all counsel and/or pro se parties are directed to meet and confer regarding the discovery needs of this case, including a discussion of the exchange of electronically stored information ("ESI") and to prepare a proposed discovery plan.*" ECF 41. Federal Rules of Civil Procedure ("F.R.C.P.") Rule 34 (e).

Counsels and/or pro se parties never met and confer to discuss this order.

Therefore, I await confirmation to discuss the ESI to exchange the initial disclosure, discovery, and prepare a proposed discovery plan.

3. I never participated in any meeting, knowledge, or consent in the drafting of the ECF 42 annulled. My former counsel appointed for the Court never provided any evidence that he met with the

ORREGO099

11

Defendants or participated in the ECF [42]. For this main reason, I removed the pro bono counsel from my case.

I already have the proposed letter ready with my statements to submit the real "Join Letter" according to the ECF 41-2,3 requirements. In addition, ECF 42 annulled that you drafted and submitted without my consent where is missing the item # 3 entails ECF 41-3.

4. I attach the initial/provisional Disclosure List "*Part 2: Production by Plaintiff*" must be produce to Defendants, according to *Appendix "E" ECF 41-1 Page 30-36*, overlooked by the counsels. At this moment, I am waiting for confirmation to discuss the ESI with the Defendants, and their list "*Part 3: Production by Defendants*" **must produce to Plaintiff**. The estimated time to complete the Discovery would not be more than **6-8 months** depending on the Defendants submitting their part detailed in the Judge Shields' Protocol ECF 41-1 Pages 34-36. ECF [30]

Part 2: Production By Plaintiff – Summary Documentary evidence entails:

Total videos: 172 requested and knowledge by the Family according to the text messages.

Total pictures: 821 requested and knowledge by the Family according to the text messages.

Total Documentary evidence: 204

Total Recordings: 27

Total Production by Plaintiff: 1.224.-

Part 3: Production by Defendants"AC [8] and documentary evidence entails:

Employers: Kevin & Stephanieanna Knipfing

Entity payroll: Old Westbury EDDIE LLC

An unregistered Entity "false Letter Termination": Old Westbury LLC

Supervisor: Teresa A. Zantua

Notice: Protocols ECF 41-1 Appendix "E" - **(1) Statement of Purpose** "focus on the type of information that is likely to be most helpful in reducing the problems of employment discrimination cases." entails the "Part 3: Production by Defendants". I object to the "Defendants Position", which holds facts irrelevant to this matter because the legal malpractice and misconduct of my former attorneys, also my character are not the issues in this Federal Action against All Defendants.

Best regards,

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

"If you are neutral in situations of Injustice, you have chosen the side of the Oppressor." Desmond Tutu

APPENDIX F

**INITIAL DISCOVERY PROTOCOLS FOR EMPLOYMENT
CASES ALLEGING ADVERSE ACTION**

Basis for Federal Jurisdiction

Per Plaintiff, "[t]he basis for federal jurisdiction": **Retaliation and Hostile Work Environment** "Thus, plaintiff has pleaded plausible retaliation claims under § 1981 and the NYSHRL against the Knipfings and the corporate defendants."...." Accordingly, plaintiff has pleaded plausible claims for hostile work environment under § 1981 and the NYSHRL against Zantua, the Knipfings, and the corporate defendants." ECF 30 Memorandum and Order by Honorable Judge Brown.

Claims for Retaliation: "allegations that the [adverse employment action] occurred within days after [plaintiff's] complaints of discrimination" **against Kevin Knipfing aka Kevin James, Stephanieanna James-Knipfing aka Steffiana De la Cruz, Old Westbury EDDIE LLC, Old Westbury LLC.** ECF [30]

PART 3: PRODUCTION BY DEFENDANT.

(1) Timing.

- a. The defendant's Initial Discovery shall be provided within 30 days after the defendant has submitted a responsive pleading or motion, unless the court rules otherwise.

(2) Documents that Defendant must produce to Plaintiff.

All communications concerning the factual allegations or claims at issue in this lawsuit among or between:

- i. The plaintiff and the defendant;
- ii. The plaintiff's manager(s), and/or supervisor(s), and/or the defendant's human resources representative(s).
- b. Responses to claims, lawsuits, administrative charges, and complaints by the plaintiff that rely on the same factual allegations or claims as those at issue in this lawsuit.
- c. Documents concerning the formation and termination, if any, of the employment relationship at issue in this lawsuit, regardless of the relevant time period.
- d. The plaintiff's personnel file, in any form, maintained by the defendant, including files concerning the plaintiff maintained by the plaintiff's supervisor(s), manager(s), or the defendant's human resources representative(s), regardless of the relevant time period.
- e. The plaintiff's performance evaluations and any formal discipline.
- f. Documents relied on to make the employment decision(s) at issue in this lawsuit.
- g. Workplace policies or guidelines relevant to the adverse action in effect at the time of the adverse action. Depending upon the case, those may include policies or guidelines that address:

- i. discipline;
- ii. termination of employment;

- iii. promotion;
- iv. discrimination;
- v. performance reviews or evaluations;
- vi. misconduct;
- vii. retaliation; and
- viii. nature of the employment relationship.

h. The table of contents and index of any employee handbook, code of conduct, or policies and procedures manual in effect at the time of the adverse action.

i. Job description(s) for the position(s) that the plaintiff held.

j. Documents showing the plaintiff's compensation and benefits. These normally include retirement plan benefits, fringe benefits, employee benefit summary plan descriptions, and summaries of compensation.

k. Agreements between the plaintiff and the defendant to waive jury trial rights or to arbitrate disputes.

l. Documents concerning investigation(s) of any complaint(s) about the plaintiff or made by the plaintiff, if relevant to the plaintiff's factual allegations or claims at issue in this lawsuit and not otherwise privileged.

m. Documents in the possession of the defendant and/or the defendant's agent(s) concerning claims for unemployment benefits unless production is prohibited by applicable law.

n. Any other document(s) upon which the defendant relies to support the defenses, affirmative defenses, and counterclaims, including any other document(s) describing the reasons for the adverse action.

iii. Information that Defendant must produce to Plaintiff.

- a. Identify the plaintiff's supervisor(s) and/or manager(s).
- b. Identify person(s) presently known to the defendant who were involved in making the decision to take the adverse action.
- c. Identify persons the defendant believes to have knowledge of the facts concerning the claims or defenses at issue in this lawsuit, and a brief description of that knowledge.
- d. State whether the plaintiff has applied for disability benefits and/or social security disability benefits after the adverse action. State whether the defendant has provided information to any third party concerning the application(s). Identify any documents concerning any such application or any such information provided to a third party.

To: Kuuku Angate Minnah-Donkoh kminnahdonkoh@grsm.com, jxma rtinez@grsm.com, pcella@grsm.com

Alex Dumas adumas@grsm.com, dlrivera@grsm.com

Edward E. Warnke ewarnke@grsm.com, tgalarza@grsm.com, vcanarte@grsm.com



Virus-free. www.avast.com



6- 04-14-2022 APPENDIX F PART 2 PRODUCTION BY PLAINTIFF.pdf
303K

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego,

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury LLC,
and Teresa A. Zantua.

Defendants.
_____X

Affirmation of Service

____ 20 ____ CV ____ 3361 ____ (GRB) (AYS)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Letter to H. Judge Anne Y. Shields dated April 22, 2022, regarding Order ECF doc.[52] dated April 19, 2022, with respect to 1) the involuntary omission under Plaintiff's claim of a hostile work environment must be included to defendant Kevin Knipfing a/k/a Kevin James; 2) Discovery process that governs under Judge Shields' Individuals Rules and Protocols; 3) Defendants' cynical and outrageous behavior and contempt of Court in this matter; 4) Plaintiff request attend in-person for future Conferences. Total Pages 16.-

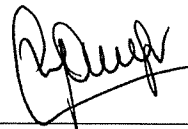
Upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., and Mr. Edward whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004 - By First Class with Certificate of Mailing.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 22, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234

April 22, 2022

Magistrate Judge Anne Y. Shields
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

APR 22 2022 ★

Re: *Orrego v. Knipfing, et al*, 20-CV-03361-GRB-AYS LONG ISLAND OFFICE

Dear Magistrate Judge Anne Y. Shields,

In accordance with Rule IV, Pro Se Litigants of Your Honor's Individual Rules, Plaintiff, Lidia M. Orrego, respectfully submit this letter for the following:

1) Your Honor, the Order ECF doc. [52] dated April 19, 2022, stated: "The claims that remain in this action are Plaintiff's claims of retaliation and hostile work environment pursuant to 42 U.S.C. §1981 and the NYSHRL. As to those claims: (1) Plaintiff's claim of retaliation remains only against Defendants Kevin Knipfing, Stephanieanna James-Knipfing and the LLC Defendants. Her claim of a hostile work environment remains only as to Defendants Zantua, Stephanieanna James-Knipfing, and the LLC Defendants. As noted, there are no pending claims against Savitsky."

Clearly, by involuntary omission, Mr. Kevin Knipfing aka Kevin James has not been included under my claim of hostile work environment Order ECF doc. [52], according to H. Judge Brown's order ECF doc. [30] page 16, stated: "Accordingly, plaintiff has pleaded plausible claims for hostile work environment under § 1981 and the NYSHRL against Zantua, the Knipfings, and the corporate defendants." Therefore, a must be included to defendant Kevin Knipfing a/k/a Kevin James.

2) Your Honor, the Order ECF [52] omitted the compliance to Individual Rules: **Rule V. Initial Conferences and VI. Forms to be Completed Prior to Initial Conference**, that should have been completed with the Order [41]¹, as shown in my Proposal Join Letter and Initial Disclosure filed ECF [51]. So, to expeditiously follow Your Honor's Individuals *Rule VII. Discovery (B) (1) (2) "Tier One Discovery in cases alleging employment discrimination is governed by this Court's initial employment protocols appearing in Appendix F hereto"* as shown in my ECF doc. [51] and that must apply to the Knipfings and LLC corporations that were ignored the Order ECF doc. [41] since December 2, 2021, for which they are in contempt of the Order. One of the main reasons because the corporation that terminated (Adverse Action) my employment is unrelated/unregistered to the Knipfings. See ECF doc. [51] shows gross violations of Due Process of Law as well as ECF doc. [45][46][48][50].

¹Order ECF doc, [41] vacated on April 19, 2022, through Order ECF doc. [52]. Following the Defendants' pattern of conduct, they will continue to disobey/violate laws, orders, protocols and rules.

Your Honor, in good faith, I tried to confer or attempted to confer with the Defendants to make initial disclosures or discovery in an effort to obtain it without court action according to Your Honor's Order ECF [41]¹. I attached the emails proving that the Defendants are in contempt of court Order ECF [41]¹ dated December 2, 2021, because they believe they are above the law, the Federal Rules, and any order issued by this Court: 1st attempt dated February 14, 2022; February 15, 2022.

2nd attempt was on February 16, 2022, when I invoked Your Honor's Order, but the Defendants ignored any way who are playing games in the discovery Process depriving me of my constitutional rights to Due Process of Law. 3rd attempt was on April 14, 2022, the Defendants until today have not complied with the Federal Rules of Civil Procedure ("F.R.C.P."), Protocols, or Court Orders.

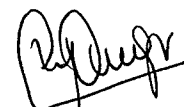
Likewise, for the record, I have requested the Court's intervention to compel the Defendants' initial disclosure see ECF doc. [45] filed February 17, 2022, in compliance with the F.R.C.P. Rule 26 and Order ECF doc. [41]¹. I received no response from the Court.

3) Your Honor, Defendants went from accusing me to "delusional", filed contradictory statements in their pleadings, witnesses' false testimony (Mr. Knipfing and Selga), production of false documents (Exhibit A signed by Savistky). Since none of this works due to the evidence (recordings, messages from text, and emails) that prove their lies. Defendants, again, change as last resort, their arguments to facts irrelevant to this matter that does not respond to any fact to my Amended Complaint (AC) or the frame time of my employment with the Knipfings, until finally accusing me of "extortionist" but after 3 attempts and more than 4 months waiting to exchange "evidence" that supports their "changing contradictory arguments or positions", Defendants still haven't sent me a single piece of evidence or responded to my emails. The Court never applied judicial estoppel doctrine to avoid the Defendants' cynical and outrageous behavior toward Your Honor, Laws, and F.R.C.P. that I have exposed with evidence in all my pleadings.

4) I respectfully request for future Conferences, to attend in-person following all safety and social distancing guidelines in order to avoid miscommunications so I can have a meaningful understanding of what happens in the Court. Also, request in advance the agenda to be discussed at the Conference in order to prepare my statements and be able to read them if necessary.

Respectfully submitted,

Date: April 22, 2022
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To: Defendants' Counsels: Mr. Kuuku Minnah-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq. Via ECF and email.



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Lidia Orrego <liorrego@gmail.com>

Mon, Feb 14, 2022 at 9:56 PM

To: Brian Dratch <bdratch@njcounsel.com>

Cc: Alex Dumas <adumas@grsm.com>, Feryanda James <FJames@njcounsel.com>, Julissa Martinez <jxmartinez@grsm.com>, Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>, dlrivera@grsm.com, ewarnke@grsm.com, fnjcounsel@gmail.com, pcella@grsm.com, tgalzarza@grsm.com, vcanarte@grsm.com, Lidia Orrego <liorrego@gmail.com>

Good evening, Mr. Dratch,

Please, I request you send me a copy of the complete record of all the information you exchanged with the Defendants including but not limited to: List of documents or evidence from the defendants (See below pic 1,2 - Initial Disclosures items i, ii, iii, iv), such as a copy of my file, notes, emails, reports, etc from November 30, 2021, to February 10, 2022, etc. If these records and documents are not delivered by email to me within 2 (two) days (until February 17, 2022) I will report this to the Honorable Judge Gary R. Brown and the Honorable Judge Anne Y. Shields. See below "Initial Disclosures" - Federal District Court Litigation Overview - Litigation Process Hofstra University – Pro Se Legal Assistance Program.

Mr. Dratch, since you never asked me for the list or copy of the evidence by category (See Initial Disclosures Pics 1, 2) I will now begin to make this COMPLETE list to send to the Defendants.

I don't understand how you could agree on the content of Doc. 42 [1] [2] if you never asked me for the list's evidence or a copy of all the evidence in my possession that includes more than 1000 pictures and videos in addition to text messages, emails, recordings, transcriptions, etc. from January 2018 where it can be verified that 3 (three) excuses contained in their termination letter is a lie such as the pleadings that the Defendants filed in the EDNY 20CV3361 (GRB) (AKT).

Also, I was wondering how you compute damages if we never get to talk about this point? or Do you have a copy of any insurance agreement?

Mr. Dratch, I see that you allowed the "Parties' Discovery Planning Conference & Report" to be skipped from the proceedings see Pic 1. Why did You allow this to be overlooked?

For the record, we had only one conversation for a few minutes, and I only emailed you a Summary by email. Likewise, documents 42 [1] [2] are null and void according to the Letter I submitted today 02/14/2022 in Court.

EDNY case 20CV3361 - (GRB) (AYS) - Summary: **"All physical and emotional assaults, verbal abuse, harassment, etc. the Plaintiff was subjected during her employment with Defendants as evidence based on her race by Zantua which the Defendants Knifings and the Corporations (one unregistered**

ORREGO107

corporation) failed to address and/ or take against Zantua for creating a dangerous work environment affecting Plaintiff's physical and emotional well-being resulting in irreversible damages." Here is on trial what happened to me since I was employed by the Defendants.

Looking forward to all the records, information, a list of evidence by Defendants that you exchanged without my knowledge participation, and without the list by category of all the evidence in my possession. See below Pic 1,2 - Initial Disclosures items i, ii, iii, iv.

Thank you.

Best regards,

Lidia M. Orrego
 Plaintiff Pro Se
 95-08 Queens Blvd Apart 3E
 Rego Park, NY, 11374
 Phone (347) 4532234

Federal District Court Litigation Overview - Litigation Process Hofstra University - Pro Se Legal Assistance Program Pic 1

Parties' Discovery Planning Conference & Report	Parties meet and confer about discovery planning and report on what is agreed to (Rule 26(f))	At least 21 days before Rule 16 Scheduling Conference/Order with Judge	If the case survives a Motion to Dismiss and/or following an Answer, the next step is for the parties to meet and confer about discovery and other pre-trial matters, and then report to the judge about what they have agreed upon.
Initial Disclosures	Each party must disclose certain information to the other parties, without being requested or ordered to do so (Rule 26(a)(1))	Unless parties agree or court order indicates otherwise, at or within 14 days of parties' Rule 26(f) conference	Parties are required to disclose the following information: - The contact information for each individual likely to have discoverable information; - A copy or a description by category, of all documents, electronically stored information, and tangible

PIC 2

			things the disclosing party has in its possession; iii. A computation of each category of damages claimed by the disclosing party; iv. Any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgement or to indemnify or reimburse.
Scheduling Conference with the Judge	Generally, the parties will meet with the judge at a Scheduling Conference, after which the Judge issues a Scheduling Order (Rule 16)	90 days after defendant is served, unless otherwise ordered by the Judge	• The Judge will generally hold a conference with the parties to set the schedule based on the parties' agreement and the Court's schedule. • The Scheduling Order will set a timeframe for the different aspects of discovery.

PIC 3

			discovery.
Discovery	Each party engages in formal fact investigation supervised by the Court (Rules 26, 30, 33, 34, 35, 36, 45)	The Scheduling Order will layout the time frame for discovery, and parties may at times seek to modify it by agreement or by seeking permission from the Judge	• In order to gather information and documents to support each party's claims and defenses, the parties can use discovery tools, such as the taking of Depositions, submitting a list of Interrogatories, making Requests for Documents, making a Request for Admissions, or conducting Physical or Mental Examinations. • Refer to the Overview of the Discovery Process and Timeline for more information on what discovery entails. • Parties can also use informal discovery, such as interviewing non-party witnesses and obtaining

PIC 4

			affidavits, or seeking FOIL/FOIA requests from government agencies.
	Pre-Trial Conference (Rule 56)	After discovery has concluded, generally up to 30 days after discovery closes, unless the local rules or the Court orders otherwise	• Any party may wish to move for summary judgment, asking the Court to decide the case without going to trial because there is no dispute about the material facts and wins as a matter of law. • The Court may hold a pre-trial conference and order a timeline for the submission



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Brian Dratch <BDratch@njcounsel.com>
To: Lidia Orrego <liorrego@gmail.com>

Tue, Feb 15, 2022 at 7:39 AM

I have not exchanged anything as of yet

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Lidia Orrego <liorrego@gmail.com>
Sent: Monday, February 14, 2022 9:56:41 PM
To: Brian Dratch <bdratch@njcounsel.com>
Cc: Alex Dumas <adumas@grsm.com>; Feryanda James <fjames@njcounsel.com>; Julissa Martinez <jxmartinez@grsm.com>; Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>; dlrivera@grsm.com <dlrivera@grsm.com>; ewarnke@grsm.com <ewarnke@grsm.com>; fjnjcounsel@gmail.com <fjnjcounsel@gmail.com>; pcella@grsm.com <pcella@grsm.com>; tgalarza@grsm.com <tgalarza@grsm.com>; vcanarte@grsm.com <vcanarte@grsm.com>; Lidia Orrego <liorrego@gmail.com>
Subject: "Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

[Quoted text hidden]

Total Control Panel

[Login](#)

To: bdratch@njcounsel.com
From: liorrego@gmail.com

Message Score: 1
My Spam Blocking Level: Low

High (60): **Pass**
Medium (75): **Pass**
Low (90): **Pass**

[Block this sender](#)
[Block gmail.com](#)

This message was delivered because the content filter score did not exceed your filter level.

4 attachments

Parties' Discovery Planning Conference & Report	Parties meet and confer about discovery planning and report on what is agreed to (Rule 26(f)).	At least 21 days before Rule 15 Scheduling Conference Order with Judge	• If the case survives a Motion to Dismiss filed or following an Answer, the next step is for the parties to meet and confer about discovery and other pre-trial matters, and then report to the judge about what they have agreed upon. (Parties are required to disclose the following information: 1. The central information for each individual likely to have discoverable information. 2. A copy or a description by category, of all documents, electronically stored information, and tangible
Initial Disclosures	Each party must disclose certain information to the other parties, without being requested or ordered to do so (Rule 26(a)(1)).	Unless parties agree or court order indicates otherwise, at or within 14 days of parties' Rule 26(f) conference	

image.png
245K

Scheduling Conference with the Judge	Currently, the parties will meet with the Judge at a Scheduling Conference, after which the Judge issues a Scheduling Order (Rule 15).	90 days after the date of the Scheduling Conference ordered by the Judge	• The judge will generally hold a conference with the parties to set the schedule based on the parties' agreement and the Court's schedule. • The Scheduling Order will set a timeframe for the different aspects of discovery.
--------------------------------------	--	--	--

image.png
199K

image.png

ORREGO110

6



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Brian Dratch <BDratch@njcounsel.com>
To: Lidia Orrego <liorrego@gmail.com>

Tue, Feb 15, 2022 at 8:02 AM

As i have indicated. I have not exchanged anything. You tell me exactly what to exchange and i will exchange it. I think ur documents should be bate stamped for ease of reference

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: bdratch@njcounsel.com <bdratch@njcounsel.com>
Sent: Tuesday, February 15, 2022 7:39:31 AM
To: Lidia Orrego <liorrego@gmail.com>
Subject: Re: "Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

[Quoted text hidden]

4 attachments

Parties' Discovery Planning Conference & Report	Parties meet and confer about discovery planning and report on what is agreed to (Rule 26(f)).	At least 21 days before Rule 19 Scheduling Conference Order with Judge	• If the court receives a Motion to Dismiss and/or following an Answer, the next step is for the parties to meet and confer about discovery and what pre-trial matters, and then report to the judge about what they have agreed upon. • Parties are required to discuss the following information: i. The content information for each individual likely to have discoverable information. ii. A copy or a description by category, of all documents, electronically stored information, and tangible
Initial Disclosures	Each party must disclose certain information to the other parties, without being requested or ordered to do so (Rule 26(a)(1)).	Unless parties agree in court or by stipulation, at or within 14 days of parties' Rule 26(f) conference	• If the court receives a Motion to Dismiss and/or following an Answer, the next step is for the parties to meet and confer about discovery and what pre-trial matters, and then report to the judge about what they have agreed upon. • Parties are required to discuss the following information: i. The content information for each individual likely to have discoverable information. ii. A copy or a description by category, of all documents, electronically stored information, and tangible

image.png
245K

Scheduling Conference with the Judge	Generally, the parties will meet with the judge at a Scheduling Conference, after which the judge issues a Scheduling Order (Rule 16).	90 days after the Scheduling Conference, unless otherwise ordered by the judge	• The court receives a Motion to Dismiss and/or following an Answer, the next step is for the parties to meet and confer about discovery and what pre-trial matters, and then report to the judge about what they have agreed upon. • Parties are required to discuss the following information: i. The content information for each individual likely to have discoverable information. ii. A copy or a description by category, of all documents, electronically stored information, and tangible
--------------------------------------	--	--	--

image.png
199K

Discovery	Each party engages in formal fact investigation supervised by the Court (Rules 26, 34, 35, 36, 37, 43).	The Scheduling Order will lay out the time frame for discovery, and parties may at times seek to modify it by agreement or by seeking permission from the judge	• In order to gather information and documents to support each party's claims and defenses, the parties can use discovery tools, such as the taking of depositions, submitting a list of interrogatories, making Requests for Documents, making a Request for Admission, or conducting Physical or Mental Examinations. • Refer to the Discovery of the Discovery Process and Timeline for more information on what discovery entails. • Parties can also use informal discovery, such as interviewing non-party witnesses and consulting
-----------	---	---	---

image.png
214K

Pre Trial Conference (Rule 16)	After discovery has concluded, generally up to 30 days after discovery closes, unless the judge orders otherwise	At least 21 days before Rule 19 Scheduling Conference Order with Judge	• If the court receives a Motion to Dismiss and/or following an Answer, the next step is for the parties to meet and confer about discovery and what pre-trial matters, and then report to the judge about what they have agreed upon. • Parties are required to discuss the following information: i. The content information for each individual likely to have discoverable information. ii. A copy or a description by category, of all documents, electronically stored information, and tangible
--------------------------------	--	--	---

image.png
108K

ORREGO111

7



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Lidia Orrego <liorrego@gmail.com>

Wed, Feb 16, 2022 at 7:34 AM

To: Brian Dratch <bdratch@njcounsel.com>, Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>, ewarnke@grsm.com
Cc: Alex Dumas <adumas@grsm.com>, Feryanda James <FJames@njcounsel.com>, Julissa Martinez <jxmartinez@grsm.com>, dlrivera@grsm.com, fnjcounsel@gmail.com, pcella@grsm.com, tgalarza@grsm.com, vcanarte@grsm.com, Lidia Orrego <liorrego@gmail.com>

Good morning,

Mr. Dratch, Mr. Minnah-Donkoh and Mr. Warnke,

Mr. Dratch confirmed by email that no evidence, information, etc. were exchanged between you in violation of Due Process of Law – Initial Disclosures - Rule 26 (a) (1) PRECEDING compliance with Rule 16 corresponding to ECF Doc. 42 [1] [2]. See Federal District Court Litigation Process.

In light of this confirmation, I am entitled to request more specifically that all of you send me the report of all the records such as dates, hours, notes, emails, letters, authorizations, etc. on which the drafting was based and the final LETTER ECF Doc. 42 [1] [2] (only signed by Defendants' lawyer) filed on February 10, 2022, including the authorization of Mr. Dratch to file the Letter and Worksheet without my knowledge, review, and authorization in writing with my signature for which I object and categorically reject the content of these documents which means they are annulled. Time limit 02/16/2022 at 6 pm.

Any response must be in writing with CC to all recipients in this email to respect transparency and we can be all on the same page.

[Quoted text hidden]

[Quoted text hidden]



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>

Wed, Feb 16, 2022 at 7:52 AM

To: Lidia Orrego <liorrego@gmail.com>

Cc: Brian Dratch <BDratch@njcounsel.com>, Edward Warnke <ewarnke@grsm.com>, Alex Dumas <adumas@grsm.com>, Feryanda James <FJames@njcounsel.com>, Julissa Martinez <jxmartinez@grsm.com>, Dallas Rivera <drrivera@grsm.com>, "fjnjcounsel@gmail.com" <fjnjcounsel@gmail.com>, Peter Cella <pcella@grsm.com>, Tiara Galarza <tgalarza@grsm.com>, Veronica Canarte <vcanarte@grsm.com>

Ms. Orrego:

My office does not take directions from you. All of the information and documents you have requested/demanded can and should be obtained from your attorney.

Best,

KUUKU MINNAH-DONKOH | Partner**GORDON REES SCULLY MANSUKHANI**
YOUR 50 STATE PARTNER™

1 Battery Park Plaza, 28th Floor
New York, NY 10004

D: 212-453-0709 | kminnahdonkoh@grsm.com

www.grsm.com
vCard | Bio

On Feb 16, 2022, at 7:34 AM, Lidia Orrego <liorrego@gmail.com> wrote:

[Quoted text hidden]

This email communication may contain CONFIDENTIAL INFORMATION WHICH ALSO MAY BE LEGALLY PRIVILEGED and is intended only for the use of the intended recipients identified above. If you are not the intended recipient of this communication, you are hereby notified that any unauthorized review, use, dissemination, distribution, downloading, or copying of this communication is strictly prohibited. If you are not the intended recipient and have received this communication in error, please immediately notify us by reply email, delete the communication and destroy all copies.

GORDON REES SCULLY MANSUKHANI, LLP
YOUR 50 STATE PARTNER®
<http://www.grsm.com>

4 attachments

image.png
245K

ORREGO113

9



Lidia Orrego <liorrego@gmail.com>

"Initial Disclosures" - Records EDNY Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Lidia Orrego <liorrego@gmail.com>

Wed, Feb 16, 2022 at 8:32 AM

To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>

Cc: Alex Dumas <adumas@grsm.com>, Brian Dratch <BDratch@njcounsel.com>, Dallas Rivera <drrivera@grsm.com>, Edward Warnke <ewarnke@grsm.com>, Feryanda James <FJames@njcounsel.com>, Julissa Martinez <jxmartinez@grsm.com>, Peter Cella <pcella@grsm.com>, Tiara Galarza <tgalarza@grsm.com>, Veronica Canarte <vcanarte@grsm.com>, "fjnjcounsel@gmail.com" <fjnjcounsel@gmail.com>

Mr. Kuuku:

They are not instructions from me, it is from H. Magistrate Judge Anne Y. Shields' order in compliance with Due Process of Law - Rule 26 (a) (1).

Thank you.

Best regards,

Lidia M. Orrego
Plaintiff Pro Se

[Quoted text hidden]

--

Lidia Orrego



Lidia Orrego <liorrego@gmail.com>

Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

1 message

Lidia Orrego <liorrego@gmail.com>

Thu, Apr 14, 2022 at 7:24 AM

To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>, Alex Dumas <adumas@grsm.com>, Edward Warnke <ewarnke@grsm.com>

Cc: Julissa Martinez <jxmartinez@grsm.com>, Peter Cella <pcella@grsm.com>, Dallas Rivera <dldriversa@grsm.com>, Tiara Galarza <tgalarza@grsm.com>, Veronica Canarte <vcanarte@grsm.com>, Lidia Orrego <liorrego@gmail.com>

To: Defendants' Counsels: Mr. Kuuku Minnah-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq. Via email.

In accordance with Magistrate Judge Anne Y. Shields' Order and Protocols ECF 41:

1. The ECF 42, annulled, intentionally **failed** **Basis for Federal Jurisdiction:**

Per Plaintiff, "[t]he basis for federal jurisdiction": **Retaliation, Hostile Work Environment**, under 42 U.S.C. § 1981 ("§ 1981") and New York State Human Rights Law ("NYSHRL"): "Thus, plaintiff has pleaded plausible retaliation claims under § 1981 and the NYSHRL against the Knipfings and the corporate defendants.".... Accordingly, plaintiff has pleaded plausible claims for hostile work environment under § 1981 and the NYSHRL against Zantua, the Knipfings, and the corporate defendants." Memorandum and Order by Honorable Judge Brown. ECF [30]

Claims for Retaliation: "allegations that the [adverse employment action] occurred within days after [plaintiff's] complaints of discrimination" **against Kevin Knipfing aka Kevin James, Stephanieanna James-Knipfing aka Steffiana De la Cruz, Old Westbury EDDIE LLC, Old Westbury LLC.** ECF [30]

Claims for Hostile Work Environment against ALL Defendants.

2. The ECF 42, annulled, **failed** to comply with Judge Shields' Order: "*Prior to the conference all counsel and/or pro se parties are directed to meet and confer regarding the discovery needs of this case, including a discussion of the exchange of electronically stored information ("ESI") and to prepare a proposed discovery plan.*" ECF 41. Federal Rules of Civil Procedure ("F.R.C.P.") Rule 34 (e).

Counsels and/or pro se parties never met and confer to discuss this order.

Therefore, I await confirmation to discuss the ESI to exchange the initial disclosure, discovery, and prepare a proposed discovery plan.

3. I never participated in any meeting, knowledge, or consent in the drafting of the ECF 42 annulled. My former counsel appointed for the Court never provided any evidence that he met with the

ORREGO115

11

Defendants or participated in the ECF [42]. For this main reason, I removed the pro bono counsel from my case.

I already have the proposed letter ready with my statements to submit the real "Join Letter" according to the ECF 41-2,3 requirements. In addition, ECF 42 annulled that you drafted and submitted without my consent where is missing the item # 3 entails ECF 41-3.

4. I attach the initial/provisional Disclosure List "*Part 2: Production by Plaintiff*" must be produce to Defendants, according to *Appendix "E" ECF 41-1 Page 30-36*, overlooked by the counsels. At this moment, I am waiting for confirmation to discuss the ESI with the Defendants, and their list "*Part 3: Production by Defendants*" **must produce to Plaintiff**. The estimated time to complete the Discovery would not be more than **6-8 months** depending on the Defendants submitting their part detailed in the Judge Shields' Protocol ECF 41-1 Pages 34-36. ECF [30]

Part 2: Production By Plaintiff – Summary Documentary evidence entails:

Total videos: 172 requested and knowledge by the Family according to the text messages.

Total pictures: 821 requested and knowledge by the Family according to the text messages.

Total Documentary evidence: 204

Total Recordings: 27

Total Production by Plaintiff: 1.224.-

Part 3: Production by Defendants"AC [8] and documentary evidence entails:

Employers: Kevin & Stephanieanna Knipfing

Entity payroll: Old Westbury EDDIE LLC

An unregistered Entity "false Letter Termination": Old Westbury LLC

Supervisor: Teresa A. Zantua

Notice: Protocols ECF 41-1 Appendix "E" - **(1) Statement of Purpose** "focus on the type of information that is likely to be most helpful in reducing the problems of employment discrimination cases." entails the "Part 3: Production by Defendants". I object to the "Defendants Position", which holds facts irrelevant to this matter because the legal malpractice and misconduct of my former attorneys, also my character are not the issues in this Federal Action against All Defendants.

Best regards,

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

"If you are neutral in situations of Injustice, you have chosen the side of the Oppressor." Desmond Tutu

APPENDIX F

**INITIAL DISCOVERY PROTOCOLS FOR EMPLOYMENT
CASES ALLEGING ADVERSE ACTION**

Basis for Federal Jurisdiction

Per Plaintiff, "[t]he basis for federal jurisdiction": **Retaliation and Hostile Work Environment** "Thus, plaintiff has pleaded plausible retaliation claims under § 1981 and the NYSHRL against the Knipfings and the corporate defendants."...." Accordingly, plaintiff has pleaded plausible claims for hostile work environment under § 1981 and the NYSHRL against Zantua, the Knipfings, and the corporate defendants." ECF 30 Memorandum and Order by Honorable Judge Brown.

Claims for Retaliation: "allegations that the [adverse employment action] occurred within days after [plaintiff's] complaints of discrimination" **against Kevin Knipfing aka Kevin James, Stephanieanna James-Knipfing aka Steffiana De la Cruz, Old Westbury EDDIE LLC, Old Westbury LLC.** ECF [30]

PART 3: PRODUCTION BY DEFENDANT.

(1) Timing.

- a. The defendant's Initial Discovery shall be provided within 30 days after the defendant has submitted a responsive pleading or motion, unless the court rules otherwise.

(2) Documents that Defendant must produce to Plaintiff.

All communications concerning the factual allegations or claims at issue in this lawsuit among or between:

- i. The plaintiff and the defendant;
- ii. The plaintiff's manager(s), and/or supervisor(s), and/or the defendant's human resources representative(s).
- b. Responses to claims, lawsuits, administrative charges, and complaints by the plaintiff that rely on the same factual allegations or claims as those at issue in this lawsuit.
- c. Documents concerning the formation and termination, if any, of the employment relationship at issue in this lawsuit, regardless of the relevant time period.
- d. The plaintiff's personnel file, in any form, maintained by the defendant, including files concerning the plaintiff maintained by the plaintiff's supervisor(s), manager(s), or the defendant's human resources representative(s), regardless of the relevant time period.
- e. The plaintiff's performance evaluations and any formal discipline.
- f. Documents relied on to make the employment decision(s) at issue in this lawsuit.
- g. Workplace policies or guidelines relevant to the adverse action in effect at the time of the adverse action. Depending upon the case, those may include policies or guidelines that address:

- i. discipline;
- ii. termination of employment;

- iii. promotion;
- iv. discrimination;
- v. performance reviews or evaluations;
- vi. misconduct;
- vii. retaliation; and
- viii. nature of the employment relationship.

h. The table of contents and index of any employee handbook, code of conduct, or policies and procedures manual in effect at the time of the adverse action.

i. Job description(s) for the position(s) that the plaintiff held.

j. Documents showing the plaintiff's compensation and benefits. These normally include retirement plan benefits, fringe benefits, employee benefit summary plan descriptions, and summaries of compensation.

k. Agreements between the plaintiff and the defendant to waive jury trial rights or to arbitrate disputes.

l. Documents concerning investigation(s) of any complaint(s) about the plaintiff or made by the plaintiff, if relevant to the plaintiff's factual allegations or claims at issue in this lawsuit and not otherwise privileged.

m. Documents in the possession of the defendant and/or the defendant's agent(s) concerning claims for unemployment benefits unless production is prohibited by applicable law.

n. Any other document(s) upon which the defendant relies to support the defenses, affirmative defenses, and counterclaims, including any other document(s) describing the reasons for the adverse action.

iii. Information that Defendant must produce to Plaintiff.

a. Identify the plaintiff's supervisor(s) and/or manager(s).

b. Identify person(s) presently known to the defendant who were involved in making the decision to take the adverse action.

c. Identify persons the defendant believes to have knowledge of the facts concerning the claims or defenses at issue in this lawsuit, and a brief description of that knowledge.

d. State whether the plaintiff has applied for disability benefits and/or social security disability benefits after the adverse action. State whether the defendant has provided information to any third party concerning the application(s). Identify any documents concerning any such application or any such information provided to a third party.

To: Kuuku Angate Minnah-Donkoh kminnahdonkoh@grsm.com, jxma rtinez@grsm.com, pcella@grsm.com

Alex Dumas adumas@grsm.com, dlrivera@grsm.com

Edward E. Warnke ewarnke@grsm.com, tgalarza@grsm.com, vcanarte@grsm.com



Virus-free. www.avast.com



6- 04-14-2022 APPENDIX F PART 2 PRODUCTION BY PLAINTIFF.pdf
303K

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego,

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury LLC,
and Teresa A. Zantua.

Defendants.
_____X

Affirmation of Service

____ 20 ____ CV ____ 3361 ____ (GRB) (AYS)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Letter to H. Judge Anne Y. Shields dated April 22, 2022, regarding Order ECF doc.[52] dated April 19, 2022, with respect to 1) the involuntary omission under Plaintiff's claim of a hostile work environment must be included to defendant Kevin Knipfing a/k/a Kevin James; 2) Discovery process that governs under Judge Shields' Individuals Rules and Protocols; 3) Defendants' cynical and outrageous behavior and contempt of Court in this matter; 4) Plaintiff request attend in-person for future Conferences. Total Pages 16.-

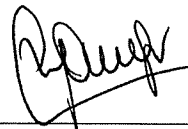
Upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., and Mr. Edward whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004 - By First Class with Certificate of Mailing.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 22, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUL 08 2022 ★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James,
Stephanieanna James-Knipfing
a/k/a Steffiana de la Cruz,
Old Westbury EDDIE LLC,
Old Westbury, LLC, Teresa A. Zantua,

Defendant(s).

NOTICE OF MOTION
DEFAULT JUDGMENT

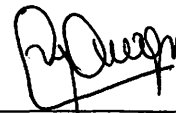
Case No. 20CV3361(GRB)(AYS)

Hon. Judge Gary R. Brown

PLEASE TAKE NOTICE that upon the annexed affidavit Lidia M. Orrego sworn to or affirmed July 5, 2020, and upon the complaint herein, plaintiff will move this Court, Hon. Judge Gary R. Brown, U.S.D.J., in room 940, United States Courthouse, 100 Federal Plaza, Central Islip, New York, 11722-9014, on the 25 days of July 2022, at 10:30 am or as soon thereafter as counsel can be heard, for an order pursuant to Rules 26 & 37 of the Federal Rules of Civil Procedure granting Default Judgment in Plaintiff's favor, striking Defendants' pleadings in whole, therefore, rendering a default judgment against the Defendants for the amounts of all damages pleaded in the Amended Complaint ("AC") Electronic Case Files ("ECF") [8], Section V. Relief, pages 7 & 8.

Dated: July 8, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego,

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury LLC,
and Teresa A. Zantua.

Defendants.
_____x

Affirmation of Service

20 CV 3361 (GRB) (AYS)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Notice of Motion to Default Judgment pursuant to Federal Rules of Civil Procedure ("F.R.C.P.") Rules 26 & 37, Affidavit in Support Plaintiff's Motion, Exhibit 1, 2, 3 (documentary evidence), and Memoranda of Law (Not required for Pro Se Litigants according to "Motion Form & Instructions - U.S. District Court-EDNY).

Upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., and Mr. Edward Warnke, Esq. whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004
By ECF

By email address: kminnahdonkoh@grsm.com; kminnahdonkoh@gordonrees.com;
adumas@grsm.com; ewarnke@grsm.com

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 8, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234

ORREGO123

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUL 08 2022 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James,
Stephanieanna James-Knipfing
a/k/a Steffiana de la Cruz,
Old Westbury EDDIE LLC,
Old Westbury, LLC, Teresa A. Zantua,

Defendant(s).

**MEMORANDA OF LAW
IN SUPPORT PLAINTIFF'S
MOTION DEFAULT JUDGMENT**

20CV3361(GRB)(AYS)

Hon. Judge Gary R. Brown

PRELIMINARY STATEMENT

Lidia M. Orrego ("Plaintiff"), the former nanny and housekeeper for by Kevin Knipfing a/k/a Kevin James, Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz according with the Amended Complaint ("AC") Electronic Case Files ("ECF") [8], brings this action against defendants Kevin Knipfing a/k/a Kevin James ("Mr. Knipfing"), Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz ("Mrs. Knipfing"), Old Westbury EDDIE LLC, Old Westbury, LLC, and Teresa A. Zantua ("Zantua") (hereinafter collectively "Defendants"), Retaliation and Hostile Work Environment pursuant to 42 U.S.C. §1981 and the New York State Human Rights ("NYSHRL") against all the Defendants. See Electronic Case Files ("ECF") [30].

PROCEDURAL HISTORY AND RELEVANT FACTS

- 1) August 17, 2020 - ECF [8]: Plaintiff filed her Amended Complaint asserts claims.
- 2) September 21, 2021 – ECF [28]: H. Judge A. Kathleen Tomlinson's last order blocked Defendant's bad faith in their intent to play games dishonestly with the service process.
- 3) November 16, 2021 – ECF Order: H. Judge Gary R. Brown, ORDERED "counsel for plaintiff from this Court's pro bono panel."

ORREGO123

4) December 2, 2021 - ECF [41]: Scheduling Order: Judge Shields' "Order and Protocols" for the Discovery Process according to the F.R.C.P. Rule 26. The initial conference is scheduled for February 14, 2022, at 11:30 am.

5) February 10, 2022 – ECF [42] at 5:53 pm: Plaintiff's former counsel and the Defendants' counsel filed without her knowledge of the content, review, approval, and signature.

6) February 17, 2022 – ECF [45]: Plaintiff's letter addressed to H. Judge Brown in support of her letter ECF [43], Plaintiff requested the Court's intervention to compel that Plaintiff's former pro bono counsel and the Defendant's counsel send me the initial disclosures before the Initial Conference according to the order dated December 2, 2021, ECF [41]. Pursuant F.R.C.P. Rule 26 (c) states: "The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense...." Plaintiff received no response to prevent abuse of the Discovery process by the Defendants' counsels because they did not execute the order and protocol ECF [41] with the help of Plaintiff's former pro bono counsel.

7) April 18, 2022 – ECF [51]: Plaintiff filed the letter with her decision to proceed as Pro Se. In a second attempt through the Court to comply with the Initial Disclosure pursuant to F.R.C.P. Rule 26 and ECF [41].

8) April 19, 2022 – ECF [52]: Judge Shields' order: Vacate her order ECF [41] to annul the false Join Letter ECF [42] without any punishment for Plaintiff's former pro bono counsel and Defendants' Counsels for Contempt of Court. ECF [52] contains incomplete claims according to ECF [30] as well as a new window for the "initial disclosures".

9) April 26, 2022, ECF [54]: Plaintiff filed a letter to request the correction of the missing charge against Mr. Knipfing aka Kevin James under her claim of hostile work environment Order ECF [52], according to order ECF [30]. Plaintiff advised that the Order ECF [52] omitted the

compliance to Individual Rules, which process should have been completed with the Order ECF [41], as shown in Plaintiff's Proposal Join Letter and Initial Disclosure filed ECF [51].

10) May 2, 2022, ECF Order: H. Judge Shields' "Scheduling Order: In light of Plaintiff's letter dated April 22, 2022, and found at docket entry No. [54], this Court VACATES its April 19, 2022 Order, found at docket entry No. [52]. An in-person initial conference has been scheduled for July 5, 2022 in courtroom 840 of the Central Islip courthouse.

11) Proof of good faith, Plaintiff tried to confer or attempted to confer with the Defendants to make initial disclosures or discovery in an effort to obtain it without court action Order ECF [41] dated December 2, 2021. Plaintiff attached the emails proving that the Defendants are in contempt of court Order ECF [41], because they believe they are above the law, the Federal Rules, and any order issued by this Court: 1st attempt was dated February 14, 2022; February 15, 2022; 2nd attempt was on February 16, 2022, when Plaintiff invoked Judge Shields' Order, but the Defendants ignored any way who are playing games in the discovery Process depriving me Plaintiff's constitutional rights to Due Process of Law. 3rd attempt was on April 14, 2022, Defendants until today have not complied with the F.R.C.P., Protocols, or Court Orders. See Exhibits for every attempt annexed to ECF [54].

12) May 28, 2022 – May 30, 2022: Under the U.S. Constitution, F.R.C.P., and Civil Rights protection, Plaintiff made a 4th attempt as shown in the annexed Exhibit 1 served by Plaintiff to the Defendants' counsel by mail, email, ESI device, and described all the evidence in her possession. Plaintiff reserved the right to expand and/or modify the evidence served as Initial Disclosure on May 28, 2022.

13) July 5, 2022: July 5, 2022, Order ECF: H. Judge Shields ORDERED: As set forth on the record during the conference held July 5, 2022: Court clarifies that a hostile work environment

claim remains against Mr. Knipfing. Further, Plaintiff has agreed that all service in this matter may proceed via email. The following Phase I discovery schedule was entered: By August 1, 2022. Upon receipt of August 15, 2022, joint status letter the Court will enter an order as to the remainder of discovery so that this case can proceed.

14) July 6, 2022: Plaintiff emailed the Defendants' Counsel to proceed as the H. Judges Shields promised to move quickly forward to the Trial since the Defendants' Counsel Mr. Kuuku Minnah-Donkoh ("Mr. Minnah-Donkoh"/ "Defendants' counsel") agreed to collaborate with the process, and he will respond to my emails in front of H. Judge Shields. The email contained the most relevant points of the conference dated July 5, 2022, at 10:30 am. to confirm how to proceed from that date.

15) But as expected, Mr. Minnah-Donkoh replied to my email in a condescendingly, disrespectful and hostile manner, towards me for being a woman, Hispanic, and Pro Se again trying to mislead and continue abusing Plaintiff's good faith with his goal to delay the process without the intention of exchanging any evidence as Initial Disclosures.

16) July 8, 2022: Plaintiff replying by email to Mr. Minnah-Donkoh, I listed all the abuse and defamation he made against me as the Defendants have done Since November 6, 2018, ordered by Mr. Knipfing because I filed the complaint when I was subjected to pervasive and severe physical and emotional assault, verbal abuse, harassment, retaliation, victimization, violence, etc. for months according to more than 1,224 documentary evidence includes but is not limited to text messages, emails, recordings, transcriptions, medical records, etc., during my employment with Defendants as evidence based on my race by Zantua, Defendants Knipfings and the Corporations (one unregistered corporation "Old Westbury LLC" under the Defendants Knipfings).

LEGAL ARGUMENT

The Motion to Default Judgment against the Defendants must be GRANTED because of the standards required by F.R.C.P. 26 (a) (1) (E) states: “Basis for Initial Disclosure: Unacceptable Excuses. A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.” Defendants failed the Duties to Disclose in bad faith, this failure and misconduct are inexcusable.

F.R.C.P. Rule 26(c) not only permits a party to move for a protective order but also allows any person from whom discovery is sought to apply for such an order. The purpose of the rule is plain on its face: to prevent abuse of the discovery rules by parties who utilize the process to impose financial and temporal burdens on their opponents unrelated to the merits of a case in order to delay or even prevent adjudication or settlement. See FED. R. C1v. P. 26(c). See also *Caisson Corp. v. County W. Bldg. Corp.*, 62 F.R.D. 331,334 (E.D. Pa. 1974); *Monticello Tobacco Co. v. American Tobacco Co.*, 12 F.R.D. 344, 345 (S.D.N.Y.), *ajfd*, 197 F.2d 629 (2d Cir. 1952), *cert. denied*, 344 U.S. 875 (1958). The Defendants have been abusing the Discovery since December 2, 2021- ECF [41], and failure to comply with a court's discovery order is just that: a failure and inexcusable.

The broad scope of discovery is perhaps the major contributing factor to its abuse. Coupled with the fact that the discovery rules are to be utilized with minimal intervention by the courts, the broad scope of discovery creates a situation in which counsel operate in an important area of pre- trial procedure with largely unfettered discretion. This independence of counsel in the discovery area, however, serves to accentuate the dual role of the attorney in an adversary system: an attorney is a tom between his obligation to seek ultimate justice in his capacity as an officer

of the court and his obligation to his client, "to whom the desire for triumph is paramount even at justice's expense." See Cohn, *supra* note 6, at 255-56 n.25. Compare ABA CODE OF PROFESSIONAL RESPONSIBILITY EC 7-4 (1978) ("The advocate may urge any permissible construction of the law favorable to his client, without regard to his professional opinion as to the likelihood that the construction will ultimately prevail") with *id.* EC 7-25 ("[W]hile a lawyer may take steps in good faith and within the framework of the law to test the validity of rules, he is not justified in consciously violating such rules and he should be diligent in his efforts to guard against his unintentional violation of them"). See also *id.* DR 7-102(A) ("A lawyer shall not suppress any evidence that he or his client has a legal obligation to reveal or produce.")

The abuse of the Defendants' counsel to free his clients at all costs even at the expense of Justice reaches the extreme outrageous behavior from lying in his pleadings, and conferences, producing false documents and witnesses with total impunity and disregard for the laws and legal processes because Defendants are confident that they are above the Laws

The Motion to Default Judgment against the Defendants must be GRANTED because of the standards required by F.R.C.P. Rule 37 contained in subdivision (b)(2)(C), permits a court to make an order (iii) striking pleadings in whole or in part; "(vi) rendering a default judgment against the disobedient party. "However, use of the most severe sanctions should be limited to cases involving willfulness, bad faith, or fault on the part of the non-compliant party." Campos v. Quentin Mkt. Corp., No. 16-CV-05303, 2017 U.S. Dist. LEXIS 193699, at *5 (E.D.N.Y. Nov. 21, 2017) (collecting cases) adopted by 2018 U.S. Dist. LEXIS 42337 (Mar. 13, 2018). "Striking a pleading or dismissing a case are severe penalties that should be used only in 'extreme situations.'" *Id.* (quoting *Guggenheim Capital, LLC v. Birnbaum*, 722 F.3d 444, 451 (2d Cir. 2013)). Defendants' failure to comply with Order ECF [41] dated December 2, 2021, until today

was in flagrant bad faith, willful disobedience, or intentional of the Court's orders and F.R.C.P.

The F.R.C.P. 16(f), permits a district court to "issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii) - (vii), if a party or its attorney . . . fails to obey a scheduling order or other pretrial order." Fed. F.R.C.P. 16(f). The orders authorized by Rule 37(b)(2)(A)(ii) - (vii) include those "striking pleadings in whole or in part," "dismissing the action or proceeding in whole or in part," and "rendering a default judgment against the disobedient party."

The F.R.C.P. 37(b)(2)(A)(iii), (v), (vi). "The Court may enter a default judgment when the disobedient party has failed to comply with a court order due to willfulness, bad faith, or any fault, including gross negligence." Arch Ins. Co., 2021 WL 966110, at *3. Defendants have lied in the annulled "Join Letter" ECF [42] where they falsely stated, *"Based on Plaintiff's past conduct, Defendants are not optimistic about the chances of settlement in this matter."* The Defendants have never responded to Plaintiff's 4th attempts to make initial disclosure and they have never shown any communications between them and Plaintiff's former pro bono counsel. The Defendants have lied in every one of their pleadings and there is documentary evidence of all of these lies.

The F.R.C.P. 37(b)(2)(A)(iii), (vi). Although Rule 37 sanctions are "a harsh remedy to be used only in extreme situations," Agiwal v. Mid Island Mort. Corp., 555 F.3d 298, 302 (2d Cir. 2009) (citation omitted), they "protect other parties to the litigation from prejudice resulting from a party's noncompliance. S. New England Tel. Co. v. Global NAPs Inc., 624 F.3d 123, 149 (2d Cir. 2010). Plaintiff has repeatedly demonstrated Good Cause in completing the initial disclosure and discovery in order to reach Trial. Defendants' conduct is extremely outrageous e inadmissible.

The court also said that although Rule 37(b) applies to all failures to comply, whether willful

or not, the presence of willfulness in a party's disobedient conduct is relevant in determining the sanctions that should be applied. See *Id.* at 122. See also *Vac-Air, Inc. v. John Mohr & Sons, Inc.*, 471 F.2d 231, 234 (7th Cir. 1973) (default judgment was too harsh a sanction where failure to comply was partially due to counsel's ill health and less extreme steps were available to effectuate compliance); *Gill v. Stolow*, 240 F.2d 669, 670 (2d Cir. 1957) (only a serious showing of willful default can justify denial of a party's fair day in court). Defendants' failure to comply with Order ECF [41] dated December 2, 2021, until today was in flagrant bad faith, willful or intentional.

The F.R.C.P. 37(b)(2)(A) empowers this Court to issue discovery sanctions in its discretion "[i]f a party . . . fails to obey an order to provide or permit discovery." *Chin contra Port Auth. of N.Y & N.J.*, 685 F.3d 135, 162 (2d Cir. 2012), 133 S. Ct. 1724 (2013); *S. Nueva Inglaterra Tel. Co. (SNET) v. Global NAPs Inc.*, 624 F.3d 123, 149 (2d Cir. 2010). F.R.C.P. Rule 37 provides generally for sanctions against parties or persons unjustifiably resisting discovery. E. See *Rosenberg, Sanctions to Effectuate Pretrial Discovery*, 58 Col.L.Rev. 480 (1958). "Discovery abuse persists when Courts fail to appreciate that the importance of discovery in the federal judicial scheme requires that they be vigilant in preventing abuse." "Courts cannot be unmindful of the reality that discovery abuse prevents the blameless party from getting his fair day in court. For this reason alone, the courts should not tolerate abuse of discovery and must utilize the several powers they have under Rules 26 (c) and 37 to make known their intolerance. Ineffective administration of these rules undermines the safeguards for litigants."¹ Defendants' failure to comply with Initial Disclosures in this stage since Order ECF [41] dated December 2, 2021, until

¹ Timothy Joyce, Preventing Abuse of Discovery in Federal Court <https://scholarship.law.edu/lawreview/vol30/iss2/6/>

today was in flagrant bad faith, willful or intentional this disobedient conduct is relevant granting the Court to issue a default judgment against them.

CONCLUSION

For the foregoing reasons and all the others discussed in Plaintiff's AC where properly alleges causation and damages, it is respectfully submitted the Motion to Default Judgment against the Defendants should be GRANTED, in its entirety against the Defendants for the amounts of all damages pleaded in the AC ECF [8], entails Section V. Relief, pages 7 & 8 and that the Court grant such other and further relief it deems just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully Submitted,

Dated: July 8, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego,

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury LLC,
and Teresa A. Zantua.

Defendants.
_____x

Affirmation of Service

20 CV 3361 (GRB) (AYS)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Notice of Motion to Default Judgment pursuant to Federal Rules of Civil Procedure ("F.R.C.P.") Rules 26 & 37, Affidavit in Support Plaintiff's Motion, Exhibit 1, 2, 3 (documentary evidence), and Memoranda of Law (Not required for Pro Se Litigants according to "Motion Form & Instructions - U.S. District Court-EDNY).

Upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., and Mr. Edward Warnke, Esq. whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004

By ECF

By email address: kminnahdonkoh@grsm.com; kminnahdonkoh@gordonrees.com;
adumas@grsm.com; ewarnke@grsm.com

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 8, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234

LONG ISLAND OFFICE

Lidia M. Orrego

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James,
Stephanieanna James-Knipfing a/k/a Steffiana
de la Cruz, Old Westbury EDDIE LLC,
Old Westbury, LLC, Teresa A. Zantua

Defendant(s).

**AFFIDAVIT IN SUPPORT
PLAINTIFF'S MOTION TO
DEFAULT JUDGMENT**

Case No. 20CV3361(GRB)(AYS)

Hon. Judge Gary R. Brown

Lidia M. Orrego, being duly sworn deposes and says:

I, Lidia M. Orrego, am the plaintiff in the above-entitled action, and respectfully move this Court to issue an order pursuant to Rules 26 & 37 of the Federal Rules of Civil Procedure ("F.R.C.P.") granting Default Judgment in my favor, striking Defendants' pleadings in whole, therefore, rendering a default judgment against the Defendants for the amounts of all damages pleaded in the Amended Complaint ("AC") Electronic Case Files ("ECF") [8], Section V. Relief, pages 7 & 8.

The reason why I am entitled to the relief I seek is the following:

1) September 21, 2021 – ECF [28]: Hon. Judge A. Kathleen Tomlinson’s last order blocked Defendant’s bad faith in their intent to play games dishonestly with the service process.

2) November 16, 2021 – ECF Order: Hon. Judge Gary R. Brown, ORDERED “counsel for plaintiff from this Court's pro bono panel.”

3) November 22, 2021, ECF [38]: Hon. Judge Brown ordered, pointed to The Dratch Law Firm, PC, by Brian M. Dratch.

4) November 23, 2021 – ECF Order: Judge Anne Y. Shields was randomly reassigned to my

case after Hon. Judge A. Kathleen Tomlinson (R.I.P.) sadly passed away in October 2021. I deeply appreciate Hon. Judge Tomlinson's service who with her order protected me from the Defendants' counsel's abuse of the service process.

5) December 2, 2021 - ECF [41]: Scheduling Order: Hon. Judge Shields' "Order and Protocols" for the Discovery Process according to the F.R.C.P. Rule 26. The initial conference is scheduled for February 14, 2022, at 11:30 am.

6) February 10, 2022 – ECF [42] at 5:53 pm: My former pro bono counsel and the Defendants' counsel filed without my knowledge of the content, review, approval, and signature.

7) February 11, 2022 – ECF Order at 9:45 am: Hon. Judge Shields's order to the initial conference scheduled for February 14, 2022, was canceled. Order and protocols entail F.R.C.P. Rule 26, which was ignored, violating my rights to Due Process of Law.

8) February 14, 2022 – ECF [43]: I filed the Motion letter requesting my pro bono counsel DE [38] removal from my case for filing a document without my knowledge of the content, review, approval, and signature violating my rights and our agreement. My former pro bono counsel never informed me or gave me a copy of the ECF [42].

9) February 17, 2022 – ECF [45]: In my letter addressed to Hon. Judge Brown in support of my letter ECF [43], I requested the Court's intervention to compel that my former pro bono counsel and the Defendant's counsel send me the initial disclosures before the Initial Conference according to the order dated December 2, 2021, ECF [41]. Pursuant F.R.C.P. Rule 26 (c) states: "The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense...."

10) I received no response to prevent abuse of the Discovery process by the Defendants' counsels because they did not execute the order and protocol ECF [41] with the help of my former

pro bono counsel:

- a) the initial disclosures or exchange of evidence were missing.
 - b) Judge Shield's Protocols "Joint Letter" ECF [42] filed with incomplete claims according to Hon. Judge Brown ECF [30] dated September 30, 2021.
 - c) Contains false statements and facts that did not correspond to this matter.
 - d) My pro bono counsel and Defendants' counsels in bad faith **failed** to comply with the Your Honor's Order and Protocols ECF [41-3] paragraph #3, intentionally omitted by the counsels. Gross Violation Due Process of Law and Contempt of Court.
 - e) My former pro bono counsel was unable to show or prove that he participated in the "joint letter" ECF [42]. All counsels committed Contempt of Court regarding ECF [41] Hon. Judge Shields' Order.
- 11) April 18, 2022 – ECF [51]: I filed the letter with my decision to proceed as Pro Se. In a second attempt through the Court to comply with the Initial Disclosure pursuant to F.R.C.P. Rule 26 and ECF [41] Order and proceed to:
- a) I filed and served to the Defendants' counsels a total of **1.224 pieces of evidence** that support my claims and damages.
 - b) I urgently reiterated my request to remove the ECF [42] annulled from the docket due Gross Violation Due Process of Law.
 - c) I filed the "Proposal Join Letter," and Discovery Worksheet in replacement to comply with the requirements entailed by ECF [41-2] [41-3]. The proposal **Join Letter** that I wrote is the foundation and mapping of my case because the burden of proof rests on the Plaintiff and my evidence shows that the allegations are true and that the Defendants caused past, present, and future irreversible damages correcting all the omissions conducted with the bad faith of the counsels. Gross

Violation Due Process of Law and Contempt of Court.

12) April 19, 2022 – ECF [52]: Judge Shields’ order: Vacate her order ECF [41] to annul the false Join Letter ECF [42] without any punishment for my pro bono counsel and Defendants’ Counsels for Contempt of Court. ECF [52] contains incomplete claims according to ECF [30] as well as a new window for the “initial disclosures” process should have been completed before or on June 1, 2022. Scheduled on June 15, 2022, for the Initial Conference to file a joint letter.

13) April 26, 2022, ECF [54]: I filed a letter to request the correction for the missing charge against Mr. Kevin Knipfing aka Kevin James under my claim of hostile work environment Order ECF [52], according to order ECF [30]. I advised that the Order ECF [52] omitted the compliance to Individual Rules, which process should have been completed with the Order ECF [41], as shown in my Proposal Join Letter and Initial Disclosure filed ECF [51].

14) May 2, 2022, ECF Order: “SCHEDULING ORDER: In light of Plaintiff’s letter dated April 22, 2022 and found at docket entry No. [54], this Court VACATES its April 19, 2022 Order, found at docket entry No. [52]. To be clear, the Tier I Discovery schedule set forth in the April 19, 2022, order is VACATED. An in-person initial conference has been scheduled for July 5, 2022 in courtroom 840 of the Central Islip courthouse. New discovery schedule will be issued at the in-person conference. If Plaintiff wishes, she may bring a personal interpreter to the in-person conference. So, Ordered by Magistrate Judge Anne Y. Shields on 5/2/2022. c/m pltf 5/2/2022 (Mucciaccio, Dina).

15) Proof of my good faith, I tried to confer or attempted to confer with the Defendants to make initial disclosures or discovery in an effort to obtain it without court action Order ECF [41] dated December 2, 2021. I attached the emails proving that the Defendants are in contempt of court Order ECF [41], because they believe they are above the law, the Federal Rules, and any order issued by this Court: 1st attempt was dated February 14, 2022; February 15, 2022; 2nd attempt was on

February 16, 2022, when I invoked Judge Shields' Order, but the Defendants ignored any way who are playing games in the discovery Process depriving me of my constitutional rights to Due Process of Law. 3rd attempt was on April 14, 2022, Defendants until today have not complied with the F.R.C.P., Protocols, or Court Orders. See Exhibits for every attempt annexed to ECF [54].

16) May 28, 2022 – May 30, 2022: Under the U.S. Constitution, F.R.C.P., and Civil Rights protection, I made a 4th attempt as shown in the annexed Exhibit 1 where I served the Defendants' counsel by mail, email, ESI device, and described all the evidence in my possession. I reserved the right to expand and/or modify the evidence served as Initial Disclosure on May 28, 2022.

17) July 5, 2022, Order ECF: Hon. Judge Shields ORDERED: "As set forth on the record during the conference held today, the Court clarifies that a hostile work environment claim remains against Mr. Knipfing. Further, Plaintiff has agreed that all service in this matter may proceed via email. The following Phase I discovery schedule was entered: By August 1, 2022, the parties shall exchange all documents/recordings/video relating to Plaintiff's employment. The production shall include, but is not limited to, the non-disclosure agreement executed by Plaintiff, all documents referenced in Plaintiff's amended complaint such as the relevant portions of her diary, as well as Plaintiff's November complaint to Mr. Knipfing, and any emails and text messages, as well as any other documents relating to Plaintiff's employment. To be clear, these documents are to be exchanged by all parties regardless of how that party came into possession of the document. On August 15, 2022, the parties are directed to submit one joint status letter setting forth whether this paper discovery has been completed. Defendants shall file the joint status letter. Upon receipt of the August 15, 2022, joint status letter the Court will enter an order as to the remainder of discovery so that this case can proceed. If the parties need additional time, they are directed to communicate with each other via email, and after reaching an agreement, submit a letter notifying this Court as to their

agreement. So Ordered by Magistrate Judge Anne Y. Shields on 7/5/2022. (Mucciaccio, Dina)" ECF.

18) July 6, 2022: I emailed the Defendants' Counsel to proceed as the Hon. Judges Shields' promised to move quickly forward to the Trial since the Defendants' Counsel Mr. Kuuku Minnah-Donkoh ("Mr. Minnah-Donkoh"/ "Defendants' counsel") agreed to collaborate with the process, and he will respond to my emails in front of Hon. Judge Shields. The email contained the most relevant points of the conference dated July 5, 2022, at 10:30 am. to confirm how to proceed from that date. See annexed Exhibit 2.

19) But as expected, Mr. Minnah-Donkoh replied to my email in a condescendingly, disrespectful and hostile manner, towards me for being a woman, Hispanic, and Pro Se again trying to mislead and continue abusing Plaintiff's good faith with his goal to delay the process without the intention of exchanging any evidence as Initial Disclosures. See annexed Exhibit 3.

20) Defendants' counsel only pretended to agree he was going to collaborate with the process in front of Judge Shields by lying at the conference dated July 5, 2022, this behavior permitted the Court to impose the extreme sanction for Default Judgment in favor of the Plaintiff. See annexed Exhibit 3.

21) Mr. Minnah-Donkoh, instead to confirm he received all my Initial Disclosure, according to instructions Judge Shields's Instructions, Defendant's counsel replied that he cannot confirm there was "all the evidence" and that he should check if there was any "deficiency", but this is not part of this process pursuant to F.R.C.P. Rule 26. See annexed Exhibit 3.

22) Mr. Minnah-Donkoh, never showed honesty in this Court and he is very far from stopping his extremely outrageous behavior like the Defendants because he is consciously in disregard Court Orders since December 2, 2021. Their tactic is not to disclose the "supporting evidence of their pleadings", but to harass me by abusing the Discovery process as a delaying tactic to gain an

advantage by requesting an extension in order to delay more than the Trial as planned with the insulting and fraudulent "ECF [42] Join Letter and Discovery Plan Worksheet" to finish this Discovery process in late 2023 when the whole process can be finished between 6 to 8 months.

23) July 8, 2022: Replying by email to Mr. Minnah-Donkoh, I listed all the abuse and defamation he made against me, like the Defendants have done Since November 6, 2018, ordered by Mr. Knipfing because I filed the complaint when I was subjected to pervasive and severe physical and emotional assault, verbal abuse, harassment, retaliation, victimization, violence, etc. for months according to more than 1,224 documentary evidence includes but is not limited to text messages, emails, recordings, transcriptions, medical records, etc. , during my employment with Defendants as evidence based on my race by Zantua, Defendants Knipfings and the Corporations (one unregistered corporation "Old Westbury LLC" under the Defendants Knipfings). See annexed Exhibit 4.

24) My initial disclosures served excess the requirements under F.R.C.P. Rule 26 and Judge Shields' protocols constitute strong and irrefutable evidence the Knipfings and Corporations failed to address and/ or take against Zantua for creating a dangerous work environment affecting my physical and emotional well-being resulting in irreversible damages and in retaliation I was terminated illegally within days after filing my complaint emailed November 2, 2018. But Defendants' counsel is trying to mislead me about "deficiency" in my Initial Disclosures acting in bad faith in violation of the F.R.C.P. Rule 26 and Judge Shields' order for the Discovery process. See annexed Exhibit 2-3.

25) In my email, I have listed Mr. Minnah-Donkoh, included but not limited to all lies, false documents, false witnesses, false corporation, in addition to all the rules of professional conduct that he has violated and continues to violate. against my rights and disrespecting me. Mr. Minnah-Donkoh, I'm not going to let you go down this road. See annexed Exhibit 3.

26) I have made it clear to Mr. Minnah-Donkoh, that I will not continue to endure all this pain and humiliation that Mr. Minnah-Donkoh has exercised against me humiliation and abuse of the process, since he failed to respond to Equal Employment Opportunity Commission ("EEOC"), charges dated January 31, 2019, Case # 520-2019-01738 Orrego v. old Westbury LLC, and when the Defendants, Mr. Minnah-Donkoh and my former lawyer were pretending to a false mediation in August 2019. Mr. Minnah-Donkoh's behavior is extremely outrageous, and I must put a STOP to his degrading acts against me. See annexed Exhibit 3.

27) Pursuant F.R.C.P. Rule 26 (a) (1) (E) states: "Basis for Initial Disclosure; Unacceptable Excuses. A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures." Defendants failed the Duties to Disclose in bad faith, this failure and misconduct are inexcusable, and the Defendants' counsel continues with the same dilatory tactic.

28) Thus, pursuant to the plain language of F.R.C.P. Rule 26 (a) (1) (E) the Defendants' in bad faith and in absolute disregard of the Due Process of Law and F.R.C.P. despising my rights to which I am entitled to because they have not received any punishment for this extreme outrageous misconduct even if I had not made the initial disclosures due to my former pro bono counsel's gross misconduct. See annexed Exhibits 2 – 3.

29) The Defendants despite all my multiple attempts, have never replied to any of my communications, not even through the letters that I filed in this Court to excuse the inexcusable according to the F.R.C.P. Rule 26. See annexed Exhibit 2-3 and ECF Plaintiff's Letters.

30) The Defendants' counsel only responded in a disrespectful and hostile manner, trying to mislead and abusing in my Good Faith to continue delaying the process without the intention of

exchanging any evidence. The defendants' counsel only pretended that it was going to be the "right" or honest in front of Judge Shields by lying at the conference dated July 5, 2022, intentionally violating a new order the Hon. Judge Shields following the Contempt of Court series since December 2, 2021.

31) The Defendants have abused in this process because I am a woman, Hispanic with an invisible disability, and Pro Se, and they take advantage of the fact that I was not aware of the abuse in the Discovery process according to the laws and F.R.C.P.

32) Therefore, the F.R.C.P. Rule 37 contained in subdivision (b)(2)(C), permits a Court to make an order (iii) striking pleadings in whole or in part; "(vi) rendering a default judgment against the disobedient party". "The court also said that although Rule 37(b) applies to all failures to comply, whether willful or not, the presence of willfulness in a party's disobedient conduct is relevant in determining the sanctions that should be applied." Defendants' failure to comply with Initial Disclosures in this stage since Order ECF [41] dated December 2, 2021, until today was in flagrant bad faith, willful or intentional this disobedient conduct is relevant granting the Court to issue a default judgment against them.

CONCLUSION

In light of the foregoing, I respectfully request that my motion to Default Judgment be Granted in its entirety against the Defendants for the amounts of all damages pleaded in the AC ECF [8], which entails Section V. Relief, pages 7 & 8 pursuant to F.R.C.P. Rule 37, the Defendants are abusing the Discovery Process as a delaying tactic, their behavior is extremely outrageous and harassing to burden me in this process, as one of my former counsel warned me: "Mr. Kevin James has the financial power to keep you in Court for many years wasting your time and litigating your emotions."

I expressly reserve all the rights and remedies, including but not limited to filing any other dispositive, non-dispositive motion or objections to Defendants' opposition to Plaintiff's Motion Default Judgment to which I am entitled in this action.

WHEREFORE, I respectfully request that the court grant the within the motion, as well as such other and further relief that may be just and proper.

Respectfully submitted,

Dated: July 8, 2022

Rego Park, New York



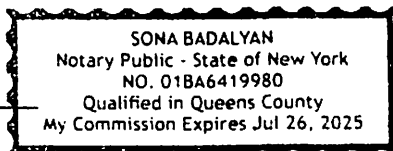
Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone 347- 453-2234

Sworn to me before this

08th day of July, 2022



Notary Public



CC: Hon. Magistrate Judge Anne Y. Shields
100 Federal Plaza
P.O. Box 840
Central Islip, New York 11722
Courtroom 840
By ECF

EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego,

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury LLC,
and Teresa A. Zantua.

Defendants.
_____X

Affirmation of Service

by Certified Mail Receipt

20 CV 3361 (GRB) (AYS)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of Initial Disclosure "PART 2: PRODUCTION BY PLAINTIFF" the following evidence:

- 1) Appendix F Initial Discovery Protocols for Employment Cases Alleging Adverse Action 20-Page
- 2) Total 2,517-Page content: 200 Exhibits, Bates Numbering PLA000001 - PLA002517.
- 3) Thumb drive content: 821 Pictures, 172 Videos, 26 Recordings, Social Media Content from Mr. Kevin Knipfing, Ms. Cristina Selga, and Mr. Gerardo Guarino.

- Electronically copy of 5,127 pages file Workers Compensation FOIL No. 22-03-040 dated March 29, 2022.

- Electronically copy of 20-page Appendix F + 200 Exhibits 2,517-page.

Upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minnah-Donkoh, Esq. and Mr. Edward Warnke whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 28, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234

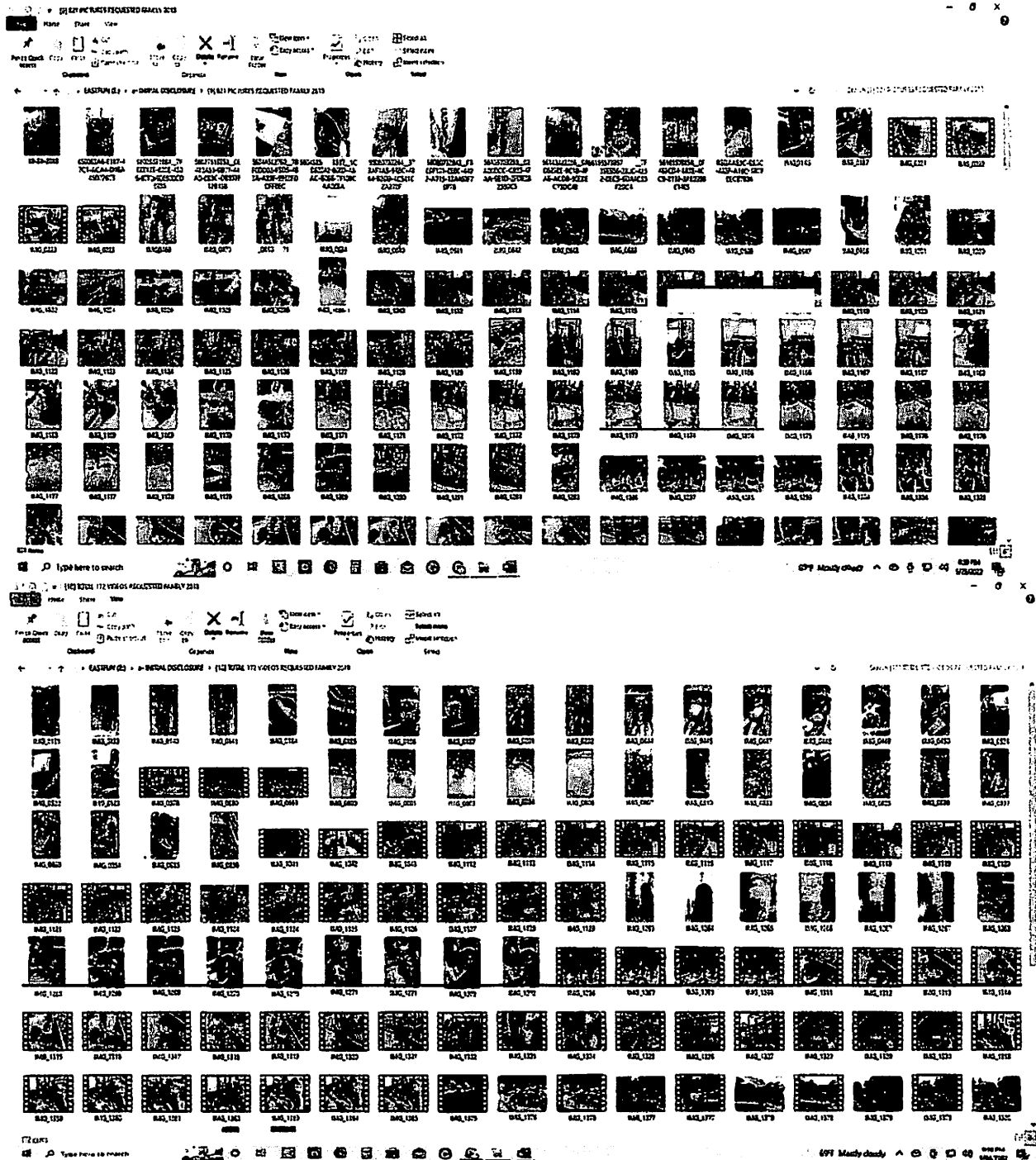
Content of thumb drive and folders

File Explorer window showing the contents of the EASTFUN (E:) drive. The drive contains three folders, all named 'b- INITIAL DISCLOSURE'.

Name	Date modified	Type	Size
b- INITIAL DISCLOSURE	5/1/2022 2:38 PM	File folder	
b- INITIAL DISCLOSURE	5/1/2022 2:38 PM	File folder	
b- INITIAL DISCLOSURE	5/1/2022 2:38 PM	File folder	

File Explorer window showing the contents of the 'b- INITIAL DISCLOSURE' folder. The folder contains three sub-folders.

Name	Date modified	Type	Size
[9] 821 PICTURES REQUESTED FAMILY 2018	3/7/2022 7:24 AM	File folder	
[10] TOTAL 172 VIDEOS REQUESTED FAMI...	4/11/2022 5:30 AM	File folder	
[12-13-14] RECORDINGS	4/13/2022 6:30 PM	File folder	



[12-13-14] RECORDINGS

File Home Share View

Pin to Quick access Copy Paste Copy path Paste shortcut Move to Copy to Delete Rename New folder New item Easy access Properties Open Select all Select none Invert selection

Clipboard Organize New Open Select

← EASTFURN (E) > a- INITIAL DISCLOSURE > [12-13-14] RECORDINGS

Name	Date modified	Type	Size
10-06-2018 "Only English" Picking Apples	1/10/2019 7:13 PM	MP3 File	2,502 KB
2018-10-16-15-18-001 9H SKYLAR TESTA ABOUT ADDICTION	8/9/2019 8:18 PM	WAV File	9,839 KB
2018-10-23-15-23-001 Last time hit in the back reported in the complaint	9/3/2019 7:35 PM	WAV File	7,321 KB

Recordings WCB

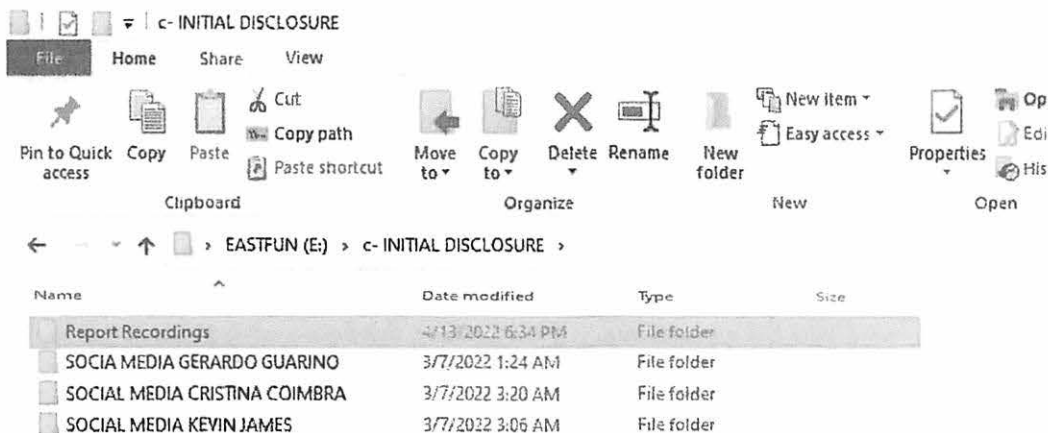
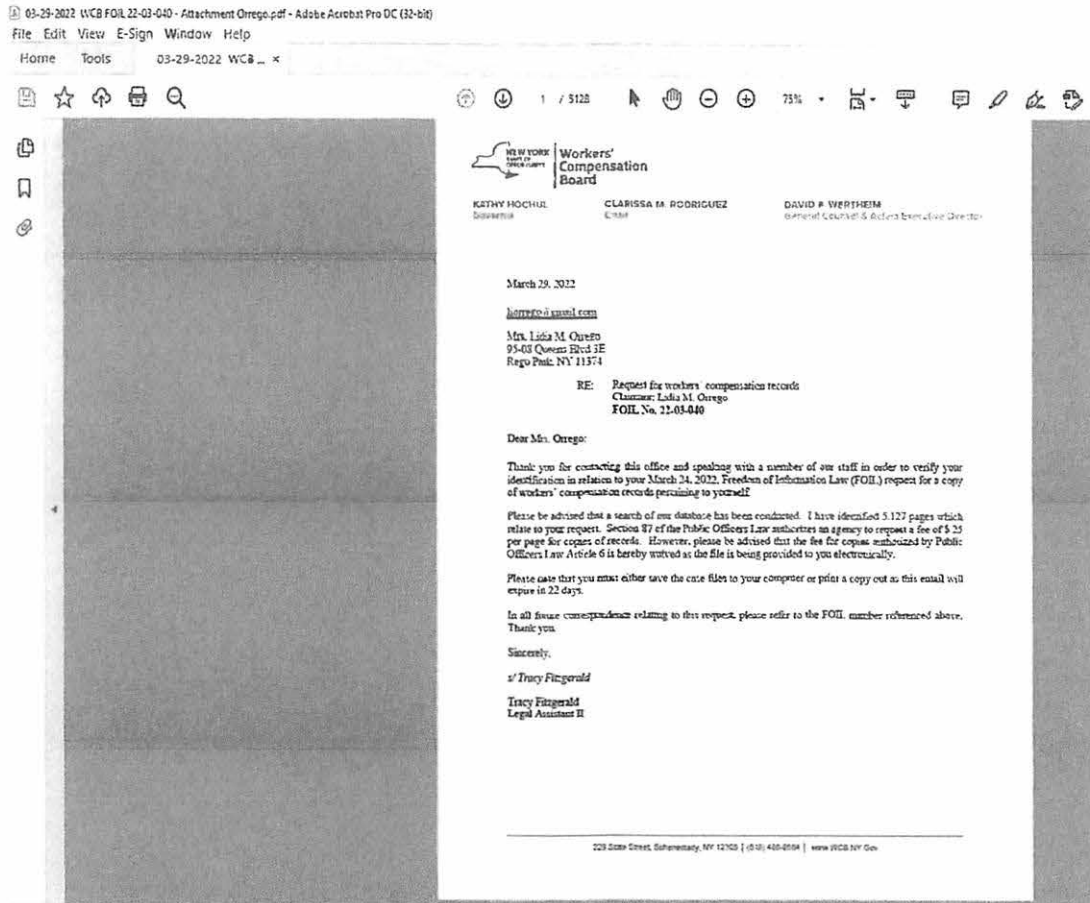
File Home Share View

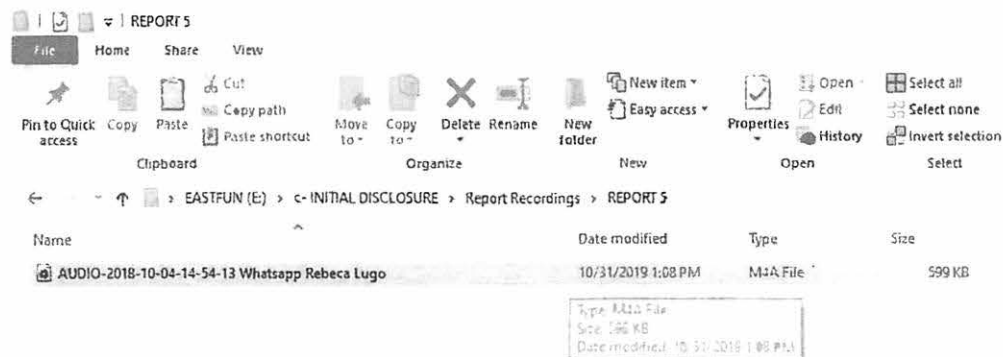
Pin to Quick access Copy Paste Copy path Paste shortcut Move to Copy to Delete Rename New folder New item Easy access Properties Open Select all Select none Invert selection

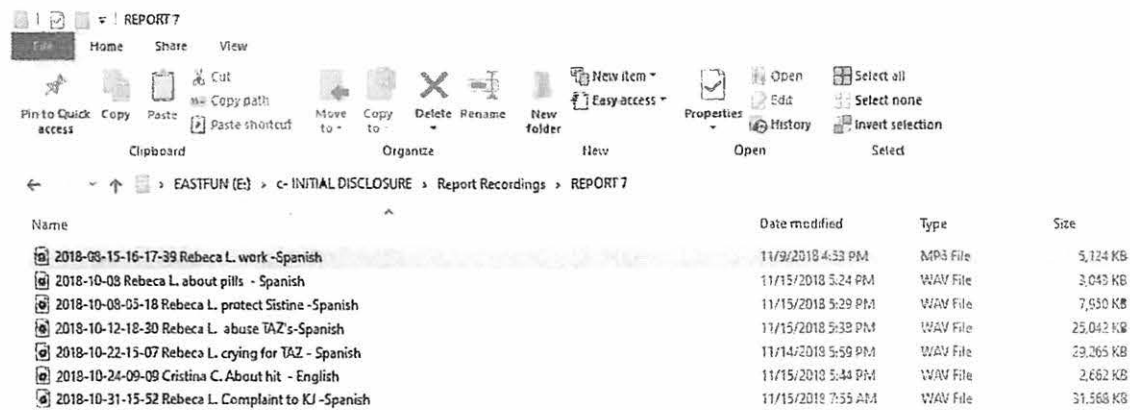
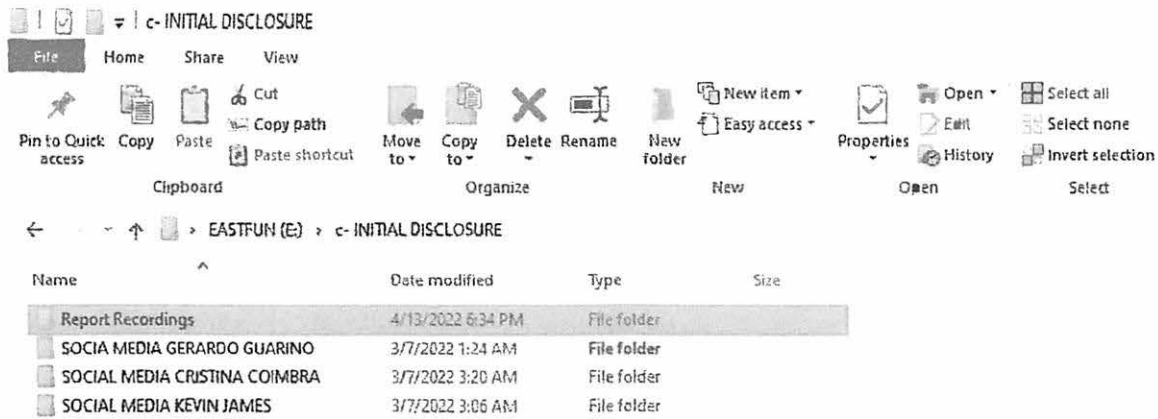
Clipboard Organize New Open Select

← EASTFURN (E) > b- INITIAL DISCLOSURE > Recordings WCB

Name	Date modified	Type	Size
116- HEARING WCB G2584330 10-31-19	6/28/2021 9:47 PM	MP3 File	2,550 KB
117- HEARING WCB G2584330 1-9-20	6/28/2021 9:56 PM	MP3 File	1,841 KB
118- HEARING WCB G2584330 3-19-20	6/28/2021 9:41 PM	MP3 File	21,323 KB
119- HEARING WCB G2584330 6-23-20 (1)	6/28/2021 9:45 PM	MP3 File	13,208 KB
120- HEARING WCB G2584330 6-23-20 (2)	6/28/2021 9:39 PM	MP3 File	13,203 KB
121- HEARING WCB G2584330 10-28-20	6/28/2021 9:44 PM	MP3 File	3,605 KB
122- HEARING WCB G2584330 1-28-21	6/28/2021 9:48 PM	MP3 File	3,220 KB
123- HEARING WCB G2584330 3-5-21	6/28/2021 9:53 PM	MP3 File	14,284 KB
Part I 2min50s -2020-10-14-10-09001 Translator Celeste Bueno questions	10/18/2020 4:37 PM	WAV File	10,672 KB
Part II 2m17s -2020-10-14-10-08-001 Translator Celeste Bueno	10/13/2020 6:22 PM	WAV File	8,622 KB
Part III 3m29s - 2020-10-14-10-08-001 Translator Celeste Bueno	10/18/2020 6:27 PM	WAV File	13,096 KB
Part IV 5m3s - 2020-10-14-10-08-001 Dr. Jason Hochfelder MD Orthopedic Surgery	12/21/2020 2:46 PM	WAV File	18,850 KB







7020 0090 0001 8910 7442

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee \$3.75

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$0.00

☐ Return Receipt (electronic) \$0.00

☐ Certified Mail Restricted Delivery \$0.00

☐ Adult Signature Required \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$21.50

Total Postage and Fees \$25.30

Sent To Kuuku Minneh-Dankoh / Edward W.
One Battery Park Plaza, 28th Floor - Gordon Rees
New York, NY 10004

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7020 0090 0001 8910 7459

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee \$3.75

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$0.00

☐ Return Receipt (electronic) \$0.00

☐ Certified Mail Restricted Delivery \$0.00

☐ Adult Signature Required \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$21.50

Total Postage and Fees \$28.30

Sent To Kuuku Minneh-Dankoh / Edward Wornle
One Battery Park Plaza, 28th Fl. Gordon Rees
New York, NY 10004

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



REGO PARK
9224 QUEENS BLVD
REGO PARK, NY 11374-9997
(800)275-8777

05/28/2022 03:54 PM

Product	Qty	Unit Price	Price
---------	-----	------------	-------

Priority Mail® 1-Day 1			\$21.50
------------------------	--	--	---------

Lg Flat Rate Box

New York, NY 10004

Flat Rate

Expected Delivery Date

Tue 05/31/2022

Certified Mail®

Tracking #:

70200090000189107442

Return Receipt

Tracking #:

9590 9402 7354 2028 6219 72

Total \$28.30

Priority Mail® 1-Day 1			\$21.50
------------------------	--	--	---------

Lg Flat Rate Box

New York, NY 10004

Flat Rate

Expected Delivery Date

Tue 05/31/2022

Certified Mail®

Tracking #:

70200090000189107459

Return Receipt

Tracking #:

9590 9402 7354 2028 6219 89

Total \$28.30

Prepaid Mail 1			\$0.00
----------------	--	--	--------

La Vergne, TN 37086

Weight: 0 lb 4.70 oz

Acceptance Date:

Sat 05/28/2022

Tracking #:

9202 0901 6878 8827 6015 72

Grand Total: \$56.60

Debit Card Remitted \$66.60

Card Name: VISA

Account #: XXXXXXXXXXXX6439

Approval #: 045444

Transaction #: 532

Receipt #: 026271

Debit Card Purchase: \$56.60

AID: A0000000980840

AL: US DEBIT

PIN: Verified

Cash Back -\$10.00

Every household in the U.S. is now
eligible to receive a third set
of 8 free test kits.
Go to www.covidtests.gov

Text your tracking number to 28777 (2USPS)
to get the latest status. Standard Message
and Data rates may apply. You may also
visit www.usps.com USPS Tracking or call
1-800-222-1811.

Save this receipt as evidence of
insurance. For information on filing an
insurance claim go to
<https://www.usps.com/help/claims.htm>
or call 1-800-222-1811

Preview your Mail
Track your Packages
Scan us for FREE @
ORREGO150

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego,

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury LLC,
and Teresa A. Zantua.

Defendants.

Affirmation of Service
by Certified Mail Receipt

20 CV 3361 (GRB) (AYS)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of Initial Disclosure "PART 2: PRODUCTION BY PLAINTIFF" the following evidence:

- 1) Appendix F Initial Discovery Protocols for Employment Cases Alleging Adverse Action 20-Page
 - 2) Total 2,517-Page content: 200 Exhibits, Bates Numbering PLA000001 - PLA002517.
 - 3) Thumb drive content: 821 Pictures, 172 Videos, 26 Recordings, Social Media Content from Mr. Kevin Knipfing, Ms. Cristina Selga, and Mr. Gerardo Guarino.
- Electronically copy of 5,127 pages file Workers Compensation FOIL No. 22-03-040 dated March 29, 2022.
- Electronically copy of 20-page Appendix F + 200 Exhibits 2,517-page.

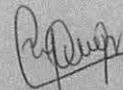
Upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minnah-Donkoh, Esq. and Mr. Edward Warnke whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 28, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego, X
Plaintiff, : Case No. 20-CV-3361 (GRB)(AKT)
-against- : PLAINTIFF'S INITIAL
Kevin Knipping a/k/a Kevin James, Stephanieanna : DISCLOSURES
James-Knipping a/k/a Steffiana de la Cruz, Old :
Westbury EDDIE LLC, Old Westbury, LLC, :
Teresa A. Zantua, :
Defendants. X

STATE OF NEW YORK) SS.
COUNTY OF NASSAU)

APPENDIX F

INITIAL DISCOVERY PROTOCOLS
FOR EMPLOYMENT CASES ALLEGING ADVERSE ACTION

Plaintiff, Lidia M. Orrego, clarifies that the list of evidence, witnesses, subpoenas, Freedom of Information Act ("FOIA") requests, etc. may change when the Defendants comply with the Initial Disclosures according to FEDERAL RULES OF CIVIL PROCEDURE ("F.R.C.P.") Rule 26 and Judge Shields' Individual Rules and Protocols. Plaintiff requests the discussion about the electronically stored information ("ESI") based on the proposed Join Letter and Discovery Worksheet filed on April 14, 2022, by Plaintiff ECF [51]. Once the ESI has been discussed with Defendants, Plaintiff will send the following or additional documents and update the witnesses or experts' list. See Depp vs. Heard.

Notice: Discovery according to F.R.C.P. Rules 30, 31, 33, 34.

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY, 11374
Phone (347) 4532234

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com™

OFFICIAL USE

Certified Mail Fee
\$
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$
Postage
\$
Total Postage and Fees
\$
Sent To: Kuuku Minnah-Dankoh/Edward W.
One Battery Park, 28th Floor - Gordon Hees
New York, NY 10004
City, State, ZIP+4®
PS Form 3811, April 2015 PSN 7530-02-000-9053 See Reverse for Instructions Domestic Return Receipt

PS Form 3811, July 2020 PSN 7530-02-000-9053

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego, X
Plaintiff, :
-against- :
Kevin Knipping a/k/a Kevin James, Stephanieanna :
James-Knipping a/k/a Steffiana de la Cruz, Old :
Westbury EDDIE LLC, Old Westbury, LLC, :
Teresa A. Zantua, :
Defendants. X

Affirmation of Service
by Certified Mail Receipt

Track Another Package +

Tracking Number: 9590940273542028621972

Remove X

Your item was delivered to the front desk, reception area, or mail room at 3:42 pm on May 31, 2022 in NEW YORK, NY 10004.

USPS Tracking Plus® Available ∨

✓ Delivered, Front Desk/Reception/Mail Room

May 31, 2022 at 3:42 pm
NEW YORK, NY 10004

Feedback

Get Updates ∨

- Text & Email Updates ∨
- Tracking History ∨
- USPS Tracking Plus® ∨
- Product Information ∨

See Less ^

Track Another Package +

Tracking Number: 9590940273542028621989

Remove X

Your item was delivered to the front desk, reception area, or mail room at 3:42 pm on May 31, 2022 in NEW YORK, NY 10004.

USPS Tracking Plus® Available ▾

✓ Delivered, Front Desk/Reception/Mail Room

May 31, 2022 at 3:42 pm
NEW YORK, NY 10004

Feedback

Get Updates ▾

Text & Email Updates	▾
Tracking History	▾
USPS Tracking Plus®	▾
Product Information	▾

See Less ^

ORREGO155

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X ☐ Agent ☐ Addressee	
1. Article Addressed to: Kuuku Minnak-Donkoh Edward Warkke Gordon Rees Scully Mansukhani One Battery Park Plaza, 28th Fl. New York, NY 10004		B. Received by (Printed Name) C. Date of Delivery	
2. Article Number (Transfer from service label) 7020 0090 0001 8910 7442		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☐ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery ☐ Signature Confirmation Restricted Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)			
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X ☐ Agent ☐ Addressee	
1. Article Addressed to: Kuuku Minnak-Donkoh Edward Warkke Gordon Rees Scully Mansukhani One Battery Park Plaza, 28th Fl. New York, NY 10004		B. Received by (Printed Name) C. Date of Delivery	
2. Article Number (Transfer from service label) 7020 0090 0001 8910 7459		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☐ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery ☐ Signature Confirmation Restricted Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)			
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

ORREGO155

Track Another Package +

Tracking Number: 70200090000189107442

Remove X

Your item was delivered to the front desk, reception area, or mail room at 10:43 am on May 31, 2022 in NEW YORK, NY 10004.

USPS Tracking Plus® Available ∨

✓ Delivered, Front Desk/Reception/Mail Room

May 31, 2022 at 10:43 am
NEW YORK, NY 10004

Feedback

Get Updates ∨

Text & Email Updates	∨
Tracking History	∨
USPS Tracking Plus®	∨
Product Information	∨

See Less ^

Track Another Package +

Tracking Number: 70200090000189107459

Remove X

Your item was delivered to the front desk, reception area, or mail room at 10:43 am on May 31, 2022 in NEW YORK, NY 10004.

USPS Tracking Plus® Available ∨

✓ Delivered, Front Desk/Reception/Mail Room

May 31, 2022 at 10:43 am
NEW YORK, NY 10004

Feedback

Get Updates ∨

- Text & Email Updates ∨
- Tracking History ∨
- USPS Tracking Plus® ∨
- Product Information ∨

See Less ^



Lidia Orrego <liorrego@gmail.com>

PROOF OF SERVICE Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS Plaintiff's Initial Disclosures Rule 26 + Evidence

1 message

Lidia Orrego <liorrego@gmail.com>

Tue, May 31, 2022 at 11:25 PM

To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>, Julissa Martinez <jxmartinez@grsm.com>, Peter Cella <pcella@grsm.com>, Dallas Rivera <drrivera@grsm.com>, Edward Warnke <ewarnke@grsm.com>, Tiara Galarza <tgalarza@grsm.com>, Veronica Canarte <vcanarte@grsm.com>
Cc: Lidia Orrego <liorrego@gmail.com>

PROOF OF SERVICE VIA EMAIL & CERTIFIED MAIL

To: Defendants' Counsels: Mr. Kuuku Minnah-Donkoh, Esq., Mr. Edward E. Warnke, Esq. via email & Certified Mail

I have served a copy of Initial Disclosures "PART 2: PRODUCTION BY PLAINTIFF" with the following evidence:

- 1) Affirmation of service + 6 screenshots of thumb drive content dated May 28, 2022.
- 2) Appendix F Initial Discovery Protocols for Employment Cases Alleging Adverse Action 20-Page 3+ Total 2,517-Page content: 200 Exhibits, Bates Numbering PLA000001 - PLA002517 dated May 28, 2022.
- 3) Electronically Stored Information (ESI): Thumb drive content: 821 Pictures, 172 Videos, 26 Recordings, and Social Media Content from Mr. Kevin Knipfing, Ms. Cristina Selga, and Mr. Gerardo Guarino.
 - Electronically production documents of 5,127 pages file Workers Compensation FOIL No. 22-03-040 dated March 29, 2022.
 - Electronically production documents: Affirmation of service 7-page, Appendix F 20-page + 200 Exhibits 2,517-page dated May 28, 2022.
- 4) Copy Certified Mail Receipt and tracking numbers + pictures thumb drive and documents.

Upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minnah-Donkoh, Esq. and Mr. Edward Warnke whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004

Best regards,

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

"If you are neutral in situations of injustice, you have chosen the side of the Oppressor." Desmond Tutu

7/3/22, 11:13 PM

Gmail - PROOF OF SERVICE Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS Plaintiff's Initial Disclosures, 07/01/22 + Evidence

To: Kuuku Angate Minnah-Donkoh kminnahdonkoh@grsm.com, jxmartinez@grsm.com, pcella@grsm.com

Alex Dumas adumas@grsm.com, dlrivera@grsm.com

Edward E. Warnke ewarnke@grsm.com, tgalarza@grsm.com, vcanarte@grsm.com

 [1] 05-28-2022 Affirmation of service Initial D...

 [2] 05-28-2022 Plaintiff's Initial Disclosures.pdf

 [3] 05-28-2022 CERTIFIED MAIL RECEIPT.pdf

 [4] IMG_4208 05-28-2022 Pic Thumb Drive.JPEG

 [5] IMG_4209 05-28-2022 Pic doc..JPEG

 [6] 9590940273542028621972 USPS.com@.pdf

 [7] 9590940273542028621989 USPS.com@.pdf



EXHIBIT 2

Lidia Orrego <liorrego@gmail.com>

PROOF OF SERVICE Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS Plaintiff's Initial Disclosures Rule 26 + Evidence

Lidia Orrego <liorrego@gmail.com>
To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>
Cc: Lidia Orrego <liorrego@gmail.com>

Wed, Jul 6, 2022 at 2:52 PM

Good afternoon,

Mr. Minnah-Donkoh, for the record, you never responded to any of my communications, and I have proof of all attempts. For example, on February 16, 2022, you refused to answer me and stated in your email: *"My office does not take directions from you. All of the information and documents you have requested/demanded can and should be obtained from your attorney."* when Judge Shields' order was still pending as of December 2, 2021, ECF [41]. I even replied to you that were not my directions but Judge Shields' order.

In addition, my former pro bono counsel confirmed via email that any party exchanged any document or information regarding the initial disclosures before filed the Joint Letter ECF [42].

Mr. Minnah-Donkoh, you yesterday stated before Judge Shields that you would respond to my communications, therefore, regarding the Conference on July 5, 2022, at 10:30 am, and Order received via ECF, please confirm the following:

1) In front of Judge Shields, you state not having received any video from me, I am re-sent you the email as proof that you were served a total of 172 videos and among others electronic evidence and hard copies by mail on May 28, 2022:

- *Electronically Stored Information (ESI): Thumb drive content: 821 Pictures, 172 Videos, 26 Recordings, and Social Media Content from Mr. Kevin Knipfing, Ms. Cristina Selga, and Mr. Gerardo Guarino.*

- *Electronically production documents of 5,127 pages file Workers Compensation FOIL No. 22-03-040 dated March 29, 2022.*

- *Electronically production documents: Affirmation of service 7-page, Appendix F 20-page + 200 Exhibits 2,517-page dated May 28, 2022.*

2) Please confirm that you were adequately served with all the evidence on May 31, 2022, via email including but not limited to the thumb drive + the medical evidence a total of 5,128 pages of FOIA from the Workers Compensation case, detailing all the medical treatment and medications due to my

occupational disease from my work with your clients as well as the detail of all the evidence contained in my email dated May 31, 2022.

3) I have authorized the Initial Disclosures to be sent to me via email pursuant to the conference in front of Judge Shields, on July 5, 2022, at 10:30 am. Therefore, I request in Good Faith that You authorize me to serve you only via email for the information exchange stage and ECF for any other Non-Device or Device Motions with the Court. According to Judge Shields' recommendation, I will be informing you as a courtesy previously before I will file any document to the Court. I expressly reserve all the rights and remedies, including but not limited to filing any other dispositive or non-dispositive motion or objections to which I am entitled under the Federal Rules of Civil Procedure or Law.

4) Regarding the "Joint Letter" that we must submit on or before August 15, 2022, please do not submit any document to the Court without my review and handwritten signature of the content on each page on the drafting before the submission. Any document you submit to the Court without these requirements must be voided and I will immediately file a Motion in accordance with the FRCP.

5) Please contact me only by email to preserve the procedure for both parties.

6) Any questions or queries please feel free to contact me any time and I will reply as soon as I can.

7) Any other matter in this Action or request will notify you by email.

Best regards,

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone 347-453-2234

[Quoted text hidden]



Lidia Orrego <liorrego@gmail.com>

PROOF OF SERVICE Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS Plaintiff's Initial Disclosures Rule 26 + Evidence

Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>
To: Lidia Orrego <liorrego@gmail.com>

Wed, Jul 6, 2022 at 3:21 PM

Ms. Orrego,

I refused to comply with the demands made in your February 16 email because defendants were under no obligation at that time to produce any discovery. Moreover, at that time you were technically still represented by the court-appointed attorney, and should not have been having any direct communications with me.

As to item number 1 in your email below, it misrepresents what I stated during yesterday's conference. What I told the judge was that it had been a while since I reviewed the materials you produced on May 31, and that I did not recall everything you had produced, including videos.

As to item number 2, I can confirm that I received the two (boxes of documents) and thumb drive you served on May 31. However, I will not confirm or make the representation that the materials you served constitutes "all the evidence." I will review the materials you served again, and will follow up with you if I believe there are any deficiencies in your document production.

As to item number 3, I agree to service via email and ECF.

As to item number 4, I do not need advice from you as to my obligations prior to filing a "joint" letter. Any joint letters required by the court will be submitted to you for review prior to filing.

As to items numbers 5-7, I will contact you only via email.

Regards,

KUUKU MINNAH-DONKOH | Partner

Visit our COVID-19 HUB

D: 212-453-0709 | kminnahdonkoh@grsm.com

vCard | Bio

Subject: Fwd: PROOF OF SERVICE Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS Plaintiff's Initial Disclosures Rule 26 + Evidence

[Quoted text hidden]

This email communication may contain CONFIDENTIAL INFORMATION WHICH ALSO MAY BE LEGALLY PRIVILEGED and is intended only for the use of the intended recipients identified above. If you are not the intended recipient of this communication, you are hereby notified that any unauthorized review, use, dissemination, distribution, downloading, or copying of this communication is strictly prohibited. If you are not the intended recipient and have received this communication in error, please immediately notify us by reply email, delete the communication and destroy all copies.

GORDON REES SCULLY MANSUKHANI, LLP
YOUR 50 STATE PARTNER®
<http://www.grsm.com>

Lidia Orrego <liorrego@gmail.com>

PROOF OF SERVICE Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS Plaintiff's Initial Disclosures Rule 26 + Evidence

Lidia Orrego <liorrego@gmail.com>
To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>
Cc: Lidia Orrego <liorrego@gmail.com>

Fri, Jul 8, 2022 at 4:48 AM

Mr. Minnah-Donkoh, I request that you refrain from being condescending, disrespectful, and hostile towards me for being a woman, Hispanic, and Pro Se because despite all your lies and defamations that you wrote in your pleadings, I have always addressed you with respect, so I demand the same respect from you.

Next, I proceed to refute your response from your email dated 07/06/2022 according to the conference with Judge Shields dated July 5, 2022:

- You have been failing your Initial Disclosures obligations pursuant to the FRCP Rule 26: Duty to Disclose; General Provisions Governing Discovery since December 2, 2021, even after filing my notice to Judge Shields' decision to continue as Pro Se on April 18, 2022 ECF [51]. Your email is evidence that you are not going to act in good faith as you have been doing all this time.
- When Judge Shields asked you at the Conference on July 5, 2022, the reason You did not respond to any of my communications. You did not mention anything about the pro bono counsel instead you evaded the question" saying that you had to "review "the documentation.

You failed in your Duty according to the American Bar Association to communicate with your clients, colleagues, judges, and others involved in the case all the time.

As to item number 2, This stage does not entail the “Initial Disclosures” (Rule 26 (a) (10) as ORDERED by Hon. Judge Shields at the conference on July 5, 2022, nothing in this stage is “EXCLUDED” or “Deficiency” because you want to keep playing the delay game, I will not allow it, your abuse of the Discovery process ends at this time.

This stage is "EXCHANGE" to proceed with the DISCOVERY for example FRCP Rule 33: Interrogatories, taking depositions, making requests for documents for admission, or conducting mental examinations according to the H. Judge Shields' words and Order. It's really annoying that you still try to mislead me even though Judge Shields was very clear.

It also makes no sense that You must certify that it is all "All the evidence", only that you confirm received all the evidence detailed in the Affirmation of Service as Plaintiff Initial Disclosure, regardless of anything else. You will have time after requesting documents in the Discovery process "if you need anything else." Repeat, this is not the stage where you investigate anything about the evidence.

I received the same instructions according to the Pro se Legal Assistance Program – HOFSTRA University. If you have any doubts about this process, please contact PSLAP@hofstra.edu to request a copy of the “Federal District Court Litigation Overview”. Where they explain the litigation process for the stage. I encourage You to make an appointment with the legal assistant to discuss this document.

Judge Shields asked me exactly "Ms. Orrego, are you going to have time to send the 1,224 pieces of evidence by August 1, 2022? Or do you need more time?" I confirmed to Judge Shields that I forwarded YOU all the Initial Disclosure on May 31, 2022.

The only thing that Judge Shields asked you is if you received everything that I described in my proof of service, such as Initial Disclosure. Judge Shields did not ask YOU that you should confirm that it was "all

the evidence" or if you should notify "Deficiencies" or "rebut" any evidence and that the Join Letter to comply on or before August 15, 2022, is only to confirm if we both exchanged everything.

Mr. Mr. Minnah-Donkoh, in plain language the Initial Disclosure by definition is not “ALL the evidence”. It is truly embarrassing that I have to call for another conference with Judge Shields because you refuse to make the Initial Disclosure, and the shame is not mine.

Should we call Judge Shields back to another conference? In that way, Judge Shields explain to YOU everything again? Because the problem is not me, I am Pro Se, and I fully understand what we must do.

The problem is You who is evading the Initial Disclosure since December 2, 2021, because you don't know the legal processes? I don't know what you did studying for 4 years at the College + internship. If you do not have evidence, stop pretending that you are going to trial, and stop wasting taxpayers' money.

You only need to confirm that you received all the evidence for Initial Disclosures, in order to prepare your interrogatories because yesterday you stated first “did not receive” after my refutation your change to “not recall” after more than ONE month to receive all the evidence ordered ECF [41] and ECF [52] two times for the Judge Shields’ since December 2, 2021.

It is incomprehensible, that a firm of 1,000 lawyers in 50 States must have at least 3,000 paralegals, and as you are a Partner with at least two paralegals, Ms. Julissa Martinez and Mr. Peter Cella, but you are the one who has to review the documents, everyone knows that all this work is for paralegals. I will ask You again, whom You want to continue deceiving with the whole circus?

My Initial Disclosures dated May 28, 2022 “PART 2: PRODUCTION BY PLAINTIFF” was drafted according to the “Appendix “F” Judge Shields’ Protocols pursuant to FRCP 26 (a) (1) because they focus on the type of information most likely to be useful in narrowing the issues for employment discrimination cases alleging adverse action.” I requested that you proceed to send me the Defendants’ Initial Disclosures according to “PART 3: PRODUCTION BY DEFENDANT” according to this Protocol and the Orders ECF [41] and ECF [52].

You never replied to my email until today, because yesterday you pretended to be someone else in front of Judge Shields which is quite unpleasant since all my Initial Disclosures it has been in your possession since May 31, 2022, and ignore me to avoid fulfilling your duty to send me Defendants' initial disclosures. You are clearly abusing the Discovery process by assuming that I do not know the rules and my rights. You agreed to move quickly to go to trial with H. Judge Shields.

The only deficiency you can find with all this evidence is that the Defendants lied since November 6, 2018, the termination letter was issued by a company not registered in NYS and signed by Mr. Steve Savitsky which is a fraud; filing the false document the job "Offer Letter" signed also by Savitsky which the evidence shows was fabricated for this lawsuit because that letter was never filed in the Workers Compensation case, my evidence shows with text messages that letter offer never exist or was sent to me.

Other strong evidence, according to my recordings, Mr. Knipfing in front of Ms. Cristina Selga promised an investigation after I filed my email dated November 2, 2018, about all the abuse, physical, emotional, harassment, etc. Mr. Knipfing opened a false investigation in which I fully collaborated with evidence such as my diary, text messages, and the recordings delivered to Mr. Knipfing after November 6, 2018, to prove all the abuse, discrimination, and harassment he suffered since January 2018 according to my email dated November 2, 2018, to unlawfully terminate my employment in retaliation with a forged Letter by Mr. Savitsky.

Mr. Knipfing hired for the false investigation people who pretended to be investigators like Ms. Tefta Shaska who was sued in the same court EDNY Case 2:06-cv-04746-JFB-GRB accused to “alleging false arrest, false imprisonment, malicious prosecution, municipal liability, abuse of process, conspiracy, “neglect to prevent,” and defamation, pursuant to 42 U.S.C. §§ 1983, 1985, 1986 and 1988, Lanham Act violations pursuant to 15 U.S.C. § 1125(a), and various state law tort claims, all arising from the allegedly unlawful investigation and prosecution of Conte. on another victim.” case in charge of H. Judge Brown.

Until today You never disclosed the “investigation report” that you do not mention in any of your pleadings, that you do not mention in any of your pleadings before to send me the false termination letter ordered by Mr. Kevin James aka Mr. Knipfing.

In your pleadings, You changed twice the version of the reason the investigation was opened, including the Mr. Knipfing's false statement with the support of Ms. Selga who also lied. The recording shows that both lied in a judicial proceeding in Federal Court.

All of the above You have committed multiple ethical violations, Rule 3.3 Candor toward the Tribunal, Rule 3.5: Impartiality & Decorum of the Tribunal, Rule 4.1: Truthfulness in Statements to Others, Rule 8.1: Bar Admission & Disciplinary Matters, Rule 8.2: Judicial & Legal Officials, Rule 8.4: Misconduct of Professional Conduct.

Also, gross violation of "Rules of Professional Conduct Rule 4.4: Respect for Rights of Third Persons: Transactions With Persons Other Than Clients:

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

(b) A lawyer who receives a document or electronically stored information relating to the representation of the lawyer's client and knows or reasonably should know that the document or electronically stored information was inadvertently sent shall promptly notify the sender."

As to item number 4, as you confirmed, my pro bono counsel failed in his obligations prior to filing the "joint" letter annulled ECF [42] to comply with the requirements by the Court that any "joint letter" will be not filed before my review and approval. Due to the gross ethical violation from Mr. Dratch, I removed him from my case, so he had no choice but to withdraw.

The big RED flag about betrayal from my former pro bono counsel appointed by the Court was his response after given the order to annul the document [42] stated: “Lidia what they write is not evidence it means nothing.” email dated February 11, 2022 at 10:41 am.

Obviously, the “join letter” was written ONLY by You to ruin my case, with statements that were not mine, perhaps on that occasion you did not violate your obligation that I review the letter before submitting it to the Court?

You are abusing the Discovery process as a dilatory tactic for the purpose of shameless ending the process in late 2023. When we should already be on the Trial and my former pro bono counsel was helping you, because without evidence the Court would take that Letter into account.

Mr. Dratch's mission was to keep the evidence out of the loop. This was the plan, wasn't it? Mr. Dratch discovered himself when in desperation he printed all the evidence I sent him for review and mailed it to my address.

At this point You only have two path: 1) Produce more false documents or false witnesses, or, 2) prevent all my evidence from going to trial as my former counsels from Pasternack Tilker Ziegler Walsh Stanton & Romano L.L.P. did. You just have to keep playing dirty.

Pasternack Tilker Ziegler Walsh Stanton & Romano betrayed my trust using lawyers who do not work in the firm in my case into the deposition of my doctors and the IME doctor Jason Hochfelder who signed a false examination under penalty of perjury and my former counsels conceal all the evidence of my medical treatments, recordings and transcriptions that was never revealed about the Zantua abuse and Dr. Hochfelder lying in the report without cross examination with his recording.

7/8/22, 4:51 AM

Gmail - PROOF OF SERVICE Re: Orrego v. Knipping, et al, 20-CV-03361-GRB-AYS Plaintiff's Initial Disclosures Rule 26+ Evidence

According to all the cases I have read and the training with the Pro Se Legal Assistance Program: Discovery 101, as H. Judge Shields said at the Conference, all that evidence in my Initial Disclosures goes to trial, even Mr. Dratch himself confirmed before he betrayed me, that it was impossible for me to lose my case with ALL the text messages and recordings among the other evidence. Another precedent, the recordings were the success for Mr. Johnny Depp's trial. Depp v. Heard case: CL-2019-0002911

There is only one way you can achieve goal 2. You are using the Law to lie in Court and continue the abuse like your clients and the Court is looking for another way while You commit all these violations, but I am learning the rules and my rights.

Mr. Minnah-Donkoh, as you can see, the request item number 4 is totally justified, and the word "please" precede the request because despite being Hispanic, and I am an educated person with a certified bachelor's degree in the U.S.

I am here ALONE because each and every one of my counsels, as the evidence shows, betrayed me. But I am still here because we, the honest people have to fight against abuse and injustice.

Mr. Minnah-Donkoh, You are extremely far from stopping your outrageous behavior like the Defendants. I never give up. I am fighting for every victim like me whom you hurt along with the Defendants, not just for myself.

I cannot take all this pain and abuse anymore because everything written above is just a few examples that this process is extremely outrageous and sickened and I refuse to continue to be abused by you and the Defendants in this process

Honoring my commitment to Judge Shields, I inform you that I will proceed to file a Motion under the FRCP.

Thank you for your attention.

Best regards,

Lidia M. Orrego

Plaintiff Pro Se

95-08 Queens Blvd. Apart 3E

Rego Park, NY, 11374

Phone 347-453-2234

Veritas Nunquam Perit - Johnny Depp, June 1, 2022 –



Virus-free. www.avast.com

[Quoted text hidden]



Virus-free. www.avast.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego,

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury LLC,
and Teresa A. Zantua.

Defendants.
_____x

Affirmation of Service

20 CV 3361 (GRB) (AYS)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Notice of Motion to Default Judgment pursuant to Federal Rules of Civil Procedure ("F.R.C.P.") Rules 26 & 37, Affidavit in Support Plaintiff's Motion, Exhibit 1, 2, 3 (documentary evidence), and Memoranda of Law (Not required for Pro Se Litigants according to "Motion Form & Instructions - U.S. District Court-EDNY).

Upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minahh-Donkoh, Esq., Mr. Alex D. Dumas, Esq., and Mr. Edward Warnke, Esq. whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004

By ECF

By email address: kminnahdonkoh@grsm.com; kminnahdonkoh@gordonrees.com;
adumas@grsm.com; ewarnke@grsm.com

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 8, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----	X
	:
Lidia M. Orrego,	:
	:
Plaintiff,	: Case No. 20-CV-3361 (GRB)(AYS)
	:
-against-	:
	:
Kevin Knipfing a/k/a Kevin James, Stephanieanna	:
James-Knipfing a/k/a Steffiana de la Cruz, Old	:
Westbury EDDIE LLC, Old Westbury, LLC, Teresa:	:
A. Zantua,	:
	:
Defendants.	:
-----	X

**DEFENDANTS' MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFF'S
MOTION FOR DEFAULT JUDGMENT**

Gordon Rees Scully Mansukhani, LLP
Attorneys for Defendants
One Battery Park Plaza, 28th Floor
New York, New York 10004
Telephone: 212-269-5500

TABLE OF CONTENTS

	Page
PRELIMINARY STATEMENT	1
RELEVANT PROCEDURAL HISTORY	1
ARGUMENT	4
I. Sanctions Are Unwarranted Because Defendants Have Served Responses to the Court’s Employment Protocols, and Have Not Violated Any Prior Court Order.	4
CONCLUSION.....	5

TABLE OF AUTHORITIES

	Page(s)
 Cases	
<i>Yukos Cap. S.A.R.L. v. Feldman</i> , 977 F.3d 216(2d Cir. 2020).....	5
 Rules	
Fed. R. Civ. P. 26.....	5
Fed. R. Civ. P. 26(a)	2, 5
Fed. R. Civ. P. 26(a)(1).....	2
Fed. R. Civ. P. 26(e)	5
Fed. R. Civ. P. 37	4
Fed. R. Civ. P. 37(b)(2)(A).....	5
Fed. R. Civ. P. 37(c)	4, 5
Fed. R. Civ. P. 37(c)(1).....	5

PRELIMINARY STATEMENT

Plaintiff *pro se*, Lidia Orrego (“Plaintiff”), brings this motion for default judgment against defendants Kevin Knipfing a/k/a Kevin James, Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz, Old Westbury EDDIE LLC (incorrectly also s/h/a Old Westbury, LLC), and Teresa A. Zantua (collectively, “Defendants”). Although couched as a motion for default judgment, Plaintiff actually seeks sanctions against Defendants pursuant to Rule 37 of the Federal Rules of Civil Procedure (“FRCP”). Specifically, Plaintiff requests Defendants’ answer be stricken based on her erroneous belief that Defendants failed to timely serve initial disclosures pursuant to FRCP Rule 26(a). As established below, however, Defendants have not violated any prior Court order, and have timely served responses to the Court’s Employment Protocols, which are intended to supersede the parties’ obligations to make initial disclosures pursuant to Rule 26(a).

Accordingly, Plaintiff’s motion for default judgment/sanctions should be denied in its entirety with prejudice.

RELEVANT PROCEDURAL HISTORY

Plaintiff commenced this action by filing a complaint with the Court on July 23, 2020. (ECF Doc. No. 1). Plaintiff subsequently filed an amended complaint on August 17, 2020 (“Amended Complaint”). (ECF Doc. No. 8). On December 11, 2020, Defendants filed a fully briefed motion to dismiss the Amended Complaint for failure to state a claim. (ECF Doc. No. 22). On September 30, 2021, the Court issued an Order granting in part and denying in part Defendants’ motion to dismiss the Amended Complaint. (ECF Doc. No. 30). Defendants filed their answer to the Amended Complaint on October 14, 2021. (ECF Doc. No. 33).

An initial conference was scheduled to be held before the late Honorable Kathleen

Tomlinson on November 2, 2021. Due, however, to Judge Tomlinson's unfortunate passing, the November 2, 2021 initial conference was adjourned without date pending reassignment of this action to another Magistrate Judge. (ECF Docket Entry on October 26, 2021).

On November 22, 2021, the Court appointed *pro bono* counsel to represent Plaintiff. (ECF Doc. No. 38).

On November 23, 2021, the case was reassigned to The Honorable Anne Y. Shields as the assigned Magistrate Judge. (ECF Docket Entry on November 23, 2021).

On December 2, 2021, the Court issued an Order scheduling an initial conference for February 14, 2022, before Judge Shields. (ECF Doc. No. 41). In accordance with the Court's December 2, 2021 Order, and in anticipation of the February 14, 2022 initial conference, on February 10, 2022, counsel for Defendants filed a joint case management statement and joint proposed discovery plan worksheet after conferring with Plaintiff's *pro bono* counsel regarding same. (ECF Doc. No. 42). The joint proposed discovery plan worksheet called for: (i) Rule 26(a) initial disclosures to be served by March 14, 2022; and (ii) Phase I Discovery to be completed by April 12, 2022. *Id.*

In light of the parties' February 10 filing of the aforementioned joint case management statement, on February 11, 2022, the Court issued a Scheduling Order, which, among other things: (i) cancelled the initial conferenced scheduled for February 14, 2022; and (ii) directed the parties to complete the Employment Protocols found in Judge Shields' Individual Rules by April 12, 2022.¹ (ECF Docket Entry on February 11, 2022).

¹ Part I, paragraph 1.d., of the Court's Employment Protocols – the Employment Protocols are annexed as Appendix F to Judge Shields' Individual Rules – specifically states that the disclosure obligations under the Employment Protocols “**are intended to supersede the parties' obligations to make initial disclosures pursuant to F.R.C.P. 26(a)(1).**” (Emphasis in original).

On February 14, 2022 – just three days after the Court’s February 11, 2022 Scheduling Order – Plaintiff filed a motion to substitute her *pro bono* counsel. (ECF Doc. No. 43). On March 8, 2022, the Court held a telephone conference regarding Plaintiff’s motion to substitute counsel, at which time the Court: (i) granted Plaintiff’s motion to remove her *pro bono* counsel; and (ii) stayed the case for 60 days – until Monday, May 9, 2022 – to allow Plaintiff to either request appointment of new *pro bono* counsel, obtain new counsel, or decide to proceed *pro se*. (ECF Docket Entry on March 8, 2022). On April 14, 2022, Plaintiff advised the Court of her intention to proceed *pro se*. (ECF Doc. No. 51).

On April 19, 2022, the Court issued a Scheduling Order directing the parties, as part of Tier 1 Discovery, to exchange all documents relating to Plaintiff’s employment by June 1, 2022.² (ECF Doc. No. 52). Just three days later, on April 22, 2022, Plaintiff filed a letter with the Clerk’s office, in which, among other things, Plaintiff appeared to challenge the Court’s April 19, 2022 Scheduling Order. (ECF Doc. No. 54).

Accordingly, on May 2, 2022, the Court issued a Scheduling Order, which: (i) vacated the Tier 1 Discovery schedule set forth in the April 19, 2022 Scheduling Order; (ii) directed the parties to appear for an in-person initial conference on July 5, 2022; and (iii) stayed all discovery pending the in-person July 5, 2022 initial conference. (ECF Docket Entry on May 2, 2022).

On July 5, 2022, Plaintiff, proceeding *pro se*, and the undersigned appeared for the initial conference. At the conference, the Court set a Tier 1 discovery schedule, which required the parties to exchange all documents relating to Plaintiff’s employment by August 1, 2022. (ECF Docket Entry on July 5, 2022).

² Tier 1 Discovery “in cases alleging employment discrimination is governed by this Court’s initial employment protocols appearing in Appendix F [of Judge Shields’ Individual Rules].” See Section VII.B.2. of Judge Shields’ Individual Rules.

On July 8, 2022, Plaintiff filed the instant motion for default judgment despite the Court directing Tier 1 discovery to be completed by August 1, 2022. On August 1, 2022, Defendants served their responses to the Employment Protocols, thereby satisfying their Tier 1 discovery obligations.

Today, August 11, 2022, Plaintiff sent the undersigned an email containing Plaintiff's proposed language for the parties' joint letter due to be filed with the Court on August 15, 2022. In Plaintiff's proposed draft, she specifically states: "Plaintiff and the Defendants submitted their Initial Disclosure/Discovery in compliance with Your Honor's order dated July 5, 2022, this paper discovery has been completed." A copy of Plaintiff's August 11, 2022 email is annexed to the undersigned's declaration, dated August 11, 2022, as **Exhibit A**. Thus, there is no dispute Defendants have timely served responses to the Employment Protocols.

Defendants have requested that Plaintiff withdraw her pending motion for default judgment, but Plaintiff has taken the position that her "Motion [for] Default Judgment remains in process, [and] only Judge Brown can decide after both parties file their pleadings according to [] Judge Shields' order."

ARGUMENT

I. Sanctions Are Unwarranted Because Defendants Have Served Responses to the Court's Employment Protocols, and Have Not Violated Any Court Order.

Although couched as a motion for default judgment, Plaintiff requests that the Court sanction Defendants pursuant to Rule 37, based on Plaintiff's erroneous belief that Defendants failed to timely serve initial disclosures. Plaintiff specifically requests the Court strike Defendants' answer and grant Plaintiff all of the purported damages pled in her Amended Complaint. *See* Plaintiff's Notice of Motion, ECF Doc. No. 57.

As an initial matter, Rule 37(c) of the Federal Rules of Civil Procedure governs sanctions

for a failure to disclose under Rule 26:

If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless.”

Fed.R.Civ.P. 37(c)(1). Thus, even if Defendants’ had failed to comply with their obligation to serve Rule 26(a) initial disclosures, which is not the case, Rule 37(c) does not permit the striking of an answer for failure to disclose under Rule 26.

“If a party ‘fails to obey an order to provide or permit discovery,’ a district court may sanction the transgressing party in numerous ways of varying severity, up to and including dismissing the action.” *Yukos Cap. S.A.R.L. v. Feldman*, 977 F.3d 216, 234 (2d Cir. 2020) (quoting Fed. R. Civ. P. 37(b)(2)(A)). However, “[a] court may impose sanctions pursuant to Rule 37(b)(2)(A) only when the transgressing party has violated a prior court order.” *Id.*

Here, Defendants have not violated any Court order. As set forth at footnote 1 in the “Relevant Procedural History” section above, the disclosure obligations under the Court’s Employment Protocols are intended to supersede the parties’ obligations to make initial disclosures pursuant to Rule 26(a). As also established in the “Relevant Procedural History” section above, after the various stays in this matter, Defendants timely served responses to the Court’s Employment Protocols.

CONCLUSION

WHEREFORE, for the forgoing reasons, Defendants’ respectfully request that the Court deny Plaintiff’s motion for default judgment with prejudice, and grant such other and further relief as the Court deems just and proper.

Dated: August 11, 2022

By: /s/ Kuuku Minnah-Donkoh
Kuuku Minnah-Donkoh
GORDON REES SCULLY
MANSUKHANI, LLP
One Battery Park Plaza, 28th Floor
New York, New York 10004
(212) 269-5500
kminnahdonkoh@grsm.com

Attorneys for Defendants

ORREGO178
FILED
 IN CLERK'S OFFICE
 U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF NEW YORK

★ AUG 17 2022 ★

 Lidia M. Orrego

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James,
 Stephanieanna James-Knipfing
 a/k/a Steffiana de la Cruz,
 Old Westbury EDDIE LLC,
 Old Westbury, LLC, Teresa A. Zantua,

Defendant(s).

LONG ISLAND OFFICE
**REPLY MEMORANDA OF LAW
 IN SUPPORT PLAINTIFF'S
 MOTION DEFAULT JUDGMENT**

20CV3361(GRB)(AYS)

Hon. Judge Gary R. Brown

PRELIMINARY STATEMENT

Lidia M. Orrego ("Plaintiff"), the former nanny and housekeeper for by Kevin Knipfing a/k/a Kevin James, Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz according with the Amended Complaint ("AC") Electronic Case Files ("ECF") [8], brings this action against defendants Kevin Knipfing a/k/a Kevin James ("Mr. Knipfing"), Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz ("Mrs. Knipfing") collectively ("the Knipfings"), Old Westbury EDDIE LLC, Old Westbury, LLC collectively ("Corporations"), and Teresa A. Zantua ("Zantua") (hereinafter collectively "Defendants"), Retaliation and Hostile Work Environment pursuant to 42 U.S.C. §1981 and the New York State Human Rights ("NYSHRL") against all the Defendants. See Electronic Case Files ("ECF") [30] dated September 30, 2021.

Plaintiff requests that this Court must strike or disregard the Defendants Opposition papers ECF doc. [60] [61] for containing false statements and misrepresentations.

Defendants in their own pleading "Defendants' Responses To Initial Discovery Protocols For Employment Cases Alleging Adverse Action" have confirmed that ghost-corporation "Old Westbury LLC is an Unknown Entity under registration in NY" in fact, it is also not registered in

California where the "false termination" letter was signed by Mr. Steve Savitsky on November 27, 2018. Legally Plaintiff is still an employee of the Knipfings to the present. See annexed Exhibit 10, Pages 17-23.

The Defendants now realize that they must present documents that are required according to H. Judge Shields Protocols since December 2, 2021 ECF [41] for that reason Defendants have introduced false statements in their pleadings ECF [60] [61] "Old Westbury EDDIE LLC (incorrectly also s/ h/a Old Westbury, LLC)" this is a false challenge for the ECF [17] where Mr. Kevin Knipfing aka Mr. Kevin James signed on behalf of "Old Westbury LLC" since September 29, 2021. See annexed Exhibit 19, Pages 36-39.

All the documents from the Equal Employment Opportunity Commission ("EEOC") January 31, 2019, as well as every document filed in this action including but not limited to Summons, Proof of service, Court orders, etc. refer to TWO different corporations. Defendants continue with their pattern of perjury and misrepresentation in this Court.

Defendants in their pleading "Defendants' Responses To Initial Discovery Protocols For Employment Cases Alleging Adverse Action" in addition to all the false statements, fabricating false documents in this action has added the introduction of false witnesses. Defendants provided Plaintiff with documents marked as "confidential" and which are not, for this reason, Plaintiff filed electronically her "Letter Motion Challenging the Confidentiality of Documents of the Defendants Initial Discovery dated August 1, 2022" on August 12, 2022, but This document is not yet published in the ECF. The Plaintiff papers are always filed with days of delay, so it is unfair that the Pro Se does not have access to e-file as in the Supreme Court or in other forums.

All the documents that are part of the Defendants' Initial Disclosure, especially the documents of the Investigation dated November 21, 2018, with Plaintiff's co-worker Ms. Rebecca Lugo-Uzcategui is irrefutable evidence that Plaintiff told the truth all this time. For this reason, the

Defendants with the help of my former pro bono counsel refused to file the Initial Disclosure contempt of court ignoring the Order ECF doc. [41] dated December 2, 2021.

Plaintiff respectfully requests that the Defendants in addition to disregarding their pleadings be penalized because this Court has the inherent power, if Plaintiff had dared to commit even one of these false statements, fabricated documentation, or false witnesses, this Court would not forgive her.

This Court must strike or disregard the Defendants' Opposition to Default Judgment ECF [60] [61] because through the Defendants' representations they do not refer to the H. Judge Order and Protocols ECF [41] as the event that triggered the Initial Disclosures Federal Rules of Civil Procedure ("F.R.C.P.") Rule 26 and they are in Contempt the Court since December 2, 2021, more than 6 (six) months and after 4 (four) attempts in GOOD FAITH between February 14, 2022, to May 28, 2022, by Plaintiff to obtain the Defendants' Initial Disclosures.

Defendants definitely Failure to Make Disclosures or to Cooperate in Discovery according to the F.R.C.P. Rule 37 because they ignored mentioned all Plaintiff's attempts in Defendants' Opposition papers ECF doc. [60] [61]. Defendants' have failed to comply with Order ECF doc. [41] and this Failure is Inexcusable under F.R.C.P. 26 & 37.

The Court must strike or disregard the Defendants' Opposition to Default Judgment ECF doc. [60] [61] because the opposition papers erroneously point "to have accomplished" to Judge Shields' THIRD Discovery Order dated July 5, 2022, when Defendants' ignored the FIRST order ECF doc. [41] dated December 2, 2021.

In fact, the Defendants did not comply but were instead forced to comply on August 1, 2022, because they requested an extension again under false pretenses that were rejected by H. Judge Shields. See annexed Exhibits 4 – 9, Pages 9 -16.

Defendants never requested any extension because they were already in contempt of court

when they ignored the ECF Order doc. [41] dated December 2, 2021. It is impossible to file an extension after the deadline has expired months ago. Defendants do NOT have any ground or excuse to file an extension.

August 1, 2022, Defendants complied with the THIRD Discovery Order dated July 5, 2022 are making a false misrepresentation with the "Exhibit A" annexed to their opposition papers to Motion to Default Judgement because

Plaintiff's email dated August 11, 2022, has the clarification that it is a protocol to comply with the H. Judge Shields' Order dated July 5, 2022, and she was not waiving her right to pursue her Motion to Default Judgment supported by Laws and F.R.C.P. See Exhibits 11 – 15, Pages 24 - 30.

This Court can verify that the Defendants tried to introduce the same false statement in the JOINT Letter dated August 15, 2022, about "Old Westbury EDDIE LLC (incorrectly also s/h/a Old Westbury, LLC)" that they introduced in their Opposition Papers ECF doc. [60] [61] but Plaintiff challenged by email this false statement with the document signed by Mr. James on behalf of Old Westbury LLC on September 29, 2020 for which the Defendants had to void this lie the Defendants cannot file any document on behalf of this Ghost-corporation who terminated Plaintiff's employment with a false termination letter. See email annexed Exhibits 17 -18, Pages 33 - 35. Challenging the Defendants' false statement, Plaintiff filed annexed Exhibit 19, Pages 36 - 36.

Defendants sent the "Defendants' Responses To Initial Discovery Protocols For Employment Cases Alleging Adverse Action" according to the H. Judge Shields' Protocols contained in the Order ECF doc. [41] dated December 2, 2021, exactly 7 (seven) months after the deadline has expired to comply with the Duty to Initial Disclosure F.R.C.P. Rule 26. See annexed Exhibit 10, Pages 17 - 23.

Plaintiff attached the series of emails where she states that the email and the Joint Letter dated August 15, 2022, ECF doc. [62] are not an acceptance that the Defendants have complied

with their Initial Disclosure Duty F.R.C.P. rule 26 & 37 because they simply DID NOT do so with the Order ECF doc [41] dated December 2, 2021. See Exhibits 11 – 18, Pages 24 - 35.

Plaintiff complied despite having been deceived by her pro bono counsel with her Initial Disclosures on May 28, 2022, filing 7,644 pages, 200 Exhibits, 172 videos, and 26 Recordings without requesting any extension or making excuses for not complying with her Duty according to Initial Disclosure F.R.C.P. Rule 26 & 37.

LEGAL ARGUMENT

The Motion to Default Judgment against the Defendants must be GRANTED because the Defendants FAILED the Duties to Disclose in bad faith for 7 (seven) months, until they were forced to comply on August 1, 2022. This failure and misconduct are inexcusable according to the standards required by F.R.C.P. Rule 26 (a) (1) (E).

The Defendants have been abusing the Discovery since December 2, 2021- ECF [41], and failure to comply with a court's discovery order is just that: a failure and inexcusable according to F.R.C.P. Rule 37. “the plaintiff must demonstrate that the defendant's failure to comply is due to willfulness, bad faith or fault and not to an inability to comply. *Flaks v. Koegel*, supra, 504 F.2d at 708-09.” Plaintiff shows plenty of evidence and 4 (four) attempts in Good Faith prove Defendants’ failure to comply with Initial Disclosure since Discovery Order ECF [41] dated December 2, 2021, until today was in flagrant bad faith, willful or intentional this disobedient conduct. Plaintiff received an email where the Defendants refused to cooperate the first time and in the following attempts, she did not receive any response.

Accordingly, the Court renders default judgment and refers this matter to Judge Cott for an inquest. See, e.g., *Villalta v. J.S. Barkats, PLLC*, No. 16-cv-2772 (RA), 2020 U.S. Dist. LEXIS 123394, (S.D.N.Y. July 14, 2020) (granting motion for default judgment under Rule 37 and referring for an inquest without first determining whether the facts as alleged and deemed admitted are

sufficient to establish the plaintiff's claims). However, the Court notes that the sufficiency of the complaint's allegations still matter. Even for a Rule 37 default judgement, damages are not available for claim unless the allegations in the complaint underlying that claim are "well-pleaded," that is, sufficient to establish liability." Plaintiff filed with her Initial Disclosures on May 28, 2022, filing 7,644 pages, 200 Exhibits, 172 videos, and 26 Recordings plenty and irrefutable evidence which prove the 70 facts contained in your AC and her damages.

In addition, All the documents that are part of the Defendants' Initial Disclosure, especially the documents of the Investigation dated November 21, 2018, with Plaintiff's co-worker Ms. Rebecca Lugo-Uzcategui is irrefutable evidence that Plaintiff told the truth all this time. A document that the Defendants have intentionally concealed all this time constitutes Obstruction of Justice, lying in other judicial processes and government investigations.

Plaintiff was subjected to pervasive and severe physical and emotional assaults, verbal abuse, harassment, retaliation, victimization, violence, etc. according to plenty documentary evidence such as text messages, emails, recordings, transcriptions, medical records, etc. during her employment with Defendants as evidence based on her race by Zantua, Defendants Knipfings and the Corporations (one unregistered corporation "Old Westbury LLC" under the Defendants Knipfings).

The Knipfings and Corporations failed to address and/ or take against Zantua for creating a dangerous work environment affecting Plaintiff's physical and emotional well-being resulting in irreversible damages until to the present and in retaliation, Plaintiff was terminated within days after filing her complaint. Plaintiff successfully well-pleaded the allegations in her AC for which she is entitled that her Motion Default Judgment must be Granted.

Plaintiff has successfully proven with documentary evidence that Defendants' "continuing saga of dilatory conduct" has been an intentional, outrageous, and bad faith " Entry of a default judgment as a sanction is appropriate in the face of willful misconduct, "to achieve the purpose of

Rule 37 as a credible deterrent "rather than a paper tiger." Update Art, Inc. v. Modiin Publ'g, Ltd., 843 F.2d 67, 70-71 (2d Cir. 1988) (upholding judgment entered under Rule 37 in plaintiff's favor on copyright claims where defendants acted in bad faith and refused to comply with discovery orders) (quoting Cine Forty-Second Street Theatre Corp. v. Allied Artists Pictures Corp., 602 F.2d 1062, 1064 (2d Cir. 1979)). While dispositive relief is a severe sanction that should be granted only sparingly, a "continuing saga of dilatory conduct" will satisfy the threshold for entering a default judgment under Rule 37. U.S. Freight Co. v. Penn Cent. Transp. Co., 716 F.2d 954, 955 (2d Cir. 1983). "Here, as in other areas of the law, the most severe in the spectrum of sanctions provided by statute or rule must be available to the district court in appropriate cases, not merely to penalize those whose conduct may be deemed to warrant such a sanction, but to deter those who might be tempted to such conduct in the absence of such a deterrent." Sieck v. Russo, 869 F.2d 131, 134 (2d Cir. 1989). Societe Int'l v. Rogers, 357 U.S. 197, 212, 78 S.Ct. 1087, 2 L.Ed.2d 1255 (1958).

Plaintiff has successfully proven that Defendants continuing saga of dilatory conduct was intentional, bad faith, and inexcusable to satisfy the standard providing this Court to apply F.R.C.P. Rule 37 appropriate case the Motion Default Judgment must be Granted.

CONCLUSION

For the foregoing reasons and all the others discussed in Plaintiff's AC where properly alleges causation and damages, it is respectfully submitted the Motion to Default Judgment against the Defendants should be GRANTED, in its entirety against the Defendants for the amounts of all damages pleaded in the AC ECF [8], entails Section V. Relief, pages 7 & 8 - Retaliation and Hostile Work Environment pursuant to 42 U.S.C. §1981 and the New York State Human Rights ("NYSHRL") does not impose a cap on damages and that the Court grant such other and further relief it deems just and proper.

Damages AC ECF [8], entails Section V. Relief, pages 7 & 8:

1- Lost Wages and Benefits \$ 250.000,00.-(Two Hundred and Fifty Thousand Dollars).- from false Letter Termination fabricated by Ghost-corporation "Old Westbury LLC" is an Unknown entity under registration in NY or California signed by Mr. Steve Savitsky on November 27, 2018 and ordered by Mr. Kevin Knipfing and Mrs. Stephanieanna James-Knipfing. Loss of the right to apply for Unemployment Benefits because the Termination Letter establishes that she was fired for a just cause. Financial Distress since November 27, 2018. Legally Plaintiff is still an employee of the Knipfings to the present.

2- Compensatory Damages \$ 6.000.000,00.-(Six Million Dollars).- For future loss, emotional distress, personal / family pain & suffering, Inability to care for the family, concealment of physical abuse, assault and battery, mental anguish, loss of enjoyment of life and loss of consortium, Intentionally Infliction of Emotional Distress or Recklessly leading to Major Depressive Disorder, Pain Disorder, and Post Traumatic Stress Disorder (PTSD), Premature Ovarian Failure (POI) Disease, which has no treatment for the reversal of damages (permanent damages). Infliction Emotional and Financial Distress due to Physical Injuries and Myofascial Pain Syndrome (chronic pain disorder- Pain persists or worsens) are Excluded in the case filed with Work Compensation Board Case No. Case #G258 4330.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully Submitted,

Date: August 17, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234
Email: liorrego@gmail.co

KUUKU MINNAH-DONKOH
KMINNAHDONKOH@GRSM.COM

EXHIBIT 4

GORDON & REES
SCULLY MANSUKHANI
YOUR 50 STATE PARTNER™

ATTORNEYS AT LAW
1 BATTERY PARK PLAZA, 28TH FLOOR
NEW YORK, NY 10004
(212) 269-5500
(212) 269-5505 (F)
WWW.GRSM.COM

July 26, 2022

VIA ECF

The Honorable Anne Y. Shields
United States Magistrate Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: Lidia Orrego v. Kevin Knipfing, et al.,
Case No. 20-cv-03361-GRB-AYS

Dear Magistrate Judge Shields:

My office represents defendants, Kevin Knipfing a/k/a Kevin James ("Mr. Knipfing"), Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz, Old Westbury EDDIE LLC, Old Westbury, LLC, and Teresa A. Zantua (collectively, "Defendants"), in connection with the above-referenced action. I write to respectfully request a two-week extension of time – from August 1 to August 15, 2022 – to serve Defendants' initial document production on Plaintiff. This is Defendants' first request for an extension of time to serve their initial document production.

The reason for the requested extension is that I have depositions of two plaintiffs in two separate cases, scheduled for August 2 and August 3, respectively, and need adequate time to prepare for both. At the time of the July 5 initial conference in this matter, these depositions had not yet been scheduled, and I did not anticipate having to take both depositions so soon, let alone on back to back days. Due to the impending fact discovery deadlines in both cases, as well as the scheduling conflicts amongst the parties, these depositions cannot be moved.

Plaintiff does not consent to this request on the basis that "Defendants' Contempt of Court to comply with Initial Disclosure was extended 2 (two) times on Court's own initiative for no good cause in Defendants' favor in violation of Plaintiff's civil rights and Due Process of Law." Defendants note, however, that any delays to date in the prosecution of this matter have been solely due to Plaintiff. By way of relevant background, on February 11, 2022, the Court directed the parties to complete the Employment Protocols found in Your Honor's Individual Rules by April 12, 2022. See Court docket entry on April 11, 2022. Plaintiff at that time was represented by Court-appointed counsel. Just four days later, on February 15, 2022, Plaintiff filed a motion to

The Honorable Anne Y. Shields
July 26, 2022
Page 2

substitute her Court-appointed attorney – the fourth attorney, at least, Plaintiff has had in connection with her claims against Defendants. *See* ECF Doc. No. 43.

On March 8, 2022, the Court held a telephone conference regarding Plaintiff's motion to substitute counsel, during which the Court: (1) granted Plaintiff's motion to substitute counsel; and (2) stayed the case for 60 days to allow Plaintiff to either request appointment of new pro bono counsel, obtain new counsel, or decide to proceed *pro se*. *See* Court docket entry on March 8, 2022. On April 18, 2022, Plaintiff advised the Court of her intention to proceed *pro se*. *See* ECF Doc. No. 51.

The very next day, on April 19, 2022, the Court issued an Order directing the parties, as part of Tier 1 Discovery, to exchange all documents relating to Plaintiff's employment by June 1, 2022. *See* ECF Doc. No. 52. Just three days later, on April 22, 2022, Plaintiff filed a letter with the Clerk's office, in which, among other things, she appeared to challenge the Court's April 19, 2022 Order. *See* ECF Doc. No. 54. Accordingly, on May 2, 2022, the Court issued a scheduling order, which: (1) vacated the Tier 1 Discovery schedule set forth in the April 19, 2022 Order; (2) directed the parties to appear for an in-person conference on July 5, 2022; and (3) stayed all discovery pending the in-person July 5, 2022 conference. *See* Court docket entry on May 2, 2022.

Based on the foregoing history, Plaintiff, not Defendants, has been the cause of any delays to date. Accordingly, Defendants respectfully request that the Court grant their request for a two-week extension of time – from August 1 to August 15, 2022 – to serve Defendants' initial document production on Plaintiff. Additionally, Defendants respectfully request that the below deadlines also be extended:

- Deadline for Defendants to oppose Plaintiff's motion for default, extended from August 11 to August 26; and
- Deadline for parties to submit joint letter setting forth status of paper discovery, extended from August 15 to August 29.

Defendants thank the Court for its time and attention to these requests.

Respectfully submitted,

GORDON REES SCULLY
MANSUKHANI, LLP

Kuuku Minnah-Donkoh
Kuuku Minnah-Donkoh

cc: Lidia Orrego (by email)
Plaintiff *pro se*

EXHIBIT 5

Magistrate Judge Anne Y. Shields
United States District Court
Eastern District of New York
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

in the Clerk's Office
U.S. District Court, EDNY
July 27, 2022
7:14AM
Brooklyn Pro Se Office via
Box.com

July 27, 2022

Re: Orrego v. Knipping, et al, 20-CV-03361-GRB-AYS

Dear Magistrate Judge Anne Y. Shields,

In accordance with Rule IV, Pro Se Litigants of Your Honor's Individual Rules, Plaintiff, Lidia M. Orrego, respectfully submits my Objection to the Defendants' letter dated July 26, 2022, request extended the time for initial disclosure and opposition papers for the following reasons:

1- This Court cannot extend the deadline for the opposition to Plaintiff's Motion to Default Judgment ECF [57] assigned to District Court Judge. Also, the deadline of July 11, 2022, has no conflict and is far from the dates indicated by Defendant's Counsel. I drafted and filed my Motion ECF [5] in two days with support from the F.R.C.P. and plenty of evidence.

2- The Defendants' counsel letter also does not mention the fraud that he and my former pro bono lawyer committed to filing the annulled ECF [42] without my knowledge and consent and the counsels never were penalized by this Court. The counsels have been in contempt since December 12, 2021, according to the F.R.C.P. Rule 26, failure to initial disclosure is inexcusable.

3- Mr. Kuuku Minnah-Donkoh – Defendants' counsel perfectly knows his duties under F.R.C.P. Rule 26, but he acted with total disregard for the laws and this Court just like his clients. It seems that this Court is afraid to apply the sanctions for this fraud and simply decides to avoid them.

4- I attach the sequence of emails where Your Honor can corroborate the real reasons why I Denied consent for an extension of time of the Scheduling Orders in effect via ECF dated July 5, 2022, and July 11, 2022, as usual, the Defendants' counsel distorts, and lie to the Court because he has not even submitted evidence or a copy of the "Notice of Deposition" for the two Plaintiff or case number.

5- In addition, according to the rules, the Notice or Subpoenas are served at least 20 days before the date of deposition. This means since July 15, 2022, or before, the Defendants' counsel should have served the notice with the affidavits to the "Two Plaintiffs" and should have been aware of the deadlines. Also, this was never an impediment to meeting the deadlines since the beginning of this action in July 2020.

6- Defendants' counsel failed to comply with the F.R.C.P. Rule 26 & 37 since December 12, 2021, therefore, he should prioritize this case with his paralegals or assistants. He should reschedule the

other 2 depositions even though they have no real conflict in dates which is not a reason to request any extension of time for initial disclosure.

7- There is no real conflict in the dates of the alleged depositions of the "2 Plaintiffs" schedule August 2 -August 3 and the dates of the Scheduling Orders via ECF August 1 – August 11. (Deadline August 11 assigned to the District Court Judge. See H. Judge Shields' Individual Rules.)

8- Defendants' Counsel is filing a pleading without documentary evidence and according to his pattern of conduct, he always lies in his pleadings or presents witnesses with false statements.

9- Defendants have not missed any deadlines and have not objected to any of the letters or motions that I filed since February 10, 2022, therefore, under the estoppel doctrine they have no right to object to anything at this time because their time to oppose or claim has expired by law, for which Defendants cannot now change their position.

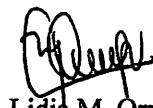
10- It is very hard to believe that a law firm like Gordon Rees Scully Mansukhani LLP which has an army of 1,000 lawyers and at least 2,000 paralegals cannot comply with an initial disclosure that I am requesting in good faith 4 times since February 10, 2022, when I discovered the fraud with the annulled Join Letter Doc. [42]. Your Honor with all respect this is an aberration and literally brutal abuse of the discovery process, a gross violation of the due process of law and my civil rights.

For the foregoing reasons and all the others discussed in the Conference dated July 5, 2021, I respectfully submitted my objection and the Defendants' request letter for an extension should be **DENIED.**

Respectfully submitted,

Date: July 27, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

To: Defendants' Counsels: Mr. Kuuku Minnah-Donkoh, Esq., Mr. Alex D. Dumas, Esq., Mr. Edward E. Warnke, Esq. Via ECF and email.

CC:
H. JUDGE GARY R. BROWN
District Judge
100 Federal Plaza
Central Islip, NY 11722-9014
Courtroom 940
Via ECF



EXHIBIT 6

Lidia Orrego <llorego@gmail.com>

Orrego v. Knipfing, et al

Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>
To: "llorego@gmail.com" <llorego@gmail.com>

Mon, Jul 25, 2022 at 3:13 PM

Good Afternoon Ms. Orrego:

Due to unanticipated work conflicts, which were unknown to me at the time we appeared for the initial court conference on July 5, I am going to be submitting a letter request to the court for a two-week extension of time – from August 1 to August 15 – to exchange Defendants' initial document production. Specifically, I now have back to back depositions of plaintiffs in two separate cases, scheduled for August 2 and 3, and need to prepare for same.

In addition to the aforementioned request for a two-week extension, I am also going to request that all other current deadlines be pushed back by two weeks. So, the requested new deadlines would be as follows:

- Deadline for exchange of initial documents extended from August 1 to **August 15**;
- Deadline for Defendants to oppose Plaintiff's motion for default, extended from August 11 to August 26; and
- Deadline for parties to submit joint letter setting forth status of paper discovery, extended from August 15 to **August 29**.

Please let me know whether you consent to the foregoing.

Thank you.

KUUKU MINNAH-DONKOH (He/Him/His) | Partner

GORDON REES SCULLY MANSUKHANI
YOUR 50 STATE PARTNER®

1 Battery Park Plaza, 28th Floor
New York, NY 10004
D: 212-453-0709 | kminnahdonkoh@grsm.com

www.grsm.com
vCard | Bio



EXHIBIT 7

Lidia Orrego <llorego@gmail.com>

Orrego v. Knipfing, et al

Lidia Orrego <llorego@gmail.com>

Mon, Jul 25, 2022 at 6:08 PM

To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>, kminnahdonkoh@gordonrees.com

Cc: Lidia Orrego <llorego@gmail.com>

Good afternoon, Mr. Minnah-Donkoh, Consent Denied.

Defendants failed pursuant to F.R.C.P. 26 & Court Order. Defendants' Contempt of Court to comply with Initial Disclosure was extended 2 (two) times on Court's own initiative for no good cause in Defendants' favor in violation of Plaintiff's civil rights and Due Process of Law.

I did in Good Faith 4 (four) attempts to obtain the Defendants' Initial Disclosure since February 11, 2022 (more than 5 (five) months).

Your time to serve me the Initial Disclosures ran out in December 2021, when you agreed with my former pro-bono attorney to mislead me about the process, F.R.C.P. Rule 26 compliance, Judge Shields' Court Initial Conference Order dated December 2, 2021, timelines, etc. and even you filed a document on my behalf (with the complicity of my former pro-bono counsel) without my knowledge, review, or authorization which is a gross violation the Court's requirements and intentional violation of the Model Rules of Professional Conduct Rule 3.4 Fairness to Opposing Party & Counsel.

I serve you Plaintiff's Initial Disclosure on May 31, 2022, a total of 7,644 Pages + 1,219 evidence entails recordings, videos, pictures, etc.

As to Motion Default Judgment filed July 8, 2022, and Court Order to file the Opposition and Reply: The Court extended on its own initiative the original return from July 25, 2022, to August 11, 2022. The Court considered that this time was reasonable enough for you to file your opposition and my Reply on or before August 25, 2022.

The conference with the Hon. Judge Shields was on July 5, 2022. I drafted and filed my motion in 3 (three) days on July 8, 2022, with the support of F.R.C.P. and plenty of evidence.

I expressly reserve all the rights and remedies, including but not limited to filing any other dispositive, non-dispositive motion or objections to which I am entitled in this action.

Consent Denied.

Best regards,

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone 347-453-2234

[Quoted text hidden]



EXHIBIT 8

Lidia Orrego <llorego@gmail.com>

Orrego v. Knipfing, et al

Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>
To: Lidia Orrego <llorego@gmail.com>

Tue, Jul 26, 2022 at 10:33 PM

Ms. Orrego:

Attached is a copy of a letter I just filed with the Court.

Regards,

KUUKU MINNAH-DONKOH | Partner

GORDON REES SCULLY MANSUKHANI
YOUR 50 STATE PARTNER®

[Visit our COVID-19 HUB](#)

[Quoted text hidden]

[Quoted text hidden]

 Orrego - 2-26-2022 Ltr Req To Ct for Ext to Serve Initial Document Production.pdf
62K



EXHIBIT 9

Lidia Orrego <llorego@gmail.com>

Orrego v. Knipfing, et al

Lidia Orrego <llorego@gmail.com>

Wed, Jul 27, 2022 at 12:21 AM

To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>

Cc: Lidia Orrego <llorego@gmail.com>

Mr. Minnah-Donkoh, I object and I will present my opposition. Gross violation of my civil rights and due process of law.

Failure Federal Rules of Civil Procedure Rule 26. Duty to Disclosure; General Provisions Governing Discovery.

"Rule 26. Duty to Disclose; General Provisions Governing Discovery

Primary tabs

(a) Required Disclosures.

(1) Initial Disclosure.

(C) Time for Initial Disclosures—In General. A party must make the initial disclosures at or within 14 days after the parties' Rule 26(f) conference unless a different time is set by stipulation or court order, or unless a party objects during the conference that initial disclosures are not appropriate in this action and states the objection in the proposed discovery plan. In ruling on the objection, the court must determine what disclosures, if any, are to be made and must set the time for disclosure.

(E) Basis for Initial Disclosure; Unacceptable Excuses. A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures."

Annulled the letter dated February 10, 2022 ECF [42] that you submitted without my knowledge, review, or authorization, and due to the evidence of that fraud committed with the complicity of my former pro bono attorney, the Court had no choice but to annul ECF 42 and the Court I do not apply to you and my former pro bono attorney any type of punishment or penalty for this fraud. If I had not annulled that letter, you would be delaying this process until late 2023. Clear abuse of the discovery process and violation of my civil rights.

This fraud that you committed does not mention in your letter requesting the extension of time that the Court already extended to you from February 11, 2022.

You know that YOUR duty to make the initial disclosure without a Court order, You knew that this had to be done more than 5 months ago. The legal principle of ignorantia juris non excuse (ignorance of the law excuses not).

In addition, as of February 10, 2022, I am requesting in good faith 4 attempts that you serve me the initial disclosure and that you do not specify in your extension request because, as always, you are lying to the Court and hiding the information in serious violation of the American Bar Association Rule. 3.3 Candor toward the Tribunal and Maintaining the Integrity of the Profession Rule 8.1-8-5.

You have been in contempt of court since December 12, 2021, Judge Shields' Initial Conference Order ECF [41] with impunity in the complicity of my former pro bono lawyer who lied to me all the time and I have the emails as evidence. All the Evidence was filed in each of my letters and you never objected to any of them. Estoppel Doctrine, prevent you assert a right that was not claimed at the time.

The Defendants' claim is out of time for any claim and to request an extension. See Depp v. Heard

Your deadline expires on August 1, 2022, according to the Order of the H. Judge Shields dated July 5, 2022. The problem is that in 2 weeks you will have the same scenario, lying again to the Court unless you are planning to escalate to another type of transgression or fraud.

Hard to believe a law firm with more than 1,000 lawyers and paralegals cannot meet the deadlines. According to FCR Rule, 26 failure to initial disclosure is inexcusable.

Regards,

Lidia M. Orrego
Plaintiff Pro Se

6

<https://mail.google.com/mail/u/0/?ik=9e8fe57240&view=pt&search=all&permmsgid=msg-a%3Ar8465316119775850585&simpl=msg-a%3Ar846531611...> 1/2

EXHIBIT 10

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
LIDIA M. ORREGO,

Plaintiff,

Case No.: 20-cv-03361-GRB-AYS

- against -

**DEFENDANTS' RESPONSES TO
INITIAL DISCOVERY
PROTOCOLS FOR
EMPLOYMENT CASES
ALLEGING ADVERSE ACTION**

KEVIN KNIPFING, *Employer, also known as Kevin James*; STEPHANIEANNA JAMES-KNIPFING, *Employer, also known as Steffiana de la Cruz*; OLD WESTBURY EDDIE LLC, *Company/Payroll owner Kevin Knipping*; OLD WESTBURY LLC, *Unknown Entity under registration in NY State, Old Westbury LLC*; and TERESA A. ZANTUA,

Defendants.
----- X

Defendants Kevin Knipping, Stephanieanna James-Knipping, and Old Westbury Eddie LLC (collectively, "Defendants"), as and for their responses to the Initial Discovery Protocols for Employment Cases Alleging Adverse Action, respond as follows:

DOCUMENTS DEFENDANTS MUST PRODUCE

- A. All communications concerning the factual allegations or claims at issue in this lawsuit among or between:
- i. The plaintiff and the defendant;
 - ii. The plaintiff's manager(s), and/or supervisor(s), and/or the defendant's human resources representative(s).

Defendants' Response: Plaintiff is referred to the documents produced herewith, at Bates ranges DEFS_000001-DEFS_000009; DEFS_000012-DEFS_000019; and DEFS_000024-DEFS_000110, as and for responsive documents.

- B. Responses to claims, lawsuits, administrative charges, and complaints by the plaintiff that rely on the same factual allegations or claims as those at issue in this lawsuit.

Defendants' Response: Plaintiff is referred to the documents produced herewith, at Bates ranges

DEFS_000119-DEFS_000143; and DEFS_000159-DEFS_000650, as containing responsive documents. Additionally, Defendants identify the file maintained by the State of New York Workers' Compensation Board ("WCB"), in connection with the claim Plaintiff filed with the WCB on or about September 3, 2019, as containing documents that may be responsive. Defendants' shall produce the WCB file upon their receipt of same from the WCB.

C. Documents concerning the formation and termination, if any, of the employment relationship at issue in this lawsuit, regardless of the relevant time period.

Defendants' Response: Plaintiff is referred to the documents at Bates ranges DEFS_000001-DEFS_000009; DEFS_000012-DEFS_000015; and DEFS_000017-DEFS_000110, as containing responsive documents.

D. The plaintiff's personnel file, in any form, maintained by the defendant, including files concerning the plaintiff maintained by the plaintiff's supervisor(s), manager(s), or the defendant's human resources representative(s), regardless of the relevant time period.

Defendants' Response: Plaintiff is referred to the documents at Bates ranges DEFS_000001-DEFS_000011, and DEFS_000110, as containing responsive documents.

E. The plaintiff's performance evaluations and any formal discipline.

Defendants' Response: Defendants have no responsive documents.

F. Documents relied on to make the employment decision(s) at issue in this lawsuit.

Defendants' Response: Plaintiff is referred to the documents at Bates ranges DEFS_000003-DEFS_000009; DEFS_000012-DEFS_000015; and DEFS_000017-DEFS_000109, as containing responsive documents.

G. Workplace policies or guidelines relevant to the adverse action in effect at the time of the adverse action. Depending upon the case, those may include policies or guidelines that address:

- i. discipline;
- ii. termination of employment;
- iii. promotion;

- iv. **discrimination;**
- v. **performance reviews or evaluations;**
- vi. **misconduct;**
- vii. **retaliation; and**
- viii. **nature of the employment relationship.**

Defendants' Response: Plaintiff is referred to the document at Bates range DEFS_000003-DEFS_000009, as and for a responsive document.

H. The table of contents and index of any employee handbook, code of conduct, or policies and procedures manual in effect at the time of the adverse action.

Defendants' Response: Defendants have no responsive documents.

I. Job description(s) for the position(s) that the plaintiff held.

Defendants' Response: Plaintiff is referred to the document at Bates range DEFS_000001-000002 as and for a document that may be responsive.

J. Documents showing the plaintiff's compensation and benefits. Those normally include retirement plan benefits, fringe benefits, employee benefit summary plan descriptions, and summaries of compensation.

Defendants' Response: Plaintiff is referred to the documents at Bates ranges DEFS_000001-DEFS_000002; and DEFS_000011, as and for responsive documents.

K. Agreements between the plaintiff and the defendant to waive jury trial rights or to arbitrate disputes.

Defendants' Response: Defendants have no responsive documents.

L. Documents concerning investigation(s) of any complaint(s) about the plaintiff or made by the plaintiff, if relevant to the plaintiff's factual allegations or claims at issue in this lawsuit and not otherwise privileged.

Defendants' Response: Plaintiff is referred to the documents at Bates ranges DEFS_000012-DEFS_109 as and for responsive documents.

M. Documents in the possession of the defendant and/or the defendant's agent(s) concerning claims for unemployment benefits unless production is prohibited by applicable law.

Defendants' Response: Defendants have no responsive documents, as, upon information and belief, Plaintiff never filed a claim for unemployment insurance benefits.

N. Any other document(s) upon which the defendant relies to support the defenses, affirmative defenses, and counterclaims, including any other document(s) describing the reasons for the adverse action.

Defendants' Response: Plaintiff is referred to the documents at Bates ranges DEFS_000111-DEFS_000763 as and for responsive documents.

INFORMATION DEFENDANTS MUST PRODUCE

A. Identify the plaintiff's supervisor(s) and/or manager(s).

Defendants' Response: Defendants identify Kevin Knipfing, Stephanieanna James-Knipfing, and Skylar Testa.

B. Identify person(s) presently known to the defendant who were involved in making the decision to take the adverse action.

Defendants' Response: Defendants identify Kevin Knipfing and Stephanieanna James-Knipfing.

C. Identify persons the defendant believes to have knowledge of the facts concerning the claims or defenses at issue in this lawsuit, and a brief description of that knowledge.

Defendants' Response: Defendants identify the following individuals:

- Kevin Knipfing: Defendant Mr. Knipfing has discoverable information concerning certain allegations in Plaintiff's Amended Complaint, including, but not limited to, Plaintiff's employment with the Knipfings, Plaintiff's interactions with Teresa Zantua, and the reasons for the termination of Plaintiff's employment. Any communication with Mr. Knipfing must be through the undersigned counsel.
- Stephanieanna James-Knipfing: Defendant Ms. Knipfing has discoverable information concerning certain allegations in Plaintiff's Amended Complaint, including, but not limited to, Plaintiff's employment with the Knipfings, Plaintiff's job performance, Plaintiff's interactions with Teresa Zantua, and the reasons for the termination of Plaintiff's employment. Any communication with Ms. Knipfing must be through the undersigned counsel.

- **Skylar Testa:** Mr. Testa is employed with the Knipfings as an assistant, and has discoverable information concerning certain allegations in Plaintiff's Amended Complaint, including, but not limited to, Plaintiff's employment with the Knipfings. Any communication with Mr. Testa must be through the undersigned counsel.
- **Steve Savitsky:** Mr. Savitsky is employed as Mr. Knipfing's business manager, and has discoverable information concerning Plaintiff's employment with the Knipfings generally. Any communication with Mr. Savitsky must be through the undersigned counsel.
- **Teresa Zantua:** Defendant Ms. Zantua is Ms. Knipfing's sister, and neither was employed by the Knipfings nor had any supervisory responsibilities over Plaintiff at any time during Plaintiff's employment with the Knipfings. Ms. Zantua has discoverable information concerning certain allegations in Plaintiff's Amended Complaint, including, but not limited to, Plaintiff's employment with the Knipfings, her lack of supervisory authority or responsibilities with respect to Plaintiff, and her interactions with Plaintiff.
- **Cristina Selga (aka Cristina Coimbra):** Ms. Selga was employed as the Knipfings' primary housekeeper during the period of time Plaintiff was employed by the Knipfings. Ms. Selga may have discoverable information concerning certain allegations in Plaintiff's Amended Complaint, including, but not limited to, Plaintiff's employment with the Knipfings, and Plaintiff's interactions with Ms. Zantua. The last known contact information for Ms. Selga is: 21 Hickory Rd, Apt. B, Port Washington, NY 11050; (561) 809-3367.
- **Rebecca Uzcategui (aka Rebecca Lugo):** Ms. Uzcategui was employed as the Knipfings' primary nanny during the period of time Plaintiff was employed by the Knipfings. Ms. Uzcategui may have discoverable information concerning certain allegations in Plaintiff's Amended Complaint, including, but not limited to, Plaintiff's employment with the Knipfings, and Plaintiff's interactions with Ms. Zantua. The last known contact information for Ms. Uzcategui is: 533 Deer Park Road, Dix Hills, NY 11746; (305) 970-2143.
- **Donald Gerardo Guarino:** Mr. Guarino was employed as the Knipfings' chef during the period of time Plaintiff was employed by the Knipfings. Mr. Guarino may have discoverable information concerning certain allegations in Plaintiff's Amended Complaint, including, but not limited to, Plaintiff's employment with the Knipfings, and Plaintiff's interactions with Ms. Zantua. The last known contact information for Mr. Guarino is: 25 Glenwood Drive, 2nd Floor, Huntington, NY 11743; (732) 986-1879.
- **Lisa Fye:** Ms. Fye was employed by the Knipfings as a home-school teacher during the period of time Plaintiff was employed by the Knipfings. Ms. Fye may have discoverable information concerning certain allegations in Plaintiff's Amended Complaint, including, but not limited to, Plaintiff's employment with the Knipfings, and Plaintiff's interactions with Ms. Zantua. The last known contact information for Ms. Fye is: 14 Glendale Drive, Melville, NY 11747; (631) 678-2664.

- Shannon Sha: Ms. Sha was employed by the Knipfings as a home-school teacher during the period of time Plaintiff was employed by the Knipfings. Ms. Sha may have discoverable information concerning certain allegations in Plaintiff's Amended Complaint, including, but not limited to, Plaintiff's employment with the Knipfings, and Plaintiff's interactions with Ms. Zantua. The last known contact information for Ms. Sha is: 4 Moscato Street, Huntington, NY 11743; (631) 482-7648.
- Kevin Flanagan: Mr. Flanagan is or was employed by Rydan Security. Mr. Flanagan has discoverable information concerning the interviews of Plaintiff and Ms. Uzcategui done in connection with the investigation into Plaintiff's November 2, 2018 email complaint. The last known contact information for Mr. Flanagan is 131-19 Jamaica Avenue, Richmond Hill, NY 11418; (718) 805-8090.

D. State whether the plaintiff has applied for disability benefits and/or social security disability benefits after the adverse action. State whether the defendant has provided information to any third party concerning the application(s). Identify any documents concerning any such application or any such information provided to a third party.

Defendants' Response: Defendants are not aware of any claims/applications Plaintiff filed for disability benefits or social security disability benefits after the termination of her employment.

Reservation of Rights and Amendments

The disclosures herein are made without waiving:

1. The right to object on the grounds of competency, privilege, relevancy, materiality, admissibility or any other proper ground to the use of material described herein, for any purpose, in whole or in part, in any subsequent proceeding in this action or in any other action;
2. The right to object on any and all proper grounds, at any time, to discovery requests or other discovery procedures involving or relating to the subject matter addressed herein, and
3. The right at any time to revise, correct, modify, supplement, or clarify any of the responses provided herein as may be appropriate and necessary.

Dated: New York, New York
August 1, 2022

GORDON REES SCULLY
MANSUKHANI, LLP

By: *Kuuku Minnah-Donkoh*

Kuuku Minnah-Donkoh
One Battery Park Plaza, 28th Floor
New York, NY 10004
Tel: (212) 269-5500
kminnahdonkoh@grsm.com

Attorneys for Defendants

To: Lidia M. Orrego (via email only)
Plaintiff Pro Se
95-08 Queens Blvd., Apt. 3E
Rego Park, NY 11374
liorrego@gmail.com



24

Respectfully submitted,

Date: August 11, 2022
Rego Park, NY

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

8/16/22, 11:14 AM

Gmail - Orrego v. Knipfing, et al; Civil Case No. 20-CV-0331 (GRB)(AYS) H. Judge Shields Order

**EXHIBIT 12**

Lidia Orrego <lorrego@gmail.com>

Orrego v. Knipfing, et al; Civil Case No. 20-CV-0331 (GRB)(AYS) H. Judge Shields Order

Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>

Thu, Aug 11, 2022 at 12:53 PM

To: Lidia Orrego <lorrego@gmail.com>

Ms. Orrego:

Thank you for your email. I will let you know if I have any proposed changes to your proposed joint letter.

On a separate but related note, based on your below email, are you willing to withdraw your pending motion for default judgment?

Regards,

KUUKU MINNAH-DONKOH | Partner
**GORDON REES SCULLY MANSUKHANI
YOUR 50 STATE PARTNER®**
[Visit our COVID-19 HUB](#)

1 Battery Park Plaza, 28th Floor
New York, NY 10004
D: 212-453-0709 | kminnahdonkoh@grsm.com

www.grsm.com
vCard | Bio

[Quoted text hidden]

This email communication may contain CONFIDENTIAL INFORMATION WHICH ALSO MAY BE LEGALLY PRIVILEGED and is intended only for the use of the intended recipients identified above. If you are not the intended recipient of this communication, you are hereby notified that any unauthorized review, use, dissemination, distribution, downloading, or copying of this communication is strictly prohibited. If you are not the intended recipient and have received this communication in error, please immediately notify us by reply email, delete the communication and destroy all copies.

GORDON REES SCULLY MANSUKHANI, LLP



EXHIBIT 13

Lidia Orrego <liorrego@gmail.com>

Orrego v. Knipfing, et al; Civil Case No. 20-CV-0331 (GRB)(AYS) H. Judge Shields Order

Lidia Orrego <liorrego@gmail.com>

Thu, Aug 11, 2022 at 1:06 PM

To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>

Cc: Lidia Orrego <liorrego@gmail.com>

Mr. Minnah-Donkoh, are you offering a settlement? What would that be?

Regards,

Date: August 11, 2022
Rego Park, NY

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

[Quoted text hidden]



EXHIBIT 14

Lidia Orrego <lorrego@gmail.com>

Orrego v. Knipfing, et al; Civil Case No. 20-CV-0331 (GRB)(AYS) H. Judge Shields Order

Lidia Orrego <lorrego@gmail.com>
To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>
Cc: Lidia Orrego <lorrego@gmail.com>

Thu, Aug 11, 2022 at 1:38 PM

Mr. Minnah-Donkoh, my Motion Default Judgment remains in process, only H. Judge Brown can decide after both parties file their pleadings according to H. Judge Shields' order.

If your clients want to settle, I am available to consider their offer.

Regards,

Date: August 11, 2022
Rego Park, NY

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234

[Quoted text hidden]

8/16/22, 11:17 AM

Gmail - Orrego v. Knipfing, et al; Civil Case No. 20-CV-0331 (GRB)(AYS) H. Judge Shields Order

**EXHIBIT 15**

Lidia Orrego <liorrego@gmail.com>

Orrego v. Knipfing, et al; Civil Case No. 20-CV-0331 (GRB)(AYS) H. Judge Shields Order

Lidia Orrego <liorrego@gmail.com>

Fri, Aug 12, 2022 at 12:00 AM

To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>, kminnahdonkoh@gordonrees.com

Cc: Lidia Orrego <liorrego@gmail.com>

Mr. Minnah-Donkoh, Defendants opposition ECF doc. [60] [61] erroneously points to Judge Shields' THIRD order dated July 5, 2022. In fact, the Defendants did not comply but were instead forced to comply on August 1, 2022.

H. Judge Brown would not have accepted my Motion Default Judgment ECF doc. [57] if it was related to the scheduling Order in process. In fact, having accepted my motion is a sign that has a legal basis and is NOT related to the THIRD scheduling order dated July 5, 2022.

My Motion Default Judgment ECF doc. [57] points to the H. Shields' Scheduling Order ECF doc. [41] dated December 12, 2021. Defendants' failure and contempt of Court is INEXCUSABLE under Federal Rules of Civil Procedure (F.R.C.P.) Rules 26 & 37.

I made 4 attempts from February 11, 2022 to May 28, 2022 in GOOD FAITH to have the Defendants comply with their Initial Disclosure duties prior to Judge Shields' order dated July 5, 2022, when the Defendants were already in contempt of a court order and violation of F.R.C.P. Rules 26 & 37., therefore, the sanctions of default judgment for not complying with a Discovery Order ECF doc. [41] must be applied in my favor.

Therefore, my email dated August 11, 2022, with the proposal JOINT LETTER, is NOT related to my Motion to Default Judgment at all. I was only complying with the H. Judge Shields' THIRD order for Initial Disclosure dated July 5, 2022, just as protocol.

H. Judge Shields in her order dated July 28, 2022, stated:

DocketText:

ORDER denying [58] Motion for Extension of Time to Complete Discovery. Defendants' request for a two week extension of time for the current discovery deadlines and briefing schedule is DENIED. The discovery deadlines were set during the in-person conference held on July 5, 2022. At that conference the parties were asked whether they objected to the deadlines or would have any problems meeting the proposed deadlines. Defense counsel did not object nor did he indicate meeting the deadlines would be problematic. As such, Defendants' request for the extension lacks the requisite good cause needed for such an adjournment. Schedules and deadlines of other cases do not warrant an extension of time in this case, especially when the instant deadlines were not imposed without first seeking to accommodate counsel and Plaintiff's schedules. Accordingly, the extension request is denied. All previously ordered deadlines remain in effect. So Ordered by Magistrate Judge Anne Y. Shields on 7/28/2022. (Mucciaccio, Dina)

To clarify again, H. Judge Shields stated: "All previously ordered deadlines remain in effect." therefore, my email dated August 11, 2022, that you placed as Exhibit A ECF doc. [61-1] is a misrepresentation and YOU are lying in Federal Court again. I repeat: I was only complying with Judge Shields' THIRD Order of Initial Disclosure dated July 5, 2021 as protocol.

According to my Motion Default Judgment appointed to the first Order of Judge Shields ECF doc. [41] dated December 12, 2021, Defendants failed in their duty to comply with the F.R.C.P. Rules 26 & 37 "Failure to Make Disclosures or to Cooperate in Discovery" and Defendants' filed the Initial Disclosure 6 months after the deadline on August 1, 2022, FORCED BY H. JUDGE SHIELDS' ORDER, not by choice, this failure is INEXCUSABLE.

Therefore, my Default Judgment must be GRANTED.

Regards,

Date: August 12, 2022
Rego Park, NY

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234



Virus-free.www.avast.com

[Quoted text hidden]



Virus-free.www.avast.com



EXHIBIT 16

Lidia Orrego <lorrego@gmail.com>

Orrego v. Knipfing, et al; Civil Case No. 20-CV-0331 (GRB)(AYS) H. Judge Shields Order

Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>
To: Lidia Orrego <lorrego@gmail.com>

Mon, Aug 15, 2022 at 10:04 AM

Ms. Orrego:

Please see the attached draft joint letter to the court that is due to be filed today. Assuming you have no changes, please sign the letter and send back to me for filing.

Thank you.

KUUKU MINNAH-DONKOH | Partner

GORDON REES SCULLY MANSUKHANI
YOUR 50 STATE PARTNER®

[Visit our COVID-19 HUB](#)

1 Battery Park Plaza, 28th Floor
New York, NY 10004
D: 212-453-0709 | kminnahdonkoh@grsm.com

www.grsm.com
vCard | Bio

From: Lidia Orrego <lorrego@gmail.com>
Sent: Thursday, August 11, 2022 8:54 AM
To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>; Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>
Cc: Lidia Orrego <lorrego@gmail.com>
Subject: Orrego v. Knipfing, et al; Civil Case No. 20-CV-0331 (GRB)(AYS) H. Judge Shields Order

Dear Mr. Kuuku, I attach the draft of the joint letter to comply with H. Judge Shield's order to submit it on or before August 15, 2022:

[Quoted text hidden]

[Quoted text hidden]



Orrego v. Knipfing - 8-15-2022 Draft Joint Ltr to Court(69964957.1).docx
41K



EXHIBIT 17

Lidia Orrego <lorrego@gmail.com>

Orrego v. Knipfing, et al; Civil Case No. 20-CV-0331 (GRB)(AYS) H. Judge Shields Order

Lidia Orrego <lorrego@gmail.com>

Mon, Aug 15, 2022 at 12:07 PM

To: Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>, Lidia Orrego <lorrego@gmail.com>

Mr. Minnah-Donkoh, please make the following correction:

- 1) "Old Westbury LLC, Unknown Entity under registration in NY State or California" is NOT "incorrectly also s/h/a Old Westbury, LLC" Mr. Kevin James signed document on behalf of this Ghost-Corporation" See ECF 17 filed 09/30/2021 Mr. Kevin James' signature. See Below

Corrections: "My office ~~office~~ represents defendants, Kevin Knipfing a/k/a Kevin James ("Mr. Knipfing"), Stephanieanna James-Knipfing a/k/a Steffiana de la Cruz, Old Westbury EDDIE LLC, Old Westbury LLC, Unknown Entity under registration in NY State, and Teresa A. Zantua (collectively, "Defendants"), in connection with the above-referenced action."

Stephanieanna James-Knipfing,
Old Westbury EDDIE LLC,
Old Westbury LLC, and
Teresa A. Zantua

Kevin Knipfing

Stephanieanna James-Knipfing

Old Westbury EDDIE LLC,
By: [Signature]

Old Westbury LLC,
By: [Signature]

Teresa A. Zantua

Steve Savitsky

- 1) "In Accordance with Your Honor's Scheduling Order of July 5, 2022, Defendants, together with Plaintiff *pro se*, Lidia Orrego, respectfully submit this letter to advise the Court that the parties have served upon each other their respective responses to the Tier 1 Discovery required under the Court's Initial Employment Protocols entails only Rule 26(a) initial disclosures. See below.

APPENDIX B

DISCOVERY PLAN WORKSHEET

**Tier I Pre-Settlement Discovery
TO BE COMPLETED IN ALL CASES**

~~Deadline for completion of Rule 26(e) initial disclosures
and HIPAA-complaint records authorizations:~~

Completion date for Phase I Discovery
as agreed upon by the parties:
(See paragraph 7 of joint letter requirement)

Status conference TBD by the court:

NOTICE: NOTICE: Complying with the JOINT letter according to Judge Shields' Order dated July 5, 2022, does not release or excuse in any way the Defendants' failure to comply with Rules 26 & 37 of the Federal Rules of Civil Procedure ("F.R.C.P.") See Judge Shields' Order [41] dated December 12, 2022, therefore I am entitled to Default Judgment.

I expressly reserve all the rights and remedies, including but not limited to filing any other dispositive, non-dispositive motion or objections to which I am entitled in this action.

I wait for the correction to sign it and send it to you.

Best regards,

Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. Apart 3E
Rego Park, NY, 11374
Phone 347-453-2234
Email: liorrego@gmail.com

[Quoted text hidden]



EXHIBIT 18

Lidia Orrego <liorrego@gmail.com>

Orrego v. Knipfing, et al; Civil Case No. 20-CV-0331 (GRB)(AYS) H. Judge Shields Order

Kuuku Minnah-Donkoh <kminnahdonkoh@grsm.com>
To: Lidia Orrego <liorrego@gmail.com>

Mon, Aug 15, 2022 at 1:23 PM

Ms. Orrego,

Again, I disagree with your proposed addition to the second paragraph. As a compromise, I have added a sentence to the end of the second paragraph, which states: "Plaintiff wishes to add that the Tier 1 Discovery required under the Court's Initial Employment Protocols "entails only Rule 26(a) initial disclosures Judge Shields' protocols Appendix B." This way, the Court knows that this addition is not "joint," but, rather, is your addition.

Please sign the attached and send back to me for filing.

[Quoted text hidden]



Orrego v. Knipfing - 8-15-2022 Draft Joint Ltr to Court(69964957.1).docx
43K

EXHIBIT 19

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
LIDIA M. ORREGO,

20 Civ. 03361 (GRB)(AKT)

Plaintiff,

-against-

STIPULATION AND ORDER OF SUBSTITUTION OF COUNSEL

KEVIN KNIPFING aka KEVIN JAMES,
STEPHANIEANNA JAMES-KNPFING aka
STEFFIANA DE LA CRUZ, OLD WESTBURY
EDDIE LLC, OLD WESTBURY LLC, STEVE
SAVITSKY, TERESA A. ZANTUA,

Defendants.
----- X

Pursuant to Local Rule 1.4, it is hereby stipulated and agreed by and between the undersigned that Alexander Spiro and Maaren A. Shah of Quinn Emanuel Urquhart & Sullivan, LLP, shall be substituted by the following as counsel of record for defendants Kevin Knipfing, Stephanieanna James-Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, and Teresa A. Zantua, in the above-captioned action:

Mercedes Colwin
Kuuku Minnah-Donkoh
Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004
Telephone: (212) 269-5500
Facsimile: (212) 269-5505
mcolwin@grsm.com
kminnahdonkoh@grsm.com

Upon entry of this Order, Mr. Spiro and Ms. Shah shall be removed from the Court's service list, and all pleadings, notices, and other filings in the case shall be served upon the aforementioned incoming counsel. Substitution of counsel will not delay this case, including the

briefing schedule set by the Court in its Order of September 22, 2020, nor will it cause prejudice to any other party.

Dated: September 29, 2020

Respectfully submitted,

Gordon Rees Scully Mansukhani, LLP

By: K. M. Donkoh
Mercedes Colwin
Kuuku Minnah-Donkoh
One Battery Park Plaza, 28th Floor
New York, NY 10004
Telephone: (212) 269-5500
Facsimile: (212) 269-5505
mcolwin@grsm.com
kminnahdonkoh@grsm.com

Quinn Emanuel Urquhart & Sullivan, LLP

By: AS - Shah
Alexander Spiro
Maaren A. Shah
51 Madison Avenue
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100
alexspiro@quinnemanuel.com
maarenschah@quinnemanuel.com

*Incoming Counsel for Kevin Knipping,
Stephanieanna James-Knipping,
Old Westbury EDDIE LLC,
Old Westbury LLC, and
Teresa A. Zantua*

[Signature]
Kevin Knipping

[Signature]
Stephanieanna James-Knipping

Old Westbury EDDIE LLC,

By: [Signature]

[Signature]
Teresa A. Zantua

Old Westbury LLC,

By: [Signature]

[Signature]
Steve Savitsky

briefing schedule set by the Court in its Order of September 22, 2020, nor will it cause prejudice to any other party.

Dated: September 29, 2020

Respectfully submitted,

Gordon Rees Scully Mansukhani, LLP

By: _____
Mercedes Colwin
Kuuku Minnah-Donkoh
One Battery Park Plaza, 28th Floor
New York, NY 10004
Telephone: (212) 269-5500
Facsimile: (212) 269-5505
mcolwin@grsm.com
kminnahdonkoh@grsm.com

*Incoming Counsel for Kevin Knipfing,
Stephanieanna James-Knipfing,
Old Westbury EDDIE LLC,
Old Westbury LLC, and
Teresa A. Zantua*

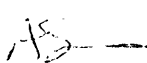
Kevin Knipfing

Old Westbury EDDIE LLC,

By: _____

Teresa A. Zantua

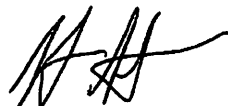
Quinn Emanuel Urquhart & Sullivan, LLP

By:   _____
Alexander Spiro
Maaren A. Shah
51 Madison Avenue
New York, NY 10010
Telephone: (212) 849-7000
Facsimile: (212) 849-7100
alexspiro@quinnemanuel.com
maarensah@quinnemanuel.com

Stephanieanna James-Knipfing

Old Westbury LLC,

By: _____



Steve Savitsky

SO ORDERED

_____, 2020
THE HONORABLE GARY R. BROWN
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Lidia M. Orrego,

Plaintiff,

-against-

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury LLC,
and Teresa A. Zantua.

Defendants.
_____x

Affirmation of Service

20 CV 3361 (GRB) (AYS)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Reply Memoranda of Law In Support Plaintiff's Affidavit Motion to Default Judgment dated August 17, 2022, and Exhibits 4 - 19.

Upon the defendants or the attorney for defendants Mr. Kuuku Minnah-Donkoh, whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP

One Battery Park Plaza, 28th Floor

New York, NY 10004

By ECF

By email address: kminnahdonkoh@grsm.com; kminnahdonkoh@gordonrees.com

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 17, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 4532234



Lidia Orrego <liorrego@gmail.com>

Activity in Case 2:20-cv-03361-GRB-AYS Orrego v. Knipfing et al Scheduling Order

1 message

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
To: nobody@nyed.uscourts.gov

Mon, Jul 11, 2022 at 12:00 PM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

Eastern District of New York

Notice of Electronic Filing

The following transaction was entered on 7/11/2022 at 12:00 PM EDT and filed on 7/11/2022

Case Name: Orrego v. Knipfing et al

Case Number: 2:20-cv-03361-GRB-AYS

Filer:

Document Number: No document attached

Docket Text:

SCHEDULING ORDER: As Plaintiff has filed a motion for default against the Defendants, in order to ensure efficient, speedy and just motion practice, the following briefing schedule is now in effect: Defendants' opposition must be served and filed on or before August 11, 2022. Plaintiff's reply to the opposition shall be served and filed on or before August 25, 2022. Plaintiff is NOT to serve and file a reply until after receiving Defendants' opposition. The Discovery Schedule issued during the July 5, 2022 conference REMAINS IN EFFECT. So Ordered by Magistrate Judge Anne Y. Shields on 7/11/2022. (Mucciaccio, Dina)

2:20-cv-03361-GRB-AYS Notice has been electronically mailed to:

Kuuku Angate Minnah-Donkoh kminnahdonkoh@grsm.com, jxmartinez@grsm.com, pcella@grsm.com

Alex Dumas adumas@grsm.com, dlivera@grsm.com

Edward E. Warnke ewarnke@grsm.com, tgalarza@grsm.com, vcanarte@grsm.com

Lidia M. Orrego liorrego@gmail.com

2:20-cv-03361-GRB-AYS Notice will not be electronically mailed to:



Lidia Orrego <liorrego@gmail.com>

Activity in Case 2:20-cv-03361-GRB-AYS Orrego v. Knipfing et al Scheduling Order

1 message

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
To: nobody@nyed.uscourts.gov

Tue, Aug 16, 2022 at 11:31 AM

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court**Eastern District of New York****Notice of Electronic Filing**

The following transaction was entered on 8/16/2022 at 11:31 AM EDT and filed on 8/16/2022

Case Name: Orrego v. Knipfing et al

Case Number: 2:20-cv-03361-GRB-AYS

Filer:

Document Number: No document attached

Docket Text:

SCHEDULING ORDER: In view of the completion of the voluntary exchange of the Court ordered category of documents the parties are directed to move forward with depositions. All depositions must be completed by February 28, 2023. Plaintiff shall be deposed first. Plaintiff and defense counsel are directed to confer regarding the number of depositions and the timing of the depositions. The parties may to agree to conduct the depositions either in-person or remotely. Upon the conclusion of the depositions, the parties may agree to seek additional documentary discovery. A joint status letter shall be filed on March 2, 2023. So Ordered by Magistrate Judge Anne Y. Shields on 8/16/2022. (Mucciaccio, Dina)

2:20-cv-03361-GRB-AYS Notice has been electronically mailed to:

Kuuku Angate Minnah-Donkoh kminnahdonkoh@grsm.com, jxmartinez@grsm.com, pcella@grsm.com

Alex Dumas adumas@grsm.com, dlrivera@grsm.com

Edward E. Warnke ewarnke@grsm.com, tgalarza@grsm.com, vcanarte@grsm.com

Lidia M. Orrego liorrego@gmail.com

2:20-cv-03361-GRB-AYS Notice will not be electronically mailed to:

October 10, 2022

Honorable Judge Gary R. Brown
United States District Court
Eastern District of New York - EDNY
100 Federal Plaza, Central Islip, NY 11722
Attn: Pro Se Office

Re: Orrego v. Knipfing, et al, 20-CV-03361-GRB-AYS

Dear Judge Gary R. Brown,

In accordance with Rule VI Pro Se Litigants of Your Honor's Individual Rules, the Plaintiff, Lidia M. Orrego, proceed to file a letter-motion for Disposition pursuant to 10 C.F.R. § 2.710¹ regarding ECF doc. [57] Motion Default Judgment filed July 8, 2022, and ECF doc. [63] Reply Memoranda of Law In Support Plaintiff's Motion Default Judgment filed July 17, 2022.²

I believe that my constitutional rights of Due Process of Law are in danger by forcing the Discovery Process to the present even though I have never waived my rights to any dispositive motion including but not limited to ECF doc. [57] to which I am entitled by law.

I affirmed all my rights to file any dispositive motion with the District Judge before H. Judge Shields at the in-person conference according to ECF doc. [56] dated July 5, 2022, "Time: 10:30 Am FTR: 10:50-11:23" in which my mother, Mrs. Manuela E. Orrego, was present as an interpreter in order to give me meaningful access and ensure effective communication with the Court during the conference because I am a LEP³ individual. H. Judge Shields encouraged me to file any dispositive motion permitted by law.

Wherefore, I respectfully request that the Court grant the motion ECF doc. [57] & [63] duly supported by a statement of facts, laws, and documentary evidence, pursuant to Federal Rules of Civil Procedure Rule 26 & 37.

Respectfully submitted,

Date: October 10, 2022
Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd Apart 3E
Rego Park, NY, 11374
Phone (347) 4532234
Email: liorrego@gmail.com

¹ 10 C.F.R. § 2.710 – Federal Statutes, codes, and regulations - Casetext

² Filed under the name of "Preliminary Statement" on July 17, 2022, see ECF doc. [63]. The return date was August 25, 2022 but filed on July 17, 2022.

³ Limited English Proficiency. Plaintiff's primary language is Spanish. EDNY does not provide interpreters for LEP persons.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____x

Lidia M. Orrego,

Plaintiff,

-against-

Affirmation of Service

20 CV 3361 (GRB) (AYS)

Kevin Knipfing a/k/a Kevin James, Stephanieanna
James-Knipfing a/k/a Steffiana de la Cruz, Old
Westbury EDDIE LLC, Old Westbury LLC,
and Teresa A. Zantua.

Defendants.

_____x

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Letter-Motion Disposition to H. Judge Gary R. Brown dated October 10, 2022.

Upon the defendant(s) or the attorney for defendant(s) Mr. Kuuku Minnah-Donkoh whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP

One Battery Park Plaza, 28th Floor

New York, NY 10004

Via ECF and email.

Email: kminnahdonkoh@grsm.com, kminnahdonkoh@gordonrees.com

I declare under penalty of perjury that the foregoing is true and correct.

Date: October 10, 2022

Rego Park, New York



Lidia M. Orrego
Plaintiff - Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347) 453-2234