

FORM 1

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

NOTICE OF INTERLOCUTORY APPEAL

☆

AUG 03 2023

★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NEW YORK

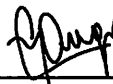
Lidia M. Orrego, Plaintiff,
-against-
Kevin Knipfing a/k/a Kevin James,
Stephanieanna James-Knipfing
a/k/a Steffiana de la Cruz, Old Westbury
EDDIE LLC, Old Westbury LLC, Steve
Savitsky, Teresa A. Zantua.
Defendants.

NOTICE OF INTERCOLUTORY APPEAL

20CV3361 (JMA) (AYS)
Docket No.

Notice is hereby given that Lidia M. Orrego, Plaintiff/Appellant-PRO SE
(party)

hereby appeals to the United States Court of Appeals for the Second Circuit from the decision
dated July 11, 2023 and July 20, 2023 on related motions under 28 U.S.C. § 1292(a)(1) from
from original order dated Mach 9, 2023, March 10, 2023 & March 28, 2023.
entered in this action on the 3 day of August, 2023.



Signature

Lidia M. Orrego

Printed Name

95-08 Queens Blvd. 3E

Address

Rego Park, NY 11374

(347) 453-2234

Telephone No. (with area code)

Note: Annexed forgoing orders & documentary evidence Pages 2 - 58.-

Date: August 3, 2023

7/11/23, 7:37 PM

Gmail - Activity in Case 2:20-cv-03361-JMA-AYS Orrego v. Knipfing et al Order on Motion for Reconsideration



Lidia Orrego <lorrego@gmail.com>

Activity in Case 2:20-cv-03361-JMA-AYS Orrego v. Knipfing et al Order on Motion for Reconsideration

1 message

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
To: nobody@nyed.uscourts.gov

Tue, Jul 11, 2023 at 6:11 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 7/11/2023 at 6:11 PM EDT and filed on 7/11/2023

Case Name: Orrego v. Knipfing et al

Case Number: 2:20-cv-03361-JMA-AYS

Filer:

Document Number: No document attached

Docket Text:

ORDER denying [110] Motion for Reconsideration, [113] Notice of MOTION for Reconsideration, [114] Notice of MOTION for Reconsideration, [117] Notice of MOTION for Reconsideration, [129] MOTION to Set Aside MOTION to Vacate, [131] MOTION to Vacate.

Before the Court are several motions filed by Plaintiff for reconsideration of various orders issued by Judge Gary R. Brown and Magistrate Judge Anne Y. Shields. The standard for granting a motion for reconsideration is "strict," and "reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked--matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995) (citations omitted). "This strict standard is intended to ensure the finality of decisions and to prevent the practice of a losing party examining a decision and then plugging the gaps of a lost motion with additional matters." Great Am. Ins. Co. v. Zelik, 439 F. Supp. 3d 284, 286 (S.D.N.Y. 2020) (internal quotation marks and citations omitted). Accordingly, "a motion to reconsider should not be granted where the moving party seeks solely to relitigate an issue already decided." Shrader, 70 F.3d at 257.

The Court has reviewed Plaintiff's submissions and concludes that she has not satisfied the "strict" standard for reconsideration. Accordingly, the motions are DENIED in their entirety. Ordered by Judge Joan M. Azrack on 7/11/2023. (SP)

2:20-cv-03361-JMA-AYS Notice has been electronically mailed to:

Kuuku Angate Minnah-Donkoh kminnahdonkoh@grsm.com, vls_nysupport@grsm.com

7/20/23, 11:36 PM

Gmail - Activity in Case 2:20-cv-03361-JMA-AYS Orrego v. Knipping et al Order on Motion for Reconsideration



Lidia Orrego <lorrego@gmail.com>

Activity in Case 2:20-cv-03361-JMA-AYS Orrego v. Knipping et al Order on Motion for Reconsideration

1 message

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
To: nobody@nyed.uscourts.gov

Thu, Jul 20, 2023 at 2:33 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 7/20/2023 at 2:33 PM EDT and filed on 7/20/2023

Case Name: Orrego v. Knipping et al

Case Number: 2:20-cv-03361-JMA-AYS

Filer:

Document Number: No document attached

Docket Text:

ORDER denying [142] Motion for Reconsideration, [143] Letter MOTION for Reconsideration, [144] MOTION for Reconsideration, [145] MOTION to Vacate Order on Motion for Recusal.

Before the Court are several objections filed by Plaintiff to various orders issued by Magistrate Judge Anne Y. Shields. Plaintiff styles these motions as seeking reconsideration -- apparently mistakenly -- under Fed. R. Civ. P. 54(b). However, she also states that she objects to Magistrate Judge Shields' orders. Accordingly, the Court construes Plaintiff's motions as presenting objections under Fed. R. Civ. P. 72(a), which provides that a district court may reverse a magistrate judge's decision on a non-dispositive matter only if that decision is "clearly erroneous or contrary to law." Upon consideration of Plaintiff's objections under this highly deferential standard of review, the Court finds that Magistrate Judge Shields' orders were not "clearly erroneous or contrary to law." Accordingly, Plaintiff's objections are **OVERRULED**.

For the avoidance of doubt, even if the Court were to construe Plaintiff's motions as seeking reconsideration under Fed. R. Civ. P. 60, the motions would be denied because Plaintiff has not satisfied the strict standard for reconsideration. Ordered by Judge Joan M. Azrack on 7/20/2023. (SP)

2:20-cv-03361-JMA-AYS Notice has been electronically mailed to:

Kuuku Angate Minnah-Donkoh kminnahdonkoh@grsm.com, vls_nysupport@grsm.com

Brian P. McLaughlin bmclaughlin@nassaucountyny.gov

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK
Box.com
7/21/2023

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

Lidia M. Orrego

Plaintiff,
-against-

Case No. 20CV3361(JMA)(AYS)
District Judge Joan M. Azrack

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,
Teresa A. Zantua

Defendant(s).

**PLAINTIFF'S MOTION TO CERTIFY AN ORDER FOR INTERLOCUTORY
APPEAL ON ORDERS DATED JULY 11, 2023, AND JULY 20, 2023
UNDER 28 U.S.C. 1292(b)**

I, Lidia M. Orrego, Plaintiff, move to certify an order for Interlocutory Appeal on annexed orders dated July 11, 2023, and July 20, 2023, under 28 U.S.C. 1292 (b). Plaintiff reserves all rights under the Due Process of Law and Freedom of Speech.

Plaintiff will file the Interlocutory Appeal combined with a Writ of Mandamus under Federal Rules of Appellate Procedure ("FRAP") Rule 21 in the United States Court of Appeal for the Second Circuit. Plaintiff annexed the Motions filed July 2023, P. 14-130, detailed in the orders from District Court dated July 11, 2023, and July 20, 2023.

Plaintiff annexed all the motions to vacate, set aside or modify the motions on orders dated July 11, 2023, and July 20, 2023, supported by Law, facts, and conclusive evidence, therefore the orders of July 2023 involve a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation avoiding waste of judicial resources, abuse in the legal proceeding or discovery process by immediate appellate review under 28 U.S.C. § 1292(b). See annexed Exhibit 1, Mallek v. Allstate P. 7-13.

¹"Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers." See Jenkins v. McKeithen, 395 U.S. 411, 421 (1969); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240; Pucket v. Cox, 456 2nd 233.

LEGAL ARGUMENT

The grounds for which Plaintiff requests certification for Interlocutory Appeal include but are not limited to:

Accordingly, the United States Courts explain the grounds for Interlocutory Appeal “Id. Occasionally, however, there is a case where strict adherence to the final-decision rule makes little sense, and where other equally worthy goals-alleviating parties from unnecessarily protracted litigation, avoiding waste of judicial resources, and managing the development of the law-could be furthered by immediate appellate review under 28 U.S.C. § 1292(b)” All the motions in the orders dated July 11, 2023, and July 20, 2023, qualifies under 28 U.S.C. 1292 (b), the exception to the motion for Preliminary Injunction ECF doc. [70] [74] included in the order dated July 11, 2023, in the ECF doc. [129] that qualifies automatically under 28 U.S.C. § 1292(a). See annexed Exhibit 2, P. 14-130.

Also, however, the decision is reversible "only if it also affects a party's substantial rights." In re Richardson, 2004 WL 2211726, at *2 (citing to Schering Corp., 189 F.3d at 224), the orders dated July 11, 2023, and July 20, 2023, no only effect is a continued abuse, harassment, and retaliation against the Plaintiff's Constitutional Rights Due to Process, Deprivation of her Rights Under Color of Law since her motions prove and support her claims, in fact, the Motion Declaratory Relief ECF doc. [73] is recommended “Granted” in her favor according to ECF doc. [87] in March 2023, which conclusively determined the disputed question and stated the Plaintiff's rights and merits in her claim entitlement remedies under Amended Complaint ECF doc. [8]. and Plaintiff's Judicial Notice ECF doc [108] seal this recommendation to her favor beyond a reasonable doubt. See annexed Exhibit 2, Plaintiff's Motions July 2023, P. 14-130.

The abuse in the legal proceedings is outrageous since the Plaintiff filed documentary evidence showing the Defendants' Fraud on or upon the Court, perjury, and racketeering activity, among others. The District Court, despite all the evidence, has threatened the Plaintiff with sanctions if she continues to report the Defendants' fraud and perjury under her Due Process.

The District Court ruled an unconstitutional & outrageous order on the motions of ECF docs. [69] [74] [80] [65] & "Unconscionable Agreement" unilaterally built by the Defendants ECF doc. [66-1] under the New York Penal Law § 135.60 - § 135.65 – Coercion. Unenforceable because it would be an injustice to force the Plaintiff into an unconscionable agreement to which she did not participate, as well as being illegally retroactive under New York State Law.

District Court pretended under coercion to force Plaintiff to agree to the infamous ECF doc. [66-1] without any explanation of how this agreement works or the consequences or scope of this agreement. The Court never explained the scope of the agreement because it is vague, ambiguous, and extremely broad to comply with.

“An appellant's motion for leave to appeal an interlocutory order should be granted only when (1) “such order involves a controlling question of law,” (2) “as to which there is substantial ground for difference of opinion,” and (3) “an immediate appeal from the order may materially advance the ultimate termination of the litigation.” Under 28 U.S.C. 1292 (b). Importantly, the “moving party has the burden of establishing all three elements.” the Plaintiff’s motions successfully comply with all the elements to qualify for interlocutory appeal. See annexed Exhibit 2, Plaintiff’s Motions July 2023, P. 14-130.

If all the Plaintiff’s motions had been properly Granted, the litigation would advance the ultimate termination of the litigation with the Motion Declaratory Relief ECF doc. [73] and Judicial Notice ECF doc [108], but the abuse continues against Plaintiff in violation of Due Process of Law because it involves a controlling question of law a substantial ground for difference of opinion. See annexed orders dated July 11, 2023, and July 20, 2023, and Exhibit 1, P. 7-13.

District Court is blocking the substantial Plaintiff’s right to discovery from the Defendants, including but not limited to the production of documents, statements, and witnesses’ depositions through fraudulent misrepresentation or misapplying Law and Rules to help the Defendants to evade their obligation to cooperate in discovery.

Plaintiff earns all the relief again due Defendants' lack of cooperation in the discovery process and failure to comply with the Federal Rules Civil Procedure ("FRCP") Rule 26 & 37.-

The plaintiff holds overwhelming conclusive evidence that her substantial right to exchange information about the witnesses and evidence to be presented at trial is being violated to prevent her from reaching a fair trial. The Jury can see the truth with the evidence that her complaint and damages have merits, and she deserves a transparent and fair process in the US Courts.

WHEREFORE, I respectfully request to certify an order for "Interlocutory Appeal" on annexed orders dated July 11, 2023, and July 20, 2023, under 28 U.S.C. 1292 (b) as GRANTED to advance the ultimate termination of the litigation avoiding waste of judicial resources, and managing the development of the law-could be furthered by immediate appellate review to solve the need to correct a clear error of law or to prevent manifest injustice, as well as such other and further relief that may be just and proper in Interest of the Justice.

Respectfully submitted,

Dated: July 21, 2023

Rego Park, New York


Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347)453-2234
Email: liorrego@gmail.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, Steve Savitsky,
Teresa A. Zantua

Defendant(s).

X

X

FILED

CLERK

Box.com

7/23/2023

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

Case No. 20CV3361(JMA)(AYS)

District Judge Joan M. Azrack

PLAINTIFF'S MOTION TO CLARIFY THE ORDER JULY 20, 2023

I, Lidia M. Orrego, Plaintiff, respectfully move for the entry of an order clarifying the Court's order dated July 20, 2023, on Non-Dispositive Motions for Reconsideration ECF docs. [142] [143] [144] & Motion Reconsideration for Recusal addressed to the Magistrate Judge Shields ECF doc. [145] from her orders filed June 13, 2023, therefore, motions under the Magistrate Judge according to Federal Rule Civil Procedure ("FRCP") and Individuals Rules. Plaintiff has not received a copy of the orders via mail since July 2022. See annexed P. 4.

The rules and cases in the order dated July 20, 2023, do not apply to the motions ECF docs. [142] [143] [144] [145] filed between July 11-19, 2023, for three conclusive reasons:

a) According to the decision of the "US Court of Appeals for the Second Circuit" on May 18, 2023, in the case Mallek v. Allstate, (higher Court) affirmed that the EDNY District Judge of Brooklyn Courthouse made the proper decision to reverse, set aside or vacate all the interlocutory orders on motions before the Trial under FRCP "Rule 54 (b)" because the FRCP "Rule 60" only applies to final orders or judgments. Plaintiff filed her non-dispositive motions ECF docs. [142] [143] [144] [145] from July 11, 2023, after 28 days from the order properly under Rule 54 (b). See annexed Exhibit 1, P. 5-11—higher Court Decision.

b) FRCP Rule 72 (a) provides a short time (14 days) on non-dispositive matters.

c) FRCP Rule 54 (b) allows remedies to file objections or review of "any order or other decision, however designated" "at any time" on not final decisions ordered by the higher court.

ORDER TO CLARIFY COURT'S ORDER DATED JULY 20, 2023

Plaintiff requests, under her Constitutional Rights to Due Process and Freedom of Speech, the following clarifications on the order dated July 20, 2023:

1) Why the H. District Judge Azrack disregard or refuse to adopt the decision of the higher court "US Court of Appeals for the Second Circuit" on May 18, 2023, case Mallek v. Allstate, which affirms that the right to the relief sought is "clear and indisputable" in Plaintiff's favor to avoid unnecessary protracted litigation and discovery abuse?

2) Why is the H. District Judge Azrack changing different FRCP when Rule 54 (b), according to the higher court, is in her favor? See annexed Exhibit 1, P. 5-11.

3) Why did Magistrate Judge Shields transfer the motions to Vacate, Set Aside or Cancel non-dispositive orders ECF docs. [142] [143] [144] to the District Judge without notice?

4) Why did Magistrate Judge Shields transfer the motion to Vacate, Set Aside or Cancel her Motion to recusal ECF doc. [145] to the above-mentioned District Judge?

5) Why did Magistrate Judge Shields deny her recusal ECF doc. [132] before the Plaintiff filed her Reply to Opposition ECF doc. [135] violating the Due Process of Law?

6) How the gross violation of Due Process and FRCP item 3) is not "contrary to the law"?

7) Why the above-mentioned District Judge Azrack, Denied on July 20, 2023, the Plaintiff's motions filed between July 11, 2023 & July 19, 2023, without any OPPOSITION filed by the Nassau County Social Services ("NCSS") or the Defendants challenging the fraud and perjury they have committed in this Court?

(Adverse Inference Doctrine: If the NCSS and Defendants did not file any opposition with evidence, therefore, as a matter of fact, they agree with the Plaintiff's motions)

8) How the Plaintiff's conclusive evidence of NCSS and Defendants' fraud on or upon the Court and perjury are not "contrary to the law"? See ECF docs. [142] [143] [144] [145].

9) What is the record of evidentiary proceedings that the above-district Judge must be made under FRCP to reach a Denial of the Plaintiff's motions addressed to Magistrate Judge Shields?

(Note: NCSS & Defendants failed to challenge Plaintiff's documentary evidence ECF docs. [142] [143] [144] [145] and original motions)

10) What specific documentary evidence did the above-mentioned District Judge review or find tested "under any scrutiny level" as conclusive that proves the Magistrate Judge's orders were not "clearly erroneous or contrary to the law" **if no opposition or evidence has been filed**?

11) How and when was delivered to the above-mentioned District Judge the specific documentary evidence challenging the Plaintiff's conclusive evidence on her motions between July 11 - 19, 2023, to rely on her "hasty decision" to rule the Plaintiff's motions as Denied?

12) How did District Judge Azrack "under the highly deferential standard of review" in less than eight days without opposition papers or challenge evidence to reach the "hasty decision" that Magistrate Judge Shields' orders were not "clearly erroneous or contrary to the law"?

13) Why this Court disregards the Constitutional Right of Due Process, FRCP, Local Civil Rule, and Individual Rules that should respect the complete legal process for motions (opposition, reply, evidence) before ruling a decision based on the Laws, facts, and evidence?

14) Is it not "clearly erroneous or contrary to the law" and usurpation of judicial power not complying with the motion legal process under Constitution, Laws, FRCP, and Local Civil Rule?

Plaintiff is not waiving any dispositive or non-dispositive motions or any other relief she is entitled to and reserves all rights.

WHEREFORE, Plaintiff respectfully requests GRANTED this motion¹ under the Plaintiff's Constitutional Rights of Due Process of Law and Code of Conduct for United States Judges Canon 1, 2 & 3 for an entry of an order clarifying the order as well as such other and further relief that may be just and proper in Interest of the Justice.

Respectfully submitted,

Dated: July 24, 2023

Rego Park, New York



Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347)453-2234
Email: liorrego@gmail.com

¹ "Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers." See Jenkins v. McKeithen, 395 U.S. 411, 421 (1969); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240; Pucket v. Cox, 456 2nd 233.



Lidia Orrego <lorrego@gmail.com>

Activity in Case 2:20-cv-03361-JMA-AYS Orrego v. Knipfing et al Order on Motion for Reconsideration

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
To: nobody@nyed.uscourts.gov

Fri, Jul 21, 2023 at 3:01 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 07/20/2023 at 2:33:30 PM EDT and filed on 07/20/2023

Case Name: Orrego v. Knipfing et al
Case Number: 2:20-cv-03361-JMA-AYS
Filer:
Document Number:

Docket Text:

ORDER denying [142] Motion for Reconsideration, [143] Letter MOTION for Reconsideration, [144] MOTION for Reconsideration, [145] MOTION to Vacate Order on Motion for Recusal.

Before the Court are several objections filed by Plaintiff to various orders issued by Magistrate Judge Anne Y. Shields. Plaintiff styles these motions as seeking reconsideration -- apparently mistakenly -- under Fed. R. Civ. P. 54(b). However, she also states that she objects to Magistrate Judge Shields' orders. Accordingly, the Court construes Plaintiff's motions as presenting objections under Fed. R. Civ. P. 72(a), which provides that a district court may reverse a magistrate judge's decision on a non-dispositive matter only if that decision is "clearly erroneous or contrary to law." Upon consideration of Plaintiff's objections under this highly deferential standard of review, the Court finds that Magistrate Judge Shields' orders were not "clearly erroneous or contrary to law." Accordingly, Plaintiff's objections are OVERRULED.

For the avoidance of doubt, even if the Court were to construe Plaintiff's motions as seeking reconsideration under Fed. R. Civ. P. 54(b) or 60, the motions would be denied because Plaintiff has not satisfied the strict standard for reconsideration. Ordered by Judge Joan M. Azrack on 7/20/2023. (SP) Modified on 7/21/2023- to correct a typographical error. (GO).

2:20-cv-03361-JMA-AYS Notice has been electronically mailed to:

Kuuku Angate Minnah-Donkoh kminnahdonkoh@grsm.com, vls_nysupport@grsm.com

Brian P. McLaughlin bmcLaughlin@nassaucountyny.gov

11

EXHIBIT 1

22-86

Mallek v. Allstate Insurance Company

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit,
held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of
New York, on the 18th day of May, two thousand twenty-three.

PRESENT:

DEBRA ANN LIVINGSTON,
Chief Judge,
REENA RAGGI,
SUSAN L. CARNEY,
Circuit Judges.

Eva Mallek,

Plaintiff-Appellee,

v.

22-86

Allstate Insurance Company,

Defendant-Appellant,

Kevin Schaefer, Allstate Agent and
Representative for Allstate, John Doe, Jane Doe,
as all other Consultants Representing Allstate,

Defendants.

FOR PLAINTIFF-APPELLEE:

No brief.

FOR DEFENDANT-APPELLANT:

THOMAS H. CELLILLI III (Heidi Kuffel, on

the brief), Skarzynski Marick & Black LLP,
New York, NY and Chicago, IL.

Appeal from a December 20, 2021 judgment of the United States District Court for the Eastern District of New York (Matsumoto, J.).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court is **VACATED** solely as to the amount of damages and **AFFIRMED** in remaining part, and the matter is **REMANDED** for further proceedings.

Appellant Allstate Insurance Company (“Allstate”) appeals the district court’s judgment, which granted summary judgment to Appellee Eva Mallek (“Mallek”) on her breach of contract claim and awarded her \$358,000 in damages. Because we write primarily for the parties, we assume familiarity with the underlying facts, procedural history, and issues on appeal, and we briefly recite only what is necessary to explain our decision.

Mallek sued Allstate for breach of contract for refusing to pay her insurance claim after a fire destroyed a house she owned (but did not occupy). Allstate refused to pay because (among other reasons not now relevant) Mallek, the only named insured on the policy, did not reside at the house as the policy required. The parties cross-moved for summary judgment. In November 2020, the district court granted summary judgment to Allstate on certain claims not now relevant but denied summary judgment to both parties as to Mallek’s breach of contract claim, despite concluding that Allstate had not offered any evidence to counter Mallek’s sworn testimony that Allstate did not provide her a copy of the Standard Homeowners Policy (containing the residency requirement) before the fire. *See Mallek v. Allstate Indem. Co.*, No. 17-CV-5949 (KAM), 2020 WL 6873434 (E.D.N.Y. Nov. 23, 2020).

In October 2021, a month before trial was set to begin, the district court (relying on Federal Rule of Civil Procedure 60(b)(6)) ordered Allstate to show cause why the court should not vacate the denial of Mallek's summary judgment motion and grant summary judgment to her on the breach of contract claim based on Allstate's failure to rebut her sworn testimony that Allstate failed to deliver a copy of the Standard Homeowners Policy to her before her loss. In its response, Allstate did not proffer any evidence that it delivered the policy before Mallek's loss. Allstate did, however, raise the new legal argument that the district court should have granted summary judgment to Allstate on the breach of contract claim on the ground that the policy's incorporation by reference in renewal declarations mailed to Mallek was sufficient to bind her to the policy's terms without actual delivery of the policy. The district court rejected this new argument, and also concluded that Allstate waived the argument by failing to raise it during the initial summary judgment briefing. Accordingly, the court granted summary judgment to Mallek on the breach of contract claim and awarded her \$358,000 in damages, *i.e.*, the face amount of the policy.

We review a grant of summary judgment *de novo*. *See Sousa v. Marquez*, 702 F.3d 124, 127 (2d Cir. 2012).

We first address Allstate's procedural arguments that the district court erred by *sua sponte* vacating its November 2020 denial of summary judgment to Mallek under Rule 60(b)(6) and by granting summary judgment to her even though she had not complied with the district court's local rule requiring a party moving for summary judgment to submit a statement of undisputed material facts. Both arguments fail.

As to the first procedural argument, Allstate is correct that the district court should not have relied on Rule 60(b) to reconsider the November 2020 order because that rule applies only to relief

from a “final judgment, order, or proceeding.” Fed. R. Civ. P. 60(b); *see also In re U.S. Lines, Inc.*, 216 F.3d 228, 235 (2d Cir. 2000) (holding that the district court erred in reconsidering, under Rule 60, an order that was not final); *United States v. Cambio Exacto, S.A.*, 166 F.3d 522, 529 (2d Cir. 1999) (holding that an order denying summary judgment is not final). Nevertheless, the district court’s reconsideration of the November 2020 order was proper under Rule 54(b), which provides in relevant part:

[A]ny order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.

Fed. R. Civ. P. 54(b); *see also, e.g., Acha v. Beame*, 570 F.2d 57, 63 (2d Cir. 1978); *Utica Mut. Ins. Co. v. Munich Reinsurance Am., Inc.*, 381 F. Supp. 3d 185, 209 n.36 (N.D.N.Y. 2019), *aff’d*, 7 F.4th 50 (2d Cir. 2021). The district court correctly revised its earlier decision to correct a clear error of law, as permitted by the law of the case doctrine. *See Virgin Atl. Airways, Ltd. v. Nat’l Mediation Bd.*, 956 F.2d 1245, 1255 (2d Cir. 1992) (noting that Rule 54(b) operates “within the strictures of the law of the case doctrine”); *see also Doe v. New York City Dep’t of Soc. Servs.*, 709 F.2d 782, 789 (2d Cir. 1983) (permitting reconsideration to account for “an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice”).

The second procedural argument fails because the district court “has broad discretion to determine whether to overlook a party’s failure to comply with local court rules” and “may in its discretion opt to conduct an assiduous review of the record even where one of the parties has failed to file . . . a statement [of undisputed material facts].” *Holtz v. Rockefeller & Co.*, 258 F.3d 62, 73

(2d Cir. 2001) (internal quotation marks omitted).

Allstate next makes two substantive arguments challenging the district court's summary judgment ruling. It first argues that the district court should have granted summary judgment to Allstate because the 2015 renewal mailing incorporated the Standard Homeowners Policy by reference, and that was sufficient under New York law to bind Mallek to the policy's terms. Allstate next argues that it established the existence of a genuine issue of material fact as to whether it notified Mallek of the residency requirement before her loss. We reject both arguments.

As to incorporation by reference, Allstate did not raise the argument on summary judgment. By raising this argument for the first time in its response to the order to show cause, Allstate effectively sought reconsideration of the denial of its own summary judgment motion. Because a new argument may not be raised in a motion for reconsideration, "we need not reach this issue which, since it was not properly raised in the district court, is not properly before us." *Nat'l Union Fire Ins. Co. of Pittsburgh v. Stroh Cos.*, 265 F.3d 97, 115–16 (2d Cir. 2001).¹

As to Allstate's second substantive argument, the district court properly granted summary judgment to Mallek because Allstate did not submit any evidence on summary judgment to rebut Mallek's sworn testimony that Allstate did not provide her a copy of the Standard Homeowners Policy prior to her loss. *See Brown v. Eli Lilly and Co.*, 654 F.3d 347, 358 (2d Cir. 2011) ("Where

¹ To be sure, we have discretion to consider arguments that were waived below. *In re Nortel Networks Corp. Sec. Litig.*, 539 F.3d 129, 133 (2d Cir. 2008) (per curiam). But Allstate does not advance any persuasive reason why we should reach its belated incorporation-by-reference argument: indeed, even though the district court deemed this argument waived, Allstate does not address the issue of waiver in its appellate brief. Because we conclude that Allstate waived its incorporation-by-reference argument, we need not and do not express any view as to the merits of the argument.

the moving party demonstrates the absence of a genuine issue of material fact, the opposing party must come forward with specific evidence demonstrating the existence of a genuine dispute of material fact.” (internal quotation marks and citations omitted)). Even considering Allstate’s response to the order to show cause, it still did not submit any evidence to establish a genuine dispute of material fact. Allstate asserted that it anticipated that one of its employees would testify at trial that, according to Allstate’s business records, the Standard Homeowners Policy was mailed to Mallek in 1996. But Allstate did not submit an affidavit from its employee to support that assertion, and “[a]n attorney’s unsworn statements in a brief are not evidence.” *Kulhawik v. Holder*, 571 F.3d 296, 298 (2d Cir. 2009) (per curiam). Allstate did submit the declarations statement for Mallek’s 1996 policy renewal, but that document did not establish a genuine dispute of material fact because it stated only that Mallek’s policy was subject to the Standard Homeowners Policy; it did not establish that the Standard Homeowners Policy was mailed to her with the declarations statement.

Finally, Allstate argues that the district court erred in awarding Mallek the face value of her insurance policy (*i.e.*, \$358,000) when she proffered no evidence in support of her damages. Allstate is correct. Under New York law, “To justify an award of damages, the insured must prove the nature, extent and amount of its loss under the policy to a reasonable degree of certainty.” *Simplex diam, Inc. v. Brockbank*, 283 A.D.2d 34, 38 (1st Dep’t 2001); *see also Imrie v. Ratto*, 206 A.D.3d 1490, 1494 (3d Dep’t 2022) (concluding that “the issue of damages” caused by fire “requires an evidence-based valuation”). Mallek asserted in her verified complaint that “a fire destroyed the structure and contents of her home,” and Allstate did not submit any contrary evidence to raise a genuine dispute of material fact about whether Mallek’s home was destroyed.

See Gayle v. Gonyea, 313 F.3d 677, 682 (2d Cir. 2002) (explaining that “[a] verified complaint is to be treated as an affidavit for summary judgment purposes” (internal quotation marks omitted)). Nonetheless, under the policy renewal declarations (which Mallek indisputably received), the \$358,000 face value of the policy was merely a limit of liability, and Mallek has not submitted evidence with respect to the cost of rebuilding or replacing her destroyed home. Thus, to be awarded the face value of the policy, Mallek must submit evidence (which Allstate may then attempt to rebut) to show that the extent of her loss was at least \$358,000.

We have considered all of Allstate’s remaining arguments and find them to be without merit. Accordingly, we **VACATE** the judgment solely as to the amount of damages, **AFFIRM** in remaining part, and **REMAND** for further proceedings consistent with this decision.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk of Court

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, Teresa A. Zantua.

Defendants.

Affirmation of Service

20CV3361 (JMA) (AYS)

_____ x

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Motion to Clarify Order dated July 20, 2023 dated July 24, 2023 upon the defendant(s) or attorney whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP

One Battery Park Plaza, 28th Floor

New York, NY 10004

Via ECF & Notice has been electronically mailed to:

kminnahdonkoh@grsm.com; kminnahdonkoh@gordonrees.com;

dlrivera@grsm.com; pcella@grsm.com; pguerrero@grsm.com

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

Dated: July 24, 2023
Rego Park, New York



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

CC: District Judge Joan M. Azrack – Via NYSCEF

Plaintiff files via Pro Se Electronic Document Submission on July 24, 2023,
<https://edny.app.box.com/f/0f6348c6cb5242409fe345811278b2ca>

7/30/23, 7:31 AM

Gmail - Activity in Case 2:20-cv-03361-JMA-AYS Orrego v. Knipping et al Order on Motion for Certificate of Appealability



Lidia Orrego <lorrego@gmail.com>

Activity in Case 2:20-cv-03361-JMA-AYS Orrego v. Knipping et al Order on Motion for Certificate of Appealability

1 message

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
To: nobody@nyed.uscourts.gov

Fri, Jul 28, 2023 at 10:41 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 7/28/2023 at 10:41 AM EDT and filed on 7/28/2023

Case Name: Orrego v. Knipping et al

Case Number: 2:20-cv-03361-JMA-AYS

Filer:

Document Number: No document attached

Docket Text:

ORDER denying [152] Motion for Certificate of Appealability. Under 28 U.S.C. § 1292(b), a district judge may certify an interlocutory appeal if the party seeking certification demonstrates that the order to be appealed from "involves a controlling question of law as to which there is substantial ground for difference of opinion and... an immediate appeal from the order may materially advance the ultimate termination of the litigation."

The party seeking leave to appeal bears the burden of establishing all three substantive criteria. See Casey v. Long Island R.R., 406 F.3d 142, 146 (2d Cir. 2005). Moreover, that party must show "exceptional circumstances to overcome the general aversion to piecemeal litigation and justify a departure from the basic policy of postponing appellate review until after the entry of a final judgment." Robinson v. De Niro, No. 19-CV-09156, 2023 WL 4561590, at *2 (S.D.N.Y. July 17, 2023) (internal quotations marks and citation omitted). Even where the statutory criteria are met, a district court retains "broad discretion to deny certification[.]" Nat'l Asbestos Workers Med. Fund v. Philip Morris, Inc., 71 F. Supp. 2d 139, 166 (E.D.N.Y. 1999).

Here, Plaintiff asserts that the Court's July 11, 2023 and July 20, 2023 Orders satisfy the requirements of § 1292(b). However, because the Court disagrees that there is "substantial ground for difference of opinion" regarding any legal issues raised in the Orders -- including the underlying orders of Judge Brown and Magistrate Judge Shields -- the Court declines Plaintiff's request to certify these Orders for immediate interlocutory appeal.

In light of Plaintiff's pro se status, the Court notes that to the extent she appeals from an interlocutory order, see 28 U.S.C. § 1292(a)(1), she need not seek this Court's leave to file an appeal. Ordered by Judge Joan M. Azrack on 7/28/2023. (SP)

7/30/23, 7:31 AM

Gmail - Activity in Case 2:20-cv-03361-JMA-AYS Orrego v. Knipping et al Order on Motion for Certificate of Appealability

2:20-cv-03361-JMA-AYS Notice has been electronically mailed to:

Kuuku Angate Minnah-Donkoh kminnahdonkoh@grsm.com, vls_nysupport@grsm.com

Brian P. McLaughlin bmclaughlin@nassaucountyny.gov

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-JMA-AYS Notice will not be electronically mailed to:

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

Lidia M. Orrego

Plaintiff,

-against-

Case No. 20CV3361(JMA)(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, Steve Savitsky,
Teresa A. Zantua

Defendant(s).

District Judge Joan M. Azrack

X

**PLAINTIFF'S OBJECTION & MOTION TO CLARIFY THE
ORDER JULY 28, 2023
ON MOTION FOR CERTIFICATE OF APPEALABILITY ECF DOC. [152]**

I, Lidia M. Orrego, Plaintiff, respectfully move for the entry of an order clarifying the Court's order dated July 28, 2023, on Plaintiff's Motion for a Certificate of Appealability ECF doc. [152] under her Constitutional Right to Due Process and Freedom of Speech.

Plaintiff objects to the Due Process of Law violation, Federal Rules Civil Procedure ("FRCP"), and Local Civil rule governing this forum. This Court prevents the Plaintiff from filing the Reply to the Defendants' Opposition ECF doc. [155] which lacks specificity, and the facts are fraudulent misrepresentations or distortions. Pattern to deny the Plaintiff's Motion is repeated immediately after the Defendants filed their illogical Opposition.

The Defendants' opposition without documentary evidence has no legal validity, in plain words, means nothing, and this Court is encouraging them to continue committing fraud and perjury in this case.

The Defendants' opposition does not make any sense in saying that the Plaintiff is delaying the case filing the interlocutory appeals when she confirmed closing her discovery filing the Certificate on July 27, 2023, ECF doc. [157], just one day after Defendants filed their hilarious Opposition for Interlocutory Appeals ECF doc. [155].

Ironically, Defendants who are delaying the case by abusing or not cooperating with Discovery cowardly remain in hiding to avoid discovery simply because all the evidence is

against them, including their witnesses who are Gordon Rees Scully Mansukhani LLC ("GRSM") current clients (Violation Rule of Professional Conduct Rule 3.3: Candor Toward the Tribunal-Conflict of Interest- Ethical Violation- Obstruction of Justice). Plaintiff's Declaratory Relief ECF doc. [73] recommended as Granted on March 9, 2023, & Judicial Notice ECF doc. [108]. **Defendants failed to challenge Plaintiff's documentary evidence.**

Plaintiff is seeking the reversion of the unconstitutional orders that violate the Due Process of Law for her and any Plaintiff Pro Se who has been deceived in this forum and for those who will come.

Plaintiff is looking for justice for everyone and seeks to be a model to show the "know-how" to fight against a biased Court. Plaintiff's purpose goes beyond her case because Justice for All must be served.

Plaintiff objects to the ridiculous "Defendants' getting old script" without any support that she made false accusations when the facts and evidence support her, including but not limited to H. Judge Gary R. Brown's recusal in May 2023 without denying or giving explanations for the decisions he has issued against the Laws, FRCP, Local Civil Rule, and Federal Rules of Evidence that have been consistently violated throughout this case, therefore, "Who remains silent agree." See Plaintiff refers to the evidence ECF doc. [119].

ORDER TO CLARIFY COURT'S ORDER DATED JULY 28, 2023

Plaintiff requests, under her Constitutional Rights to Due Process and Freedom of Speech, the following clarifications on order dated July 28, 2023, to proceed to file the interlocutory appeal under 28 U.S. Code § 1292 and petitions to the higher court, no with any intention of delay, the only purpose to made all these unconstitutional orders set aside because threaten the Due Process and Plaintiff cannot appeal the orders after a final decision:

1) Why does the H. District Judge Azrack refuse to Plaintiff Reply to the Defendants' non-sense Oppositions in violation of FRCP and Local Civil Rule proceedings allowing the judicial usurpation?

2) Why is the H. District Judge Azrack denying the Preliminary Injunction ECF doc. [74] to protect this legal process and stop the Defendants from committing fraud, perjury, and obstruction of justice in this Court?

3) Why is the H. District Judge Azrack denying to exclude paragraphs 19 & 20 of Plaintiff's Motion ECF doc. [131] of the Defendants' Answer ECF doc. [33], because violate Federal Rule of Evidence 403 & 404 in Plaintiff prejudice? The FRCP Rule 54(b) allows correcting this injustice.

4) Did District Judge Azrack verify the unconstitutional order of the Magistrate Judge Shields ECF doc. [87] [88] dated March 2023 and the "Illegal and Coercive Unilateral Confidential Agreement" ECF doc. [66-1] has no relation?

5) How can this Court, under coercion, force Plaintiff to sign any agreement against her will in which she did not participate in the construction, does not understand, or can comply? Unconscionable and illegal.

6) Did District Judge Azrack verify the "Illegal and Coercive Unilateral Confidential Agreement" ECF doc. [66-1] mentions "retroactive"? Without any parameters or specifications, which is illegal in New York and anywhere worldwide.

7) Why does this Court want "fix" the lack of diligence of Defendants' Counsel Gordon Rees Scully Mansukhani LLC ("GRSM"), who disclosed the evidence regarding the investigation November 2018 on August 1, 2022, without a previous confidential agreement?

8) Can District Judge Azrack explain why the Plaintiff, against her will and interest, has to agree to anything or pay for the Defendants' Counsel GRSM's negligence and breach of duty?

9) Why is the Plaintiff illegally forced into the "Illegal and Coercive Unilateral Confidential Agreement" because the Defendants' Counsel wrecked their case and "Affirmative Defenses" ECF doc. [33]? Confirmation of the Defendants' liability.

10) How can this court force Plaintiff to agree to an "Illegal and Coercive Unilateral Confidential Agreement" when this Court lacks jurisdiction over Plaintiff's will and

signature? Plaintiff has no obligation and rejects entirely the ECF [66-1].

11) Can District Judge Azrack explain how the Plaintiff can “undo” the filing of the evidence shared and published in other forums since 2019 to apply retroactivity on ECF doc. [66-1]?

12) Can District Judge Azrack provide to the Plaintiff the cases from this Court as precedent when a party was forced to agree and sign a “confidential agreement with retroactivity” against their participation in the construction with a Court order?

Please notice, without any precedent to support the order dated March 2023, the “Illegal and Coercive Unilateral Confidential Agreement” ECF doc. [66-1] is automatically void because it is unenforceable and against the United Constitution Deprivation of Civil Rights under Color of Law.

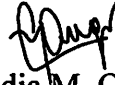
Plaintiff respectfully requests a direct answer to each question avoiding vague and ambiguous responses or lack of specificity.

Plaintiff reserves the right to amplify these questions or file any motion¹ after the complete review of the order and case law contained in the order dated July 28, 2023. Plaintiff reserves all rights.

WHEREFORE, Plaintiff respectfully requests GRANTED this motion¹ under the Plaintiff's Constitutional Rights of Due Process of Law and Code of Conduct for United States Judges Canon 1, 2 & 3 for an entry of an order clarifying the order as well as such other and further relief that may be just and proper in Interest of the Justice.

Respectfully submitted,

Dated: August 1, 2023
Rego Park, New York


Lidia M. Orrego
Plaintiff Pro Se
95-08 Queens Blvd. 3E
Rego Park, NY 11374
Phone (347)453-2234
Email: liorrego@gmail.com

¹ "Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers." See Jenkins v. McKeithen, 395 U.S. 411, 421 (1969); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240; Pucket v. Cox, 456 2nd 233.

4/10/23, 7:02 PM

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



Lidia Orrego <lorrego@gmail.com>

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

1 message

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
To: nobody@nyed.uscourts.gov

Mon, Apr 10, 2023 at 12:12 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 4/10/2023 at 12:12 PM EDT and filed on 4/10/2023

Case Name: Orrego v. Knipfing et al**Case Number:** 2:20-cv-03361-GRB-AYS**Filer:****Document Number:** No document attached**Docket Text:**

ORDER. Plaintiff's motion pursuant to Federal Rule of Evidence 201 (DE 108) is denied without prejudice to renewal at the time of trial. Ordered by Judge Gary R. Brown on 4/10/2023. (MR)

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, tgararza@grsm.com, vcanarte@grsm.com

Lidia M. Orrego liorrego@gmail.com

2:20-cv-03361-GRB-AYS Notice will not be electronically mailed to:

3/28/23, 5:01 PM

Gmail - Activity in Case 2:20-cv-03361-GRB-AYS Orrego v. Knipfing et al Order Adopting Report and Recommendations



Lidia Orrego <llorrego@gmail.com>

Activity in Case 2:20-cv-03361-GRB-AYS Orrego v. Knipfing et al Order Adopting Report and Recommendations

1 message

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
To: nobody@nyed.uscourts.gov

Tue, Mar 28, 2023 at 4:29 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 3/28/2023 at 4:29 PM EDT and filed on 3/28/2023

Case Name: Orrego v. Knipfing et al
Case Number: 2:20-cv-03361-GRB-AYS
Filer:
Document Number: No document attached

Docket Text:

ORDER ADOPTING REPORT AND RECOMMENDATIONS for [73] Motion for Declaratory Judgment filed by Lidia M. Orrego, [77] Motion to Change Venue filed by Lidia M. Orrego, adopting [87] Report and Recommendations.

Presently before the Court is the Report and Recommendation dated March 9, 2023, DE 87, of United States Magistrate Judge Anne Y. Shields recommending that Plaintiff's motions for a declaratory judgment in her favor, and the motion to change venue to the Brooklyn Courthouse, be denied.

In reviewing a Report and Recommendation, the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party makes specific and timely objections to a Magistrate Judge's findings or recommendations as to dispositive motions, the district court must apply a de novo standard of review to the portions of the Report and Recommendation to which the objection is made. Fed. R. Civ. P. 72(b); see *LLC v. Doe* 3, 604 F.3d 110, 116 (2d Cir. 2010); see also 28 U.S.C. § 636(b)(1). However, "general or conclusory objections, or objections which merely recite the same arguments presented to the magistrate judge, are reviewed for clear error." *Caldarola v. Town of Smithtown*, No. 09-cv-272, 2011 U.S. Dist. LEXIS 37280, at *1 (E.D.N.Y. Apr. 4, 2011).

On March 22, 2023, Plaintiff requested eight additional days to file her objections to the Report and Recommendation. DE 99. Whereas Plaintiff already filed objections to the Report and Recommendation on March 23 and March 24, 2023, see DEs 101, 105, the request for an extension of time is denied as moot. In her objections, Plaintiff argues that Magistrate Judge Anne Y. Shields "misapplied" the concept of the Plaintiff's motion for Declaratory Relief in order to protect the Defendant, see DE 101 at 5, and that transferring this case to Brooklyn would be a "win-win" because the Plaintiff will "try to seek justice in a forum that protects the working class" and "this Court will not have to deal with Plaintiff whom it has been rejecting after September 30, 2021," see DE 105 at 6. Although de novo review is not required, the Court has conducted a de novo review of the Report and Recommendation, and having reviewed the motion papers, the applicable law, and having conducted a careful review of the Report and Recommendation de novo, the Court has determined that Judge Shields correctly determined that the motion for declaratory judgment should be denied in light of this case's ongoing discovery and that this case was properly designated as a Long Island case. See *Orrego v. Knipfing*, 564 F. Supp. 3d 273, 278-82 (E.D.N.Y. 2021) (summarizing allegations of misconduct against defendants in Nassau County).

As such, the objections to the Report and Recommendation are **OVERRULED** and the Report and Recommendation dated March 9, 2023, DE 87, of United States Magistrate Judge Anne Y. Shields is **ADOPTED** in its entirety.

The Clerk of Court is respectfully directed to mail a copy of this Order to the pro se Plaintiff.

Ordered by Judge Gary R. Brown on 3/28/2023. (JT)

3/28/23, 5:00 PM

Gmail - Activity in Case 2:20-cv-03361-GRB-AYS Orrego v. Knipfing et al Order on Motion to Vacate



Lidia Orrego <liorrego@gmail.com>

Activity in Case 2:20-cv-03361-GRB-AYS Orrego v. Knipfing et al Order on Motion to Vacate

1 message

ecf_bounces@nyed.uscourts.gov <ecf_bounces@nyed.uscourts.gov>
 To: nobody@nyed.uscourts.gov

Tue, Mar 28, 2023 at 4:45 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 3/28/2023 at 4:45 PM EDT and filed on 3/28/2023

Case Name: Orrego v. Knipfing et al
 Case Number: 2:20-cv-03361-GRB-AYS
 Filer:
 Document Number: No document attached

Docket Text:

ORDER denying [94] Motion to Vacate, [96] Notice of MOTION to Vacate, [98] Letter MOTION to Vacate, [100] Notice of MOTION to Vacate, [102] Amended MOTION to Vacate, [103] Amended MOTION to Vacate, [104] Amended MOTION to Vacate.

Presently before the Court are a series of objections to the Orders of Magistrate Judge Anne Y. Shields dated March 9, 2023, DE 88. See DEs 94, 96, 98, 100, 102, 103, 104.

Discovery orders by a magistrate judge are generally considered "nondispositive" of the litigation. See *Thomas E. Hoar, Inc. v. Sara Lee Corp.*, 900 F.2d 522, 525 (2d Cir. 1990). Accordingly, a district court must affirm such orders unless they are "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). This standard of review is "highly deferential," see *Thai Lao Lignite (Thai.) Co. v. Gov't of Lao People's Dem. Rep.*, 924 F. Supp. 2d 508, 511-12 (S.D.N.Y. 2013) (citations and internal quotation marks omitted), and "magistrates are afforded broad discretion in resolving discovery disputes," see *MASTR Adjustable Rate Mortgs. Tr. 2006-OA2 v. UBS Real Estate Secs. Inc.*, No. 12 Civ. 7322, 2013 WL 6840282, at *1 (S.D.N.Y. Dec. 27, 2013) (citation omitted).

In a series of repetitive and verbose objections, Plaintiff principally argues that Judge Shields lacked the authority to issue the Orders in DE 88 and calls into question Judge Shields' impartiality. Whereas all of the Orders issued by Judge Shields concerned discovery matters and the allegations of bias are unsubstantiated, Plaintiff's objections are **OVERRULED**. PLAINTIFF IS CAUTIONED ONCE AGAIN THAT THE CONTINUED FILING OF BLOATED AND WHOLLY UNSUPPORTED MOTIONS MAY SUBJECT HER TO THE IMPOSITION OF SANCTIONS FOR ENGAGING IN FRIVOLOUS LITIGATION CONDUCT UNDER 28 U.S.C. § 1927.

The Clerk of Court is respectfully directed to mail a copy of this Order to the pro se Plaintiff.

Ordered by Judge Gary R. Brown on 3/28/2023. (JT)

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:

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
LIDIA M. ORREGO,

Plaintiff,

-against-

KEVIN KNIPFING, et al.,

Defendants.
-----X

SHIELDS, Magistrate Judge:

**ORDER
AND
REPORT AND
RECOMMENDATION
CV 20-3361 (GRB)(AYS)**

This is an employment discrimination action in which Plaintiff Lidia Orrego (“Plaintiff” or “Orrego”) is proceeding with claims for retaliation and hostile work environment pursuant to 42 U.S.C. §1981 and the NYSHRL on account of her race. After a motion to dismiss Plaintiff’s claim of retaliation remains only against Defendants Kevin Knipfig, Stephanieanna James-Knipfing and the named LLC’s (the “Corporate Defendants”). Orrego’s claim of a hostile work environment remains only as to Defendants Zantua, Stephanieanna James-Knipfing, and the Corporate Defendants.¹ Defendants deny all of Plaintiff’s claims and allege that they engaged in no wrongdoing.

Presently before this Court are several pretrial motions. Most of the motions allege a litany of improper and largely unspecified conduct during the course of discovery - mostly by defense counsel, but also on the part of Defendants and the Court. Plaintiff seeks sanctions that include entry of a judgment of default (as a discovery sanction), a declaratory judgment that she

¹ Plaintiffs’ claims pursuant to the NYCHRL, the New York Labor Law, the New York Penal Law and her claims for discrimination under 42 U.S.C. §1981 and the NYSHRL have been dismissed by the District Court. Defendant Savitsky has been dismissed from this action entirely.

is entitled to prevail on the merits, and a transfer of the venue of this matter to Judges sitting in this district's Brooklyn courthouse. As to the last requested relief, Plaintiff first moved before the Chief Judge of the Eastern District of New York, who advised Plaintiff that she should address her requests to the District and Magistrate Judges assigned to her case.

While it is often impossible to keep up with Plaintiff's numerous and prolix filings - most recently, Plaintiff has made six separate filings between March 1 and March 6, 2023 - the Court here rules on Plaintiff's pending motions. As indicated below, where motions are addressed to non-dispositive matters, the Court rules in the form of an Order of this Court; where motions are dispositive in nature the Court rules, pursuant to the general referral order of the District Court, in the form of Report and Recommendation.

BACKGROUND

Proceedings Prior to the Motions

The District Court herein has previously ruled on Defendants' motion to dismiss. See Docket Entry herein ("DE") [30]. Therein, the Court outlined the allegations of Plaintiff's Amended Complaint (the "Complaint"), taken as true in the light of the procedural posture. The Court need not review all of the facts alleged in the Complaint and recited in the opinion of the District Court. Relevant to this decision, however, are the following facts.

Plaintiff was employed first as a nanny, and then as a housekeeper for the Knipfings. She began working on January 31, 2018 and was dismissed on November 27, 2018. Upon commencement of her employment Plaintiff was given an employment and nondisclosure agreement. The latter of these agreements is referred to in the District Court's opinion and herein as the "NDA." Pursuant to the terms of 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." DE [30] at 2. Plaintiff underwent a background check and thereafter signed the NDA on February 15, 2018. Plaintiff was terminated from her employment less than a year after commencement, on November 27, 2018. The letter informing Plaintiff of her termination states that Orrego was terminated for breach of the NDA, including recording a conversation and taking "recordings and photographs" of the Knipfing's home" DE [30] at 7. Other grounds for termination were noted, but are not necessary to recite herein. See id. Plaintiff disputes that she violated the terms of the NDA. Id.

The District Court granted the motion to dismiss all of Plaintiff's claims of race discrimination. DE [30] at 11. In particular, the District Court noted the short period of Orrego's employment (less than one year), and the lack of any facts (even when alleged by a pro se plaintiff) tending to support a showing of any discriminatory intent. DE [30] at 11. However, given the solicitude granted pro se plaintiffs, the District Court declined to dismiss Orrego's retaliation claim against the Knipfings and the Corporate Defendants at the pleadings stage. Id. While all claims were dismissed with respect to Defendants Zantua and Savitsky, the District Court held that Plaintiff's claims of a hostile working environment were sufficient to survive at the pleadings stage as alleged against Zantua, Stephanieanna Knipfing and the Corporate Defendants. Like the claims of retaliation, the harassment claim as alleged against Savitsky was also dismissed. DE [30] at 17. Thus, the claims that survived the September 30, 2021 decision of the District Court and proceeded to discovery are Plaintiff's claim of retaliation only against Defendants Kevin Knipfing, Stephanieanna James-Knipfing and the Corporate Defendants. Her claim of a hostile work environment remains only as to Defendants Zantua, Stephanieanna James-Knipfing, and the Corporate Defendants.

Proceedings Following Decision on the Motion to Dismiss

On December 2, 2021, shortly after this matter was assigned to this Court, and following the District Court's appointment of pro bono counsel, this Court scheduled an initial conference. DE [41]. In accord with this Court's individual rules regarding employment cases, pro bono counsel properly submitted a joint case management statement and discovery plan worksheet. DE [42]. Upon review thereof, this Court entered a discovery schedule requiring, as the first phase of discovery, compliance with the Court's employment protocols. See Scheduling Order dated 02/11/2022. Two days later, Orrego submitted a motion seeking to have her appointed lawyer removed from the case. DE [43]. In particular, Orrego took issue with his agreement to participate in the discovery process which was required by the rules of this Court.

On February 18, 2022 this Court entered an order scheduling a telephone conference regarding Orrego's motion to have appointed counsel removed. A conference was held on March 8, 2022, during which the Court relieved Plaintiff's pro bono counsel from further representation of Orrego.² In accord with courtesies extended to parties whose counsel are relieved from representation, the Court stayed all proceedings herein for 60 days during which Plaintiff could consider whether to engage counsel on her own, or proceed pro se. See Order dated 03/08/2022. Plaintiff asked this Court to appoint new pro bono counsel; in particular she sought bilingual counsel. DE [50]. This Court reiterated that any request for the appointment of counsel must be made to the District Court. Plaintiff was reminded of the necessity of communicating with this

² Plaintiff continues to make completely unsupported attacks on her formerly appointed pro bono counsel, accusing him of being in "partnership" with Defense counsel. DE [85]. There is no support for any such allegation. Instead, the record reflects only former counsel's compliance with the Court's rules and willingness to assist Plaintiff in this matter.

Court as to her decision regarding whether she would go forward with this matter on a pro se basis. See Order dated 03/14/2022.

On April 19, 2022, Plaintiff informed the Court of her decision to proceed pro se. DE [51]. In her letter informing the Court of her decision, Orrego asked the Court to remove from the docket the previously entered (and stayed) scheduling order, appearing as DE [42], that was agreed to by her former counsel. The Court declined to remove a publicly filed document from the docket, but to accommodate what Plaintiff requested, the Court vacated that scheduling order. DE [52]. The Court repeated what it had communicated to Plaintiff in the past - that the Court cannot provide Court interpreters in civil cases. The Court reminded Plaintiff that she was free to engage her own interpreter. Plaintiff was also told, again, of the availability of the Hofstra Law School pro se clinic to assist her on a limited scope representation basis. Id. Additionally, the Court set forth a detailed discovery schedule to facilitate the progress of this matter in an orderly and expeditious manner. In particular, that order described with particularity the documents to be exchanged as part of the first phase of discovery. The parties were directed to submit a joint status letter on June 15, 2022 setting forth dates certain for the taking of depositions. Finally, that order stated that upon receipt of the joint status letter the Court would enter an order governing the remainder of discovery. DE [52].

Three days later, Orrego submitted a letter to this Court taking issue with the Court's Order appearing at DE [52]. See Letter dated April 26, 2022, appearing as DE [54]. In that letter Orrego began what would become a pattern of accusing opposing counsel of misconduct. Thus, in addition to taking issue with Defendants' failure to produce documents in accord with the scheduling order that she objected to (and specifically asked be removed from the docket) Orrego said that Defendants engaged in cynical and outrageous conduct and would continue to

disobey and violate laws, orders, protocols and rules. DE [54]. Finally Orrego requested that all future conferences be held in person and requested an agenda of matters to be discussed. DE [54].

Upon receipt of DE [54] it became clear that Plaintiff objected to this Court's scheduling order and wished to be advised of the schedule in person. While the Court has the discretion to decide the method of holding conferences, the Court entered an order on May 2, 2022, vacating its April 19, 2022 order to allow Plaintiff to attend a re-scheduled initial conference, in-person. Accordingly, the Court issued a scheduling order directing the parties to appear for an in-person conference to be held on July 5, 2022 at 10:30 A.M.

July 5, 2022, this Court held the scheduled in-person scheduling conference. Plaintiff appeared, along with a person who was serving as her interpreter for the day. At that conference, the Court explained the pretrial discovery process. In a scheduling order entered on the same day as the in-person conference, the Court noted that Plaintiff agreed that all service in this matter may proceed via email. This Court also entered a Phase I discovery schedule providing that by August 1, 2022, the parties were to exchange all documents/recordings/video relating to Plaintiff's employment. The production was required to include, but was 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. Documents were to be exchanged by all parties regardless of how that party came into possession of the document. The parties were directed to submit a joint status letter on August 15, 2022 setting forth whether the ordered paper discovery was complete. See Scheduling Order dated 07/05/2022.

On July 26, 2022, Defendant sought an extension of time to serve Defendant's document production. DE [58]. Plaintiff opposed that extension. DE [59]. In an order dated July 27, 2022 the Court agreed with Plaintiff and denied the requested extension. The Court noted that discovery deadlines were set during the July 5, 2022 in-person conference during which Defense counsel neither objected to nor indicated that meeting deadlines would be problematic. Accordingly, the request for the extension was held to lack the requisite good cause needed for an extension.

On August 15, 2022 the parties submitted the joint letter contemplated by the July 5, 2022 Order. DE [62]. That letter confirms the parties' compliance with this Court's Employment Protocols. The day after the parties docketed their August 15, 2022 letter the Court entered the next scheduling order in this case. That order, dated August 16, 2022 directed the parties to move forward with depositions. The parties were directed to confer regarding the scheduling of depositions, and it was ordered that Plaintiff be deposed first. All depositions were ordered to be complete by February 28, 2022. See Scheduling Order dated 08/16/2022.

In the meantime, on July 8, 2022, three days after the July 5, 2022 in-person conference and entry of the Court's discovery order, Plaintiff began to file a flurry of motions and letters. The Court rules on the motions below. The letters, which Orrego continues to submit on an almost daily basis, are discussed only where necessary.

Plaintiff's Motions

Before turning to the motions the Court notes that on October 3, 2022, the District Court issued an order referring all pretrial proceedings, including one of the motions decided below (DE [65]), to this Court. That order also referred all past and future dispositive pretrial motions

to this Court for purposes of issuing any Report and Recommendation. See Order dated 10/03/2022.

Motion for Default Judgment (DE [57])

Plaintiff filed a motion on July 8, 2022, pursuant to Rules 26 and 37 of the Federal Rules of Civil Procedure, seeking entry of a judgment of default. DE [57]. Defendant responded thereto on August 11, 2022 (DE [61]) and Plaintiff replied on August 17, 2022 (DE [63]). In light of the fact that this motion seeks default as a discovery sanction, it is not dispositive. Therefore, the Court rules on this motion as an Order of this Court, and not as a Report and Recommendation.

Plaintiff seeks a judgment of default on the ground that Defendants failed to comply with the initial discovery scheduling order entered as DE [42]. Plaintiff refers to the scheduling order appearing as DE [41], however, DE [41] is simply a scheduling order that appears on the docket prior to the substantive - and later vacated - DE [42].

There is no basis for the relief Plaintiff seeks. This is because the motion is based upon alleged non-compliance with a scheduling order that, as clearly noted, was first stayed, and then later vacated by this Court. The stay was entered to afford Plaintiff the opportunity to obtain counsel. To be clear, the order upon which Plaintiff bases this motion for the sanction of default is one that was vacated *upon the request of Plaintiff* on the ground that her then-counsel failed to confer with her prior to submission of this Court's required initial letter. It is, to say the least, ironic that Orrego complains that Defendants failed to comply with an order that she sought to have removed from the docket. Moreover, Defendants have complied with the discovery obligations of this Court, including this Court's Employment Protocols, which supersede and exceed their Rule 26 obligations. Defendants were under no obligation to produce any discovery prior to the July 5, 2022 scheduling order, and have complied with the Order of the Court entered

on that day. The motion for the sanction of default, or any other sanction, based upon alleged non-compliance with discovery is denied as without merit and frivolous.

Motion Regarding Confidentiality of Documents (DE [65])

On August 12, 2022, Plaintiff filed a motion challenging Defendants' designation of certain documents as confidential (DE [65]). Defendant responded thereto on August 22, 2022 (DE [66]). Defendants' response sets forth the reasons why the challenged documents should be designated as confidential, and also seeks to have this Court enter an order of confidentiality to govern discovery herein. Plaintiff replied on August 24, 2022 (DE [67]).

Plaintiff's motion challenging the designation of the challenged documents as confidential is denied. First, the Court rejects the argument that because documents were introduced during Plaintiff's workers compensation and state court proceedings they are public and therefore not confidential. Those documents are not available to the general public and their use by Plaintiff in an unrelated forum does not make them non-confidential. The Court also rejects the argument that pictures and recordings are not confidential because they are Plaintiff's property and not those of the Defendants. While pictures and recordings taken by Plaintiff are in her possession, they can only have come into her possession during the course of her now-terminated employment by Defendants. It may ultimately be determined that such pictures and recordings were taken by Plaintiff in general violation of her duties, and in specific violation of the NDA. As such, they may well be evidence of Plaintiff's breach of the NDA. While these documents are therefore within the scope of discovery herein (and may form the basis for an argument that Defendants properly terminated Plaintiff) they are properly designated as confidential at this stage of the proceedings. Indeed, it appears that the challenged documents may depict Defendants' infant children and their home. While the Court makes no finding at this

stage as to whether documents consisting of pictures and recordings taken by Plaintiff during the course of her employment violated the NDA, the Court does hold that such documents have been properly designated as confidential during this phase of the litigation. To be clear, the Court is not holding that the documents at issue are outside of the scope of discovery. Indeed, they are certainly within that scope. However, the nature of the documents makes their designation as confidential appropriate.

Because additional private documents may be used during this litigation it is appropriate to enter a confidentiality order at this time. Accordingly, the Court grants defendants' request to enter an order of confidentiality to govern discovery herein. The Court has reviewed and hereby approves entry of the confidentiality order submitted by Defendants. Accordingly, the Court hereby orders the entry of that order, appearing as DE [66-1] herein. Defendant is directed to provide a copy of the order to Plaintiff. Plaintiff is directed to review that order and to abide by the terms therein.

Motion for Discovery Prior to Plaintiff's Deposition and Extension of Fact Discovery

As noted above, this Court entered a Scheduling Order on August 16, 2022 which, inter alia, directed that depositions be complete by February 28, 2023. Plaintiff has sought leave to conduct additional discovery prior to her deposition. In light of the fact that Plaintiff has now been deposed this request is denied as moot. As discussed below, the Court is presently considering Defendants' request that Plaintiff sit for a second day of deposition. Discovery will be extended, if necessary, to accommodate any further order on this issue.

Motions and Letters Appearing at DE [69], [70], [74] and [80]

In these motions Plaintiff seeks sanctions and injunctive relief. The injunctive relief motions appear as DE [70] and [74]. These motions seek to prevent the taking of Plaintiff's

deposition until she receives additional documents.³ They also seek a ruling on Plaintiff's now-denied motion for default. In light of the facts that Plaintiff has already been at least partially deposed and this Court is considering the request for a second day of testimony, the motion for injunctive relief asking that Plaintiff not appear for her deposition (DE [70]) is denied as moot. The motion appearing as DE [74] (which seeks a court ruling as to DE [57] decided above) is also denied as moot.

The motions appearing at DE [69], [74] and [80] ostensibly seek to report "additional" instances of misconduct on the part of Defendants and their counsel, and seek the imposition of sanctions for having engaged in such conduct. Among other things, Plaintiff makes unsupported accusations that Defendants are acting to deprive her of her Constitutional rights and are engaged in fraud, misconduct, tampering with evidence and racketeering activities. Plaintiff appears to argue that Defense Counsel is under some obligation to inform the Court of related actions (including her Workers Compensation case and what appears to be a civil case pending in Queens County) regarding counsel's engagement in acts of racketeering. DE [69]. Orrego makes repeated reference to allegations of fraud in her Workers Compensation case and the filing of complaints with state agencies. DE [69]. She states that these complaints support the "racketeering activities" of Defendants and their counsel. She requests that sanctions be imposed against counsel "whose intentional actions have obstructed the effective administration of the EDNY Court's business and justice since October 6, 2020." DE [69]; see also DE [74].

Plaintiff's accusations appearing in the motions docketed under DE [69], [74] and [80] and the allegations contained in Plaintiff's letters are unsupported and nonsensical. They have no place in this case. Plaintiff certainly has the right to properly litigate this case, but she may not

³ DE [74] also seeks the imposition of sanctions and is ruled upon separately herein.

use it as a vehicle to make personal and unsupported attacks of criminal behavior. To the extent these motions and Plaintiff's various letters seek any type of relief - and it is not clear that they do - they are denied. Plaintiff is cautioned that the continued filing of wholly unsupported motions may subject her to the imposition of sanctions for engaging in frivolous litigation conduct.

Motions for Declaratory Judgment (DE [73])

This is a motion for a declaratory judgment. It seeks entry of a final judgment on the merits in favor of Plaintiff. Because it is dispositive the Court rules on this motion in the form of a Report and Recommendation. Plaintiff seeks entry of final judgment on her causes of action. In light of the fact that discovery is ongoing, and Plaintiff cannot support her claims to prevail on the merits, it is respectfully recommended that Plaintiff's motion be denied.

Motion to Change Venue to Brooklyn Courthouse (DE [77])

Plaintiff addresses this motion to the Chief Judge of the Eastern District of New York. The assigned District Judge is, however, the Honorable Gary R. Brown and the assigned Magistrate Judge is the undersigned. Accordingly, as communicated to Plaintiff by the Chief Judge, Plaintiff's motions are appropriately made only to the assigned District and Magistrate Judges. DE [86] at 3. The Court construes the motion as made to the District Judge, and rules on it as a Report and Recommendation.

This motion seeks to transfer this case to a Judge in the Brooklyn Courthouse. The motion is recommended to be denied as untimely and without merit. This case was properly designated as a Long Island case. Not only has the time in which to seek to change that designation elapsed, Plaintiff sets forth no basis for the requested change of venue. It is respectfully recommended that the assigned District Judge deny the motion.

Motion and Response Regarding Plaintiff's Deposition (DE [80 -81])

As noted above, Plaintiff makes numerous unsupported attacks regarding the alleged unlawful activities of Defendants and their counsel. The Court has already ruled on these. The motion appearing as DE [80] and Defendant's response thereto appearing as DE [81] refer more specifically to Plaintiff's deposition.

To the extent the motion seeks some sort of sanction for conduct that took place during her deposition, the Court denies the motion as unsupported. In response to the motion Defense counsel notes that Plaintiff was not actually deposed for the full seven hours to which he was entitled. He relies on the time stated to have been recorded by the Court reporter, as well as the fact that the presence of an interpreter significantly cut down on the time of actual questioning.

In order to properly review this request the Court directs Defendants to provide a complete copy of Plaintiff's February 27, 2023 deposition transcript for the Court's review. The transcript must be emailed to shields_chambers@nyed.uscourts.gov by 5:00 PM on Friday, March 10, 2023. Upon review thereof the Court will decide whether and how much additional time should be afforded for additional questioning of Plaintiff. Accordingly, the motion for additional time in which to depose Plaintiff is denied at this time, without prejudice to renew upon providing the Court with the transcript of the first day of Plaintiff's deposition.

Plaintiff's Written Questions

On February 27, 2023 Plaintiff served Defendants with written deposition questions pursuant to Rule 31 of the Federal Rules of Civil Procedure. Although Defendants have preserved their right to object to those questions, they do not object to responding thereto. Discovery is extended at this time to require Defendants to respond to Plaintiff's written questions by April 7, 2023.

Motion by Limited Scope Counsel to Withdraw (DE 79)

There is pending a request from limited scope counsel to be relieved in this matter on the ground that counsel represented Plaintiff only for the purpose of representing her at deposition. In light of the fact that Plaintiff's deposition may not yet be complete, the Court denies the request to be relieved at this time, without prejudice to renewal. Limited scope counsel may chose to continue to represent Plaintiff at any continued deposition, or not. Counsel may renew this motion to be relieved upon review of this Order and any subsequent order entered with respect to Defendants' request for additional time in which to depose Plaintiff. It is certainly within their discretion to decide whether or not to consider to represent Plaintiff at any continued deposition.

CONCLUSION

Plaintiff's motions appearing at DE [57], [65], [69], [70], [74] and [80] are denied by Order of this Court. The proposed confidentiality order appearing as DE [66-1] is So Ordered.

It is respectfully recommended that Plaintiff's motions for a declaratory judgment in her favor, appearing as DE [73], and the motion to change venue to the Brooklyn Courthouse, appearing as DE [77], be denied.

Defendants' motion for additional time in which to depose Plaintiff, appearing as DE [81], is denied without prejudice to renew upon providing the Court with the transcript of Plaintiff's deposition.

Limited Scope Counsel's motion appearing as DE [79] is denied without prejudice to renew in accord with this Order.

OBJECTIONS

A copy of this Order and Report and Recommendation is being provided to all counsel and Plaintiff via ECF. Any written objections to the Report and Recommendation portion, namely this Court's recommendation that Plaintiff's motions for a declaratory judgment in her favor, appearing as DE [73], and the motion to change venue to the Brooklyn Courthouse, appearing as DE [77], be denied, must be filed with the Clerk of the Court within fourteen (14) days of filing of this report. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 72(b). Any requests for an extension of time for filing objections must be directed to the District Judge assigned to this action prior to the expiration of the fourteen (14) day period for filing objections. Failure to file objections within fourteen (14) days will preclude further review of this report and recommendation either by the District Court or Court of Appeals. Thomas v. Arn, 474 U.S. 140, 145 (1985) ("[A] party shall file objections with the district court or else waive right to appeal."); Caidor v. Onondaga Cnty., 517 F.3d 601, 604 (2d Cir. 2008) ("[F]ailure to object timely to a magistrate's report operates as a waiver of any further judicial review of the magistrate's decision").

SO ORDERED.

Dated: Central Islip, New York
March 9, 2023

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

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
LIDIA M. ORREGO,

Plaintiff,

-against-

KEVIN KNIPFING, et al.,

Defendants.
-----X

SHIELDS, Magistrate Judge:

This is an employment discrimination action in which Plaintiff Lidia Orrego (“Plaintiff” or “Orrego”) is proceeding with claims for retaliation and hostile work environment pursuant to 42 U.S.C. §1981 and the NYSHRL on account of her race. After a motion to dismiss Plaintiff’s claim of retaliation remains only against Defendants Kevin Knipfig, Stephanieanna James-Knipfing and the named LLC’s (the “Corporate Defendants”). Orrego’s claim of a hostile work environment remains only as to Defendants Zantua, Stephanieanna James-Knipfing, and the Corporate Defendants.¹ Defendants deny all of Plaintiff’s claims and allege that they engaged in no wrongdoing.

Presently before this Court are several pretrial motions. Most of the motions allege a litany of improper and largely unspecified conduct during the course of discovery - mostly by defense counsel, but also on the part of Defendants and the Court. Plaintiff seeks sanctions that include entry of a judgment of default (as a discovery sanction), a declaratory judgment that she

¹ Plaintiffs’ claims pursuant to the NYCHRL, the New York Labor Law, the New York Penal Law and her claims for discrimination under 42 U.S.C. §1981 and the NYSHRL have been dismissed by the District Court. Defendant Savitsky has been dismissed from this action entirely.

is entitled to prevail on the merits, and a transfer of the venue of this matter to Judges sitting in this district's Brooklyn courthouse. As to the last requested relief, Plaintiff first moved before the Chief Judge of the Eastern District of New York, who advised Plaintiff that she should address her requests to the District and Magistrate Judges assigned to her case.

While it is often impossible to keep up with Plaintiff's numerous and prolix filings - most recently, Plaintiff has made six separate filings between March 1 and March 6, 2023 - the Court here rules on Plaintiff's pending motions. As indicated below, where motions are addressed to non-dispositive matters, the Court rules in the form of an Order of this Court; where motions are dispositive in nature the Court rules, pursuant to the general referral order of the District Court, in the form of Report and Recommendation.

BACKGROUND

Proceedings Prior to the Motions

The District Court herein has previously ruled on Defendants' motion to dismiss. See Docket Entry herein ("DE") [30]. Therein, the Court outlined the allegations of Plaintiff's Amended Complaint (the "Complaint"), taken as true in the light of the procedural posture. The Court need not review all of the facts alleged in the Complaint and recited in the opinion of the District Court. Relevant to this decision, however, are the following facts.

Plaintiff was employed first as a nanny, and then as a housekeeper for the Knipfings. She began working on January 31, 2018 and was dismissed on November 27, 2018. Upon commencement of her employment Plaintiff was given an employment and nondisclosure agreement. The latter of these agreements is referred to in the District Court's opinion and herein as the "NDA." Pursuant to the terms of 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." DE [30] at 2. Plaintiff underwent a background check and thereafter signed the NDA on February 15, 2018. Plaintiff was terminated from her employment less than a year after commencement, on November 27, 2018. The letter informing Plaintiff of her termination states that Orrego was terminated for breach of the NDA, including recording a conversation and taking "recordings and photographs" of the Knipfing's home" DE [30] at 7. Other grounds for termination were noted, but are not necessary to recite herein. See id. Plaintiff disputes that she violated the terms of the NDA. Id.

The District Court granted the motion to dismiss all of Plaintiff's claims of race discrimination. DE [30] at 11. In particular, the District Court noted the short period of Orrego's employment (less than one year), and the lack of any facts (even when alleged by a pro se plaintiff) tending to support a showing of any discriminatory intent. DE [30] at 11. However, given the solicitude granted pro se plaintiffs, the District Court declined to dismiss Orrego's retaliation claim against the Knipfings and the Corporate Defendants at the pleadings stage. Id. While all claims were dismissed with respect to Defendants Zantua and Savitsky, the District Court held that Plaintiff's claims of a hostile working environment were sufficient to survive at the pleadings stage as alleged against Zantua, Stephanieanna Knipfing and the Corporate Defendants. Like the claims of retaliation, the harassment claim as alleged against Savitsky was also dismissed. DE [30] at 17. Thus, the claims that survived the September 30, 2021 decision of the District Court and proceeded to discovery are Plaintiff's claim of retaliation only against Defendants Kevin Knipfing, Stephanieanna James-Knipfing and the Corporate Defendants. Her claim of a hostile work environment remains only as to Defendants Zantua, Stephanieanna James-Knipfing, and the Corporate Defendants.

Proceedings Following Decision on the Motion to Dismiss

On December 2, 2021, shortly after this matter was assigned to this Court, and following the District Court's appointment of pro bono counsel, this Court scheduled an initial conference. DE [41]. In accord with this Court's individual rules regarding employment cases, pro bono counsel properly submitted a joint case management statement and discovery plan worksheet. DE [42]. Upon review thereof, this Court entered a discovery schedule requiring, as the first phase of discovery, compliance with the Court's employment protocols. See Scheduling Order dated 02/11/2022. Two days later, Orrego submitted a motion seeking to have her appointed lawyer removed from the case. DE [43]. In particular, Orrego took issue with his agreement to participate in the discovery process which was required by the rules of this Court.

On February 18, 2022 this Court entered an order scheduling a telephone conference regarding Orrego's motion to have appointed counsel removed. A conference was held on March 8, 2022, during which the Court relieved Plaintiff's pro bono counsel from further representation of Orrego.² In accord with courtesies extended to parties whose counsel are relieved from representation, the Court stayed all proceedings herein for 60 days during which Plaintiff could consider whether to engage counsel on her own, or proceed pro se. See Order dated 03/08/2022. Plaintiff asked this Court to appoint new pro bono counsel; in particular she sought bilingual counsel. DE [50]. This Court reiterated that any request for the appointment of counsel must be made to the District Court. Plaintiff was reminded of the necessity of communicating with this

² Plaintiff continues to make completely unsupported attacks on her formerly appointed pro bono counsel, accusing him of being in "partnership" with Defense counsel. DE [85]. There is no support for any such allegation. Instead, the record reflects only former counsel's compliance with the Court's rules and willingness to assist Plaintiff in this matter.

Court as to her decision regarding whether she would go forward with this matter on a pro se basis. See Order dated 03/14/2022.

On April 19, 2022, Plaintiff informed the Court of her decision to proceed pro se. DE [51]. In her letter informing the Court of her decision, Orrego asked the Court to remove from the docket the previously entered (and stayed) scheduling order, appearing as DE [42], that was agreed to by her former counsel. The Court declined to remove a publicly filed document from the docket, but to accommodate what Plaintiff requested, the Court vacated that scheduling order. DE [52]. The Court repeated what it had communicated to Plaintiff in the past - that the Court cannot provide Court interpreters in civil cases. The Court reminded Plaintiff that she was free to engage her own interpreter. Plaintiff was also told, again, of the availability of the Hofstra Law School pro se clinic to assist her on a limited scope representation basis. Id. Additionally, the Court set forth a detailed discovery schedule to facilitate the progress of this matter in an orderly and expeditious manner. In particular, that order described with particularity the documents to be exchanged as part of the first phase of discovery. The parties were directed to submit a joint status letter on June 15, 2022 setting forth dates certain for the taking of depositions. Finally, that order stated that upon receipt of the joint status letter the Court would enter an order governing the remainder of discovery. DE [52].

Three days later, Orrego submitted a letter to this Court taking issue with the Court's Order appearing at DE [52]. See Letter dated April 26, 2022, appearing as DE [54]. In that letter Orrego began what would become a pattern of accusing opposing counsel of misconduct. Thus, in addition to taking issue with Defendants' failure to produce documents in accord with the scheduling order that she objected to (and specifically asked be removed from the docket) Orrego said that Defendants engaged in cynical and outrageous conduct and would continue to

disobey and violate laws, orders, protocols and rules. DE [54]. Finally Orrego requested that all future conferences be held in person and requested an agenda of matters to be discussed. DE [54].

Upon receipt of DE [54] it became clear that Plaintiff objected to this Court's scheduling order and wished to be advised of the schedule in person. While the Court has the discretion to decide the method of holding conferences, the Court entered an order on May 2, 2022, vacating its April 19, 2022 order to allow Plaintiff to attend a re-scheduled initial conference, in-person. Accordingly, the Court issued a scheduling order directing the parties to appear for an in-person conference to be held on July 5, 2022 at 10:30 A.M.

July 5, 2022, this Court held the scheduled in-person scheduling conference. Plaintiff appeared, along with a person who was serving as her interpreter for the day. At that conference, the Court explained the pretrial discovery process. In a scheduling order entered on the same day as the in-person conference, the Court noted that Plaintiff agreed that all service in this matter may proceed via email. This Court also entered a Phase I discovery schedule providing that by August 1, 2022, the parties were to exchange all documents/recordings/video relating to Plaintiff's employment. The production was required to include, but was 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. Documents were to be exchanged by all parties regardless of how that party came into possession of the document. The parties were directed to submit a joint status letter on August 15, 2022 setting forth whether the ordered paper discovery was complete. See Scheduling Order dated 07/05/2022.

On July 26, 2022, Defendant sought an extension of time to serve Defendant's document production. DE [58]. Plaintiff opposed that extension. DE [59]. In an order dated July 27, 2022 the Court agreed with Plaintiff and denied the requested extension. The Court noted that discovery deadlines were set during the July 5, 2022 in-person conference during which Defense counsel neither objected to nor indicated that meeting deadlines would be problematic. Accordingly, the request for the extension was held to lack the requisite good cause needed for an extension.

On August 15, 2022 the parties submitted the joint letter contemplated by the July 5, 2022 Order. DE [62]. That letter confirms the parties' compliance with this Court's Employment Protocols. The day after the parties docketed their August 15, 2022 letter the Court entered the next scheduling order in this case. That order, dated August 16, 2022 directed the parties to move forward with depositions. The parties were directed to confer regarding the scheduling of depositions, and it was ordered that Plaintiff be deposed first. All depositions were ordered to be complete by February 28, 2022. See Scheduling Order dated 08/16/2022.

In the meantime, on July 8, 2022, three days after the July 5, 2022 in-person conference and entry of the Court's discovery order, Plaintiff began to file a flurry of motions and letters. The Court rules on the motions below. The letters, which Orrego continues to submit on an almost daily basis, are discussed only where necessary.

Plaintiff's Motions

Before turning to the motions the Court notes that on October 3, 2022, the District Court issued an order referring all pretrial proceedings, including one of the motions decided below (DE [65]), to this Court. That order also referred all past and future dispositive pretrial motions

to this Court for purposes of issuing any Report and Recommendation. See Order dated 10/03/2022.

Motion for Default Judgment (DE [57])

Plaintiff filed a motion on July 8, 2022, pursuant to Rules 26 and 37 of the Federal Rules of Civil Procedure, seeking entry of a judgment of default. DE [57]. Defendant responded thereto on August 11, 2022 (DE [61]) and Plaintiff replied on August 17, 2022 (DE [63]). In light of the fact that this motion seeks default as a discovery sanction, it is not dispositive. Therefore, the Court rules on this motion as an Order of this Court, and not as a Report and Recommendation.

Plaintiff seeks a judgment of default on the ground that Defendants failed to comply with the initial discovery scheduling order entered as DE [42]. Plaintiff refers to the scheduling order appearing as DE [41], however, DE [41] is simply a scheduling order that appears on the docket prior to the substantive - and later vacated - DE [42].

There is no basis for the relief Plaintiff seeks. This is because the motion is based upon alleged non-compliance with a scheduling order that, as clearly noted, was first stayed, and then later vacated by this Court. The stay was entered to afford Plaintiff the opportunity to obtain counsel. To be clear, the order upon which Plaintiff bases this motion for the sanction of default is one that was vacated *upon the request of Plaintiff* on the ground that her then-counsel failed to confer with her prior to submission of this Court's required initial letter. It is, to say the least, ironic that Orrego complains that Defendants failed to comply with an order that she sought to have removed from the docket. Moreover, Defendants have complied with the discovery obligations of this Court, including this Court's Employment Protocols, which supersede and exceed their Rule 26 obligations. Defendants were under no obligation to produce any discovery prior to the July 5, 2022 scheduling order, and have complied with the Order of the Court entered

on that day. The motion for the sanction of default, or any other sanction, based upon alleged non-compliance with discovery is denied as without merit and frivolous.

Motion Regarding Confidentiality of Documents (DE [65])

On August 12, 2022, Plaintiff filed a motion challenging Defendants' designation of certain documents as confidential (DE [65]). Defendant responded thereto on August 22, 2022 (DE [66]). Defendants' response sets forth the reasons why the challenged documents should be designated as confidential, and also seeks to have this Court enter an order of confidentiality to govern discovery herein. Plaintiff replied on August 24, 2022 (DE [67]).

Plaintiff's motion challenging the designation of the challenged documents as confidential is denied. First, the Court rejects the argument that because documents were introduced during Plaintiff's workers compensation and state court proceedings they are public and therefore not confidential. Those documents are not available to the general public and their use by Plaintiff in an unrelated forum does not make them non-confidential. The Court also rejects the argument that pictures and recordings are not confidential because they are Plaintiff's property and not those of the Defendants. While pictures and recordings taken by Plaintiff are in her possession, they can only have come into her possession during the course of her now-terminated employment by Defendants. It may ultimately be determined that such pictures and recordings were taken by Plaintiff in general violation of her duties, and in specific violation of the NDA. As such, they may well be evidence of Plaintiff's breach of the NDA. While these documents are therefore within the scope of discovery herein (and may form the basis for an argument that Defendants properly terminated Plaintiff) they are properly designated as confidential at this stage of the proceedings. Indeed, it appears that the challenged documents may depict Defendants' infant children and their home. While the Court makes no finding at this

stage as to whether documents consisting of pictures and recordings taken by Plaintiff during the course of her employment violated the NDA, the Court does hold that such documents have been properly designated as confidential during this phase of the litigation. To be clear, the Court is not holding that the documents at issue are outside of the scope of discovery. Indeed, they are certainly within that scope. However, the nature of the documents makes their designation as confidential appropriate.

Because additional private documents may be used during this litigation it is appropriate to enter a confidentiality order at this time. Accordingly, the Court grants defendants' request to enter an order of confidentiality to govern discovery herein. The Court has reviewed and hereby approves entry of the confidentiality order submitted by Defendants. Accordingly, the Court hereby orders the entry of that order, appearing as DE [66-1] herein. Defendant is directed to provide a copy of the order to Plaintiff. Plaintiff is directed to review that order and to abide by the terms therein.

Motion for Discovery Prior to Plaintiff's Deposition and Extension of Fact Discovery

As noted above, this Court entered a Scheduling Order on August 16, 2022 which, inter alia, directed that depositions be complete by February 28, 2023. Plaintiff has sought leave to conduct additional discovery prior to her deposition. In light of the fact that Plaintiff has now been deposed this request is denied as moot. As discussed below, the Court is presently considering Defendants' request that Plaintiff sit for a second day of deposition. Discovery will be extended, if necessary, to accommodate any further order on this issue.

Motions and Letters Appearing at DE [69], [70], [74] and [80]

In these motions Plaintiff seeks sanctions and injunctive relief. The injunctive relief motions appear as DE [70] and [74]. These motions seek to prevent the taking of Plaintiff's

deposition until she receives additional documents.³ They also seek a ruling on Plaintiff's now-denied motion for default. In light of the facts that Plaintiff has already been at least partially deposed and this Court is considering the request for a second day of testimony, the motion for injunctive relief asking that Plaintiff not appear for her deposition (DE [70]) is denied as moot. The motion appearing as DE [74] (which seeks a court ruling as to DE [57] decided above) is also denied as moot.

The motions appearing at DE [69], [74] and [80] ostensibly seek to report "additional" instances of misconduct on the part of Defendants and their counsel, and seek the imposition of sanctions for having engaged in such conduct. Among other things, Plaintiff makes unsupported accusations that Defendants are acting to deprive her of her Constitutional rights and are engaged in fraud, misconduct, tampering with evidence and racketeering activities. Plaintiff appears to argue that Defense Counsel is under some obligation to inform the Court of related actions (including her Workers Compensation case and what appears to be a civil case pending in Queens County) regarding counsel's engagement in acts of racketeering. DE [69]. Orrego makes repeated reference to allegations of fraud in her Workers Compensation case and the filing of complaints with state agencies. DE [69]. She states that these complaints support the "racketeering activities" of Defendants and their counsel. She requests that sanctions be imposed against counsel "whose intentional actions have obstructed the effective administration of the EDNY Court's business and justice since October 6, 2020." DE [69]; see also DE [74].

Plaintiff's accusations appearing in the motions docketed under DE [69], [74] and [80] and the allegations contained in Plaintiff's letters are unsupported and nonsensical. They have no place in this case. Plaintiff certainly has the right to properly litigate this case, but she may not

³ DE [74] also seeks the imposition of sanctions and is ruled upon separately herein.

use it as a vehicle to make personal and unsupported attacks of criminal behavior. To the extent these motions and Plaintiff's various letters seek any type of relief - and it is not clear that they do - they are denied. Plaintiff is cautioned that the continued filing of wholly unsupported motions may subject her to the imposition of sanctions for engaging in frivolous litigation conduct.

Motions for Declaratory Judgment (DE [73])

This is a motion for a declaratory judgment. It seeks entry of a final judgment on the merits in favor of Plaintiff. Because it is dispositive the Court rules on this motion in the form of a Report and Recommendation. Plaintiff seeks entry of final judgment on her causes of action. In light of the fact that discovery is ongoing, and Plaintiff cannot support her claims to prevail on the merits, it is respectfully recommended that Plaintiff's motion be denied.

Motion to Change Venue to Brooklyn Courthouse (DE [77])

Plaintiff addresses this motion to the Chief Judge of the Eastern District of New York. The assigned District Judge is, however, the Honorable Gary R. Brown and the assigned Magistrate Judge is the undersigned. Accordingly, as communicated to Plaintiff by the Chief Judge, Plaintiff's motions are appropriately made only to the assigned District and Magistrate Judges. DE [86] at 3. The Court construes the motion as made to the District Judge, and rules on it as a Report and Recommendation.

This motion seeks to transfer this case to a Judge in the Brooklyn Courthouse. The motion is recommended to be denied as untimely and without merit. This case was properly designated as a Long Island case. Not only has the time in which to seek to change that designation elapsed, Plaintiff sets forth no basis for the requested change of venue. It is respectfully recommended that the assigned District Judge deny the motion.

Motion and Response Regarding Plaintiff's Deposition (DE [80 -81])

As noted above, Plaintiff makes numerous unsupported attacks regarding the alleged unlawful activities of Defendants and their counsel. The Court has already ruled on these. The motion appearing as DE [80] and Defendant's response thereto appearing as DE [81] refer more specifically to Plaintiff's deposition.

To the extent the motion seeks some sort of sanction for conduct that took place during her deposition, the Court denies the motion as unsupported. In response to the motion Defense counsel notes that Plaintiff was not actually deposed for the full seven hours to which he was entitled. He relies on the time stated to have been recorded by the Court reporter, as well as the fact that the presence of an interpreter significantly cut down on the time of actual questioning.

In order to properly review this request the Court directs Defendants to provide a complete copy of Plaintiff's February 27, 2023 deposition transcript for the Court's review. The transcript must be emailed to shields_chambers@nyed.uscourts.gov by 5:00 PM on Friday, March 10, 2023. Upon review thereof the Court will decide whether and how much additional time should be afforded for additional questioning of Plaintiff. Accordingly, the motion for additional time in which to depose Plaintiff is denied at this time, without prejudice to renew upon providing the Court with the transcript of the first day of Plaintiff's deposition.

Plaintiff's Written Questions

On February 27, 2023 Plaintiff served Defendants with written deposition questions pursuant to Rule 31 of the Federal Rules of Civil Procedure. Although Defendants have preserved their right to object to those questions, they do not object to responding thereto. Discovery is extended at this time to require Defendants to respond to Plaintiff's written questions by April 7, 2023.

Motion by Limited Scope Counsel to Withdraw (DE 79)

There is pending a request from limited scope counsel to be relieved in this matter on the ground that counsel represented Plaintiff only for the purpose of representing her at deposition. In light of the fact that Plaintiff's deposition may not yet be complete, the Court denies the request to be relieved at this time, without prejudice to renewal. Limited scope counsel may chose to continue to represent Plaintiff at any continued deposition, or not. Counsel may renew this motion to be relieved upon review of this Order and any subsequent order entered with respect to Defendants' request for additional time in which to depose Plaintiff. It is certainly within their discretion to decide whether or not to consider to represent Plaintiff at any continued deposition.

CONCLUSION

Plaintiff's motions appearing at DE [57], [65], [69], [70], [74] and [80] are denied by Order of this Court. The proposed confidentiality order appearing as DE [66-1] is So Ordered.

It is respectfully recommended that Plaintiff's motions for a declaratory judgment in her favor, appearing as DE [73], and the motion to change venue to the Brooklyn Courthouse, appearing as DE [77], be denied.

Defendants' motion for additional time in which to depose Plaintiff, appearing as DE [81], is denied without prejudice to renew upon providing the Court with the transcript of Plaintiff's deposition.

Limited Scope Counsel's motion appearing as DE [79] is denied without prejudice to renew in accord with this Order.

OBJECTIONS

A copy of this Order and Report and Recommendation is being provided to all counsel and Plaintiff via ECF. Any written objections to the Report and Recommendation portion, namely this Court's recommendation that Plaintiff's motions for a declaratory judgment in her favor, appearing as DE [73], and the motion to change venue to the Brooklyn Courthouse, appearing as DE [77], be denied, must be filed with the Clerk of the Court within fourteen (14) days of filing of this report. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 72(b). Any requests for an extension of time for filing objections must be directed to the District Judge assigned to this action prior to the expiration of the fourteen (14) day period for filing objections. Failure to file objections within fourteen (14) days will preclude further review of this report and recommendation either by the District Court or Court of Appeals. Thomas v. Arn, 474 U.S. 140, 145 (1985) ("[A] party shall file objections with the district court or else waive right to appeal."); Caidor v. Onondaga Cnty., 517 F.3d 601, 604 (2d Cir. 2008) ("[F]ailure to object timely to a magistrate's report operates as a waiver of any further judicial review of the magistrate's decision").

SO ORDERED.

Dated: Central Islip, New York
March 9, 2023

/s/ Anne Y. Shields
ANNE Y. SHIELDS
United States Magistrate 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,
Steve Savitsky, Teresa A. Zantua.

Defendants.

Affirmation of Service

20CV3361 (JMA) (AYS)

I, Lidia M. Orrego, declare under penalty of perjury that I have served a copy of the attached Notice of Interlocutory Appeal dated August 3, 2023 upon the defendant(s) or attorney whose physical address:

Law Firm Gordon Rees Scully Mansukhani, LLP

One Battery Park Plaza, 28th Floor

New York, NY 10004

Mailing tracking #

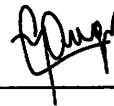
Via ECF & Notice has been electronically mailed to:

kminnahdonkoh@grsm.com; kminnahdonkoh@gordonrees.com;

dlrivera@grsm.com; pcella@grsm.com; pguerrero@grsm.com

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

Dated: August 3, 2023
Rego Park, New York



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

APPEAL,PROSENEF

**U.S. District Court
Eastern District of New York (Central Islip)
CIVIL DOCKET FOR CASE #: 2:20-cv-03361-JMA-AYS**

Orrego v. Knipfing et al
Assigned to: Judge Joan M. Azrack
Referred to: Magistrate Judge Anne Y. Shields
Cause: 42:2000e Job Discrimination (Employment)

Date Filed: 07/23/2020
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Movant

County Attorney, Nassau County

represented by **Brian P. McLaughlin**
Office of the Nassau County Attorney
NY
1 West Street
Ste 263
Mineola, NY 11501
516-571-6745
Email: bmclaughlin@nassaucountyny.gov
ATTORNEY TO BE NOTICED

Plaintiff

Lidia M. Orrego

represented by **Lidia M. Orrego**
95-08 Queens Blvd
Apart 3E
Rego Park, NY 11374
347-453-2234
Email: liorrego@gmail.com
PRO SE

Brian Michael Dratch
Franzblau Dratch, P.C.
233 Broadway, Suite 2701
New York, NY 10271
212-571-1808
Fax: 212-732-1339
Email: bdratch@njcounsel.com
TERMINATED: 03/08/2022
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jennifer A Gundlach
Maurice A. Deane School of Law
121 Hofstra University, Law School
Room 208
Hempstead, NY 11549
516-463-4190
Fax: 516-463-4990
Email: jennifer.gundlach@hofstra.edu
TERMINATED: 03/16/2023
ATTORNEY TO BE NOTICED

V.

Defendant

Kevin Knipfing
Employer
also known as
Kevin James

represented by **Alex Dumas**
Gordon Rees Scully Mansukhani
1 Battery Park Plaza, 28th Floor
New York, NY 10004
212-453-0707
Email: adumas@grsm.com

ATTORNEY TO BE NOTICED

Alex Spiro

Quinn Emanuel Urquhart & Sullivan LLP
51 Madison Avenue
22nd floor
New York, NY 10010
212-849-7000
Fax: 212-849-7100
Email: alexspiro@quinnemanuel.com
TERMINATED: 10/19/2020
ATTORNEY TO BE NOTICED

Edward E. Warnke

Gordon Rees Scully Mansukhani, LLP
One Battery Park Plaza
New York, NY 10004
212-453-0706
Email: ewarnke@grsm.com
ATTORNEY TO BE NOTICED

Kuuku Angate Minnah-Donkoh

Gordon & Rees, LLP
One Battery Park Plaza
28th Floor
New York, NY 10004
212-269-5500
Fax: 212-269-5505
Email: kminnahdonkoh@grsm.com
ATTORNEY TO BE NOTICED

Maaren Shah

Quinn Emanuel Urquhart & Sullivan LLP
51 Madison Avenue
Ste 22nd Floor
New York, NY 10010
212-849-7452
Email: maarensah@quinnemanuel.com
TERMINATED: 10/19/2020
ATTORNEY TO BE NOTICED

Defendant

Stephanieanna James-Knipfing

Employer
also known as
Steffiana de la Cruz

represented by **Alex Dumas**
(See above for address)
ATTORNEY TO BE NOTICED

Alex Spiro

(See above for address)
TERMINATED: 10/19/2020
ATTORNEY TO BE NOTICED

Edward E. Warnke

(See above for address)
ATTORNEY TO BE NOTICED

Kuuku Angate Minnah-Donkoh

(See above for address)
ATTORNEY TO BE NOTICED

Maaren Shah

(See above for address)
TERMINATED: 10/19/2020
ATTORNEY TO BE NOTICED

Defendant

Old Westbury EDDIE LLC
Company/Payroll owner Kevin Knipfing

represented by **Alex Dumas**
(See above for address)
ATTORNEY TO BE NOTICED

Alex Spiro
(See above for address)
TERMINATED: 10/19/2020
ATTORNEY TO BE NOTICED

Edward E. Warnke
(See above for address)
ATTORNEY TO BE NOTICED

Kuuku Angate Minnah-Donkoh
(See above for address)
ATTORNEY TO BE NOTICED

Maaren Shah
(See above for address)
TERMINATED: 10/19/2020
ATTORNEY TO BE NOTICED

Defendant

Old Westbury LLC
Unknown Entity under registration in NY State

represented by **Alex Dumas**
(See above for address)
ATTORNEY TO BE NOTICED

Alex Spiro
(See above for address)
TERMINATED: 10/19/2020
ATTORNEY TO BE NOTICED

Edward E. Warnke
(See above for address)
ATTORNEY TO BE NOTICED

Kuuku Angate Minnah-Donkoh
(See above for address)
ATTORNEY TO BE NOTICED

Maaren Shah
(See above for address)
TERMINATED: 10/19/2020
ATTORNEY TO BE NOTICED

Defendant

Steve Savitsky
Business Manager, Old Westbury LLC

represented by **Alex Dumas**
(See above for address)
ATTORNEY TO BE NOTICED

Alex Spiro
(See above for address)
TERMINATED: 10/19/2020
ATTORNEY TO BE NOTICED

Edward E. Warnke
(See above for address)
ATTORNEY TO BE NOTICED

Kuuku Angate Minnah-Donkoh
(See above for address)
ATTORNEY TO BE NOTICED

Maaren Shah
 (See above for address)
 TERMINATED: 10/19/2020
 ATTORNEY TO BE NOTICED

Defendant

Teresa A. Zantua

represented by **Alex Dumas**
 (See above for address)
 ATTORNEY TO BE NOTICED

Alex Spiro
 (See above for address)
 TERMINATED: 10/19/2020
 ATTORNEY TO BE NOTICED

Edward E. Warnke
 (See above for address)
 ATTORNEY TO BE NOTICED

Kuuku Angate Minnah-Donkoh
 (See above for address)
 ATTORNEY TO BE NOTICED

Maaren Shah
 (See above for address)
 TERMINATED: 10/19/2020
 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/23/2020	<u>1</u>	COMPLAINT against All Defendants Was the Disclosure Statement on Civil Cover Sheet completed –No., filed by Lidia M. Orrego. (Attachments: # <u>1</u> Cover Letter, # <u>2</u> Service Instructions, # <u>3</u> Civil Cover Sheet) (Cox, Dwayne) (Entered: 07/31/2020)
07/23/2020	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by Lidia M. Orrego. (Cox, Dwayne) (Entered: 07/31/2020)
07/23/2020	<u>3</u>	MOTION to Appoint Counsel by Lidia M. Orrego. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Certificate of Service) (Cox, Dwayne) (Entered: 07/31/2020)
07/23/2020	<u>4</u>	Pro Se Consent to Electronic Notification by Lidia M. Orrego (Cox, Dwayne) (Entered: 07/31/2020)
07/27/2020		FILING FEE: \$ 400.00, receipt number 29946 (Cox, Dwayne) (Entered: 07/31/2020)
07/27/2020	<u>5</u>	Summons Issued as to All Defendants. (Cox, Dwayne) (Entered: 07/31/2020)
07/31/2020	<u>6</u>	In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that if all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically only if all parties wish to consent. The form may also be accessed at the following link: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf . You may withhold your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent. (Cox, Dwayne) (Entered: 07/31/2020)
08/05/2020	<u>7</u>	Letter to pro se litigant Lidia Orrego from the Pro Se Office acknowledging receipt of civil action. (Tirado, Chelsea) (Entered: 08/05/2020)
08/17/2020	<u>8</u>	AMENDED COMPLAINT against Stepanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua, filed by Lidia M. Orrego. (Tirado, Chelsea) (Main Document 8 replaced on 8/21/2020 to include missing pages referenced in DE <u>9</u> Letter) (Tirado, Chelsea). Modified on

		8/21/2020 (Tirado, Chelsea). (Entered: 08/19/2020)
08/20/2020	<u>9</u>	Letter to the Court from pro se plaintiff Lidia Orrego re: Requesting assistance in correcting <u>8</u> Amended Complaint. (Tirado, Chelsea) (Entered: 08/20/2020)
09/14/2020	<u>10</u>	NOTICE of Appearance by Alexander B. Spiro on behalf of Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua (aty to be noticed) (Spiro, Alexander) (Entered: 09/14/2020)
09/14/2020	<u>11</u>	NOTICE of Appearance by Maaren Shah on behalf of Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua (aty to be noticed) (Shah, Maaren) (Entered: 09/14/2020)
09/14/2020	<u>12</u>	AFFIDAVIT of Service for Individual Practice Rules of Judge Gary R. Brown / <i>served by hand and electronic mail</i> / served on Lidia M. Orrego on September 12, 2020, filed by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua. (Shah, Maaren) (Entered: 09/14/2020)
09/14/2020	<u>13</u>	SUMMONS Returned Executed by Lidia M. Orrego. Stephanieanna James-Knipfing served on 8/24/2020, answer due 9/14/2020; Kevin Knipfing served on 8/24/2020, answer due 9/14/2020; Old Westbury EDDIE LLC served on 8/24/2020, answer due 9/14/2020; Old Westbury LLC served on 8/27/2020, answer due 9/17/2020; Steve Savitsky served on 8/26/2020, answer due 9/16/2020; Teresa A. Zantua served on 8/24/2020, answer due 9/14/2020. (Tirado, Chelsea) (Entered: 09/14/2020)
09/14/2020	<u>14</u>	Letter MOTION for pre motion conference <i>regarding Defendants' Motion to Dismiss the Complaint 8</i> by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua. (Shah, Maaren) (Entered: 09/14/2020)
09/15/2020		ORDER granting <u>14</u> Motion for Pre Motion Conference. A pre-motion telephone conference is scheduled for October 9, 2020 at 2:00 p.m. before Judge Gary R. Brown, at which time the parties should be prepared to address defendants' anticipated motion pursuant to Rule 12 of the Federal Rules of Civil Procedure, DE 14. Counsel are to call (888) 363-4734 using ACCESS CODE 4132441 five minutes prior to the designated time. The parties are on notice that in appropriate cases, the pre-motion letter and the response, along with counsels' arguments made at the pre-motion conference, may be construed at the discretion of the Court as the motion itself. Arguments not raised in the pre-motion letters or during the pre-motion conference shall be deemed waived. <i>See In re Best Payphones, Inc.</i>, 450 F. App'x 8, 15 (2d Cir. 2011). At the conference, the Court will issue a briefing schedule if necessary. Plaintiff is directed to respond to DE 14 in accordance with the undersigned's individual rules by September 30, 2020. Before requesting an adjournment, the parties shall meet and confer and submit a joint letter with several proposed dates. Ordered by Judge Gary R. Brown on 9/15/2020. (Meil, Stephen) (Entered: 09/15/2020)
09/18/2020	<u>15</u>	Letter MOTION to Appoint Counsel <i>and provide an Interpreter for October 9th conference</i> by Lidia M. Orrego. (Tirado, Chelsea) (Entered: 09/21/2020)
09/22/2020		ORDER finding as moot <u>2</u> Motion for Leave to Proceed in forma pauperis in light of pro se plaintiff's payment of the filing fee. Ordered by Judge Gary R. Brown on 9/22/2020. (Meil, Stephen) (Entered: 09/22/2020)
09/22/2020		SCHEDULING ORDER: the pre-motion conference scheduled for October 9, 2020 is hereby ADJOURNED without date. The Court waives its pre-motion conference requirement, and establishes the following briefing schedule: defendants are directed to serve plaintiff with their motion on or before October 22, 2020; plaintiff is directed to serve defendants with her opposition to the motion on or before November 23, 2020; and defendants are directed to serve plaintiff with any reply memorandum and to

	file the fully briefed motion on or before December 11, 2020. The parties are reminded to consult the undersigned's individual rules regarding motions, including bundling and page limits for Memoranda of Law, before filing their respective briefs. The Clerk of the Court is respectfully directed to mail a copy of this Order to the pro se plaintiff. Ordered by Judge Gary R. Brown on 9/22/2020. (Meil, Stephen) (Entered: 09/22/2020)
09/22/2020	ORDER denying <u>15</u> Motion to Appoint Counsel. Before the Court is pro se plaintiff Lidia M. Orrego's ("plaintiff") renewed motion for the appointment of pro bono counsel to represent her in this case. DE 15. Pursuant to 28 U.S.C. § 1915(e)(1), courts may appoint an attorney to represent someone who is unable to afford counsel. Courts possess broad discretion when determining whether appointment is appropriate, subject to the requirement that it be "guided by sound legal principle." <i>Cooper v. A. Sargenti Co., Inc.</i>, 877 F.2d 170, 171–72 (2d Cir. 1989) (internal quotation marks and citation omitted). The Second Circuit set forth the principle as follows: [T]he district judge should first determine whether the indigents position seems likely to be of substance. If the claim meets this threshold requirement, the court should then consider the indigents ability to investigate the crucial facts, whether conflicting evidence implicating the need for cross-examination will be the major proof presented to the fact finder, the indigents ability to present the case, the complexity of the legal issues and any special reason in that case why appointment of counsel would be more likely to lead to a just determination. <i>Hodge v. Police Officers</i>, 802 F.2d 58, 61–62 (2d Cir. 1986). The Second Circuit also held that these factors are not restrictive, and that "[e]ach case must be decided on its own facts." <i>Id.</i> at 61. A developed record assists the court in this regard. <i>See Brooks v. State of New York</i>, 1992 WL 320402, at *3 (S.D.N.Y. Oct. 29, 1992) (denying, without prejudice, appointment of counsel based on failure to satisfy requisite showing of likely merit). Further, "the Second Circuit has interpreted [28 U.S.C. § 1915(e)(1)] to require that the plaintiff be unable to obtain counsel before appointment will even be considered." <i>Ahmad v. White Plains City School Dist.</i>, 2020 WL 3972274, at *2 (S.D.N.Y. July 14, 2020) (internal quotation marks and citation omitted); <i>see also Justice v. Kuhnappel</i>, 982 F. Supp. 2d 233, 235 (E.D.N.Y. 2013) ("A plaintiff requesting appointment of counsel must show that she is unable to obtain counsel before appointment will even be considered.") (internal quotation marks and citation omitted). Here, plaintiff has paid the filing fee and has not demonstrated her indigence. Apart from this, however, even presuming that the threshold requirement of <i>Hodge</i> is satisfied, the Court is unable, at this juncture, to conclude -- after considering the <i>Hodge</i> factors in the context of plaintiff's application and the complaint as well as the record as a whole -- that the appointment of counsel is warranted. Specifically, despite plaintiff's claim that she needs the assistance of counsel because she does not know the procedures and rules that apply in Federal Court as well as her claimed disabilities that make her unable to handle the stressful situations to carry the case alone (Docket Entry 3 at 2), the Court concludes that plaintiff is able at this stage of the litigation to prosecute her case and that there is no special reason to appoint counsel. Accordingly, plaintiff's application for appointment of pro bono counsel is denied without prejudice to plaintiff renewing the application, if circumstances warrant such an application, at a later stage in these proceedings. This denial also is without prejudice to plaintiff hiring her own counsel to represent her in this matter. Additionally, in light of this Court's order adjourning the pre-motion conference and waiving the pre-motion conference requirement, plaintiff's application for an interpreter to be present at the conference is denied as moot. Although plaintiff paid the filing fee, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that, should plaintiff seek leave to appeal <i>in forma pauperis</i>, any appeal from this Order would be an improper interlocutory appeal not taken in good faith.

		Therefore <i>in forma pauperis</i> status is denied for the purpose of any appeal. See <i>Coppedge v. United States</i> , 369 U.S. 438, 444–45 (1962). The Clerk of the Court is respectfully directed to mail a copy of this Order to the pro se plaintiff. Ordered by Judge Gary R. Brown on 9/22/2020. (Meil, Stephen) (Entered: 09/22/2020)
09/29/2020	<u>16</u>	Letter from pro se plaintiff Lidia Orrego re Responding to Defendants' pre-motion conference letter dated 9/15/2020. (Tirado, Chelsea) (Entered: 09/29/2020)
09/30/2020	<u>17</u>	MOTION to Substitute Attorney by Stephanieanna James–Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua. (Minnah–Donkoh, Kuuku) (Entered: 09/30/2020)
09/30/2020	<u>18</u>	CERTIFICATE OF SERVICE by Stephanieanna James–Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua re <u>17</u> MOTION to Substitute Attorney (Minnah–Donkoh, Kuuku) (Entered: 09/30/2020)
10/19/2020		ORDER granting <u>17</u> Motion to Substitute Attorney. Attorney Maaren Shah and Alexander B. Spiro terminated. Ordered by Magistrate Judge A. Kathleen Tomlinson on 10/19/2020. (Ameri, Mana) (Entered: 10/19/2020)
10/19/2020	<u>19</u>	Letter MOTION to Compel <i>the Court to give permission to Order Service by Publication to the Defendants</i> by Lidia M. Orrego. (Tirado, Chelsea) (Entered: 10/21/2020)
10/19/2020	<u>20</u>	Letter from Lidia M. Orrego titled "Proof of Service" requesting confirmation from the Court on the deadline for defendants to respond to the Summons and Complaint. (Tirado, Chelsea) (Entered: 10/21/2020)
10/21/2020	<u>21</u>	NOTICE of Appearance by Alex Dumas on behalf of All Defendants (aty to be noticed) (Dumas, Alex) (Entered: 10/21/2020)
10/23/2020		ORDER re <u>19</u> Letter MOTION to Compel. Pro se plaintiff's letter motion, DE 19, is respectfully referred to the assigned Magistrate Judge in accordance with the undersigned's individual rules. See II.e. The Clerk of the Court is respectfully directed to mail a copy of this Order to the pro se plaintiff. Ordered by Judge Gary R. Brown on 10/23/2020. (Meil, Stephen) (Entered: 10/23/2020)
12/11/2020	<u>22</u>	Fully Briefed MOTION to Dismiss for Failure to State a Claim by Stephanieanna James–Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky. (Attachments: # <u>1</u> Declaration of Alex Dumas in Support of Motion to Dismiss, # <u>2</u> Exhibit A – Offer Letter, # <u>3</u> Memorandum in Support of Motion to Dismiss, # <u>4</u> Certificate of Service of Motion to Dismiss, # <u>5</u> Memorandum in Opposition of Motion to Dismiss, # <u>6</u> Affidavit of Service of Opposition, # <u>7</u> Exhibit 34, # <u>8</u> Reply Memorandum of Law in Support of Motion to Dismiss, # <u>9</u> Reply Certificate of Service) (Dumas, Alex) (Entered: 12/11/2020)
12/16/2020	<u>23</u>	Letter MOTION for pre motion conference by Lidia M. Orrego. (Tirado, Chelsea) (Entered: 12/18/2020)
12/22/2020		ORDER denying <u>23</u> Motion for Pre Motion Conference. In her letter, pro se plaintiff appears to request a proceeding akin to a trial, wherein the parties would have the opportunity to present evidence and examine witnesses. In light of the fact that this case is far from trial-ready and still in its early stages – as indicated, for example, by the recent filing of defendants' fully briefed motion to dismiss – plaintiff's request is accordingly DENIED. The Clerk of the Court is respectfully directed to mail a copy of this Order to the pro se plaintiff. Ordered by Judge Gary R. Brown on 12/22/2020. (Meil, Stephen) (Entered: 12/22/2020)
09/08/2021	<u>24</u>	MOTION for Leave to File Document <i>Amended Complaint</i> by Lidia M. Orrego. (Tirado, Chelsea) (Entered: 09/08/2021)
09/13/2021	<u>25</u>	RESPONSE in Opposition re <u>24</u> MOTION for Leave to File Document <i>Amended Complaint</i> filed by Stephanieanna James–Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I) (Minnah–Donkoh, Kuuku) (Entered: 09/13/2021)

		09/13/2021)
09/17/2021	<u>26</u>	OBJECTION to <u>25</u> Opposition to <u>24</u> MOTION for Leave to File <i>Amended Complaint</i> filed by Lidia M. Orrego. (Coleman, Laurie) Modified on 9/20/2021 to revise docket text (Coleman, Laurie). (Entered: 09/20/2021)
09/20/2021	<u>27</u>	AMENDED OBJECTION to <u>25</u> Opposition to <u>24</u> MOTION for Leave to File <i>Amended Complaint</i> filed by Lidia M. Orrego. (Coleman, Laurie) (Entered: 09/20/2021)
09/21/2021	<u>28</u>	ORDER denying <u>19</u> Motion to Compel, without prejudice. SEE ATTACHED ORDER. Counsel for Defendants is directed to serve a copy of this Order on the Pro Se Plaintiff forthwith and to file proof of such service on ECF by September 24, 2021. Ordered by Magistrate Judge A. Kathleen Tomlinson on 9/21/2021. (Tomlinson, A.) (Entered: 09/21/2021)
09/23/2021	<u>29</u>	CERTIFICATE OF SERVICE by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua re <u>28</u> Order on Motion to Compel, (Minnah-Donkoh, Kuuku) (Entered: 09/23/2021)
09/30/2021	<u>30</u>	ORDER granting in part and denying in part <u>22</u> Motion to Dismiss for Failure to State a Claim. For the reasons set forth in the attached Memorandum & Order, 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. The Clerk of the Court is respectfully directed to mail a copy of this Order to the pro se plaintiff. Ordered by Judge Gary R. Brown on 9/30/2021. (Meil, Stephen) (Entered: 09/30/2021)
09/30/2021		ORDER denying <u>24</u> Motion for Leave to File. The allegations which <i>pro se</i> plaintiff apparently seeks to add in a contemplated amended complaint appear to relate only to claims dismissed in this Court's earlier Order of September 30, 2021. Accordingly, plaintiff's motion is DENIED as any such amendment would be futile. The Clerk of the Court is respectfully directed to mail a copy of this Order to the pro se plaintiff. Ordered by Judge Gary R. Brown on 9/30/2021. (Meil, Stephen) (Entered: 09/30/2021)
10/04/2021	<u>31</u>	Letter by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua (Minnah-Donkoh, Kuuku) (Entered: 10/04/2021)
10/04/2021	<u>32</u>	NOTICE of Appearance by Edward E. Warnke on behalf of All Defendants (aty to be noticed) (Warnke, Edward) (Entered: 10/04/2021)
10/14/2021	<u>33</u>	ANSWER to <u>8</u> Amended Complaint, by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua. (Warnke, Edward) (Entered: 10/14/2021)
10/26/2021		NOTICE: The Initial Conference scheduled for November 2, 2021 is adjourned without date pending reassignment of this action to another Magistrate Judge. Counsel for Defendants is directed to serve a copy of this Order on the Pro Se Plaintiff forthwith and to file proof of such service on ECF by October 28, 2021. (Ameri, Mana) (Entered: 10/26/2021)
10/26/2021	<u>34</u>	CERTIFICATE OF SERVICE by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua (Minnah-Donkoh, Kuuku) (Entered: 10/26/2021)
11/02/2021	<u>35</u>	MOTION to Withdraw <u>33</u> Answer to Amended Complaint (<i>pages 19 & 20</i>) by Lidia M. Orrego. (Tirado, Chelsea) (Entered: 11/02/2021)
11/05/2021	<u>36</u>	Letter <i>Opposition to PS Motion to Strike</i> by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua (Warnke, Edward) (Entered: 11/05/2021)

11/09/2021	<u>37</u>	Letter replying to <u>36</u> Defendants' Opposition to Motion to Withdraw by Lidia M Orrego. (Tirado, Chelsea) (Entered: 11/09/2021)
11/16/2021		ORDER denying <u>35</u> Motion to Withdraw Answer to Amended Complaint (pages 19 & 20). Affording plaintiff the special solicitude accorded to pro se litigants, the Court construes plaintiff's November 2, 2021 letter, DE 35, as a motion to strike the defenses asserted in defendants' answer to the Amended Complaint. Defendants' defenses include, <i>inter alia</i>, that the amended complaint fails to state a claim upon which relief may be granted, that actions taken by defendants were for non-retaliatory reasons, and plaintiff is pursuing this matter in bad faith for vexatious reasons, citing a number of other suits filed by plaintiff that have been dismissed. DE 33 at 19-20. 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." <i>Grewal v. Cuneo</i>, No. 13-CV-6836(RA), 2016 WL 308803, at *4 (S.D.N.Y. Jan. 25, 2016) (citations and internal quotation marks omitted). Plaintiff argues that defendants improperly referred to her other lawsuits because they remain pending, and the documentary evidence will ultimately prove her case. While these arguments may go to the merits of her claim, plaintiff has failed to establish that she is prejudiced by the inclusion of the asserted defenses or that there is no question of fact which might allow these defenses to succeed. Thus, plaintiff's motion to strike the defenses asserted in defendants' answer to the amended complaint is DENIED. The Court has reconsidered its decision regarding appointment of counsel. While plaintiff is not entitled to counsel as of right, the Pro Se Department is respectfully directed to find counsel for plaintiff from this Court's pro bono panel. Ordered by Judge Gary R. Brown on 11/16/2021. c/ecf (Tahbaz, Joseph) (Entered: 11/16/2021)
11/22/2021	<u>38</u>	ORDER – Accordingly, the Court appoints The Dratch Law Firm, PC, by Brian M Dratch, Esq., to represent Plaintiff. Counsel shall file a Notice of Appearance and contact Plaintiff forthwith. The Clerk of the Court is directed to mail a copy of this Order to the Plaintiff and to Mr. Dratch. SO Ordered by Judge Gary R. Brown on 11/22/2021. (Tirado, Chelsea) (Entered: 11/22/2021)
11/22/2021	<u>39</u>	Letter to Judge Brown from pro se plaintiff Lidia M Orrego submitting "Clarification Letter". (Tirado, Chelsea) (Entered: 11/23/2021)
11/23/2021		Case randomly reassigned to Magistrate Judge Anne Y. Shields. Magistrate Judge A. Kathleen Tomlinson no longer assigned to the case. Please download and review the Individual Practices of the assigned Judges, located on our website . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. (Florio, Lisa) (Entered: 11/23/2021)
11/30/2021	<u>40</u>	NOTICE of Appearance by Brian Michael Dratch on behalf of Lidia M. Orrego (aty to be noticed) (Dratch, Brian) (Entered: 11/30/2021)
12/02/2021	<u>41</u>	ORDER: Initial Conference set for 2/14/2022 at 11:30 AM before Magistrate Judge Anne Y. Shields. The parties are directed to call the ATTteleconferencing center at (877) 810-9415 and to enter Access Code 9005911 when prompted. See order and attachments. So Ordered by Magistrate Judge Anne Y. Shields on 12/2/2021. (Attachments: # <u>1</u> AYS Rules, # <u>2</u> Joint Letter Requirements, # <u>3</u> Employment Protocols) (Torres, Jasmine) (Entered: 12/02/2021)
02/10/2022	<u>42</u>	CASE MANAGEMENT STATEMENT <i>for Employment Cases with Discovery Plan Worksheet</i> (Attachments: # <u>1</u> Proposed Order) (Warnke, Edward) (Entered: 02/10/2022)

02/11/2022		SCHEDULING ORDER: In light of the filing of the initial letter, the initial conference scheduled for February 14, 2022 is CANCELED . Counsel are directed to complete the Employment Protocols found in the undersigned's Individual Rules by the April 12, 2022 date described in the joint letter and on April 13, 2022, submit a joint status letter stating with particularity, the precise discovery necessary and dates for completion thereof, for this matter to be trial or dispositive motion practice ready. A telephone status conference has been scheduled for April 19, 2022 at 12:00 PM. Counsel are directed to call the AT&T Teleconference Center at (877) 810-9415 at the time of the conference and enter Access Code 9005911 when prompted. So Ordered by Magistrate Judge Anne Y. Shields on 2/11/2022. (Mucciaccio, Dina) (Entered: 02/11/2022)
02/14/2022	<u>43</u>	Letter MOTION to Substitute Attorney , <i>new bilingual counsel/attorney</i> by Lidia M. Orrego. (Tirado, Chelsea) (Entered: 02/15/2022)
02/17/2022	<u>45</u>	AFFIDAVIT/DECLARATION in Support re <u>43</u> Letter MOTION to Substitute Attorney , <i>new bilingual counsel/attorney</i> filed by Lidia M. Orrego. (Tirado, Chelsea) (Entered: 02/24/2022)
02/18/2022		SCHEDULING ORDER: A telephone conference regarding Plaintiff's motion to substitute counsel has been scheduled for March 8, 2022 at 1:30 PM. Plaintiff and Plaintiff's counsel are directed to call the AT&T Teleconference Center at (877) 810-9415 at the time of the conference and enter Access Code 9005911 when prompted. Plaintiff's counsel is directed to serve a copy of this order on Plaintiff and provide proof of service on ECF by February 22, 2022. So Ordered by Magistrate Judge Anne Y. Shields on 2/18/2022. (Mucciaccio, Dina) (Entered: 02/18/2022)
02/22/2022	<u>44</u>	AFFIDAVIT of Service for Copy of Order <i>scheduling telephone conference on 03/08/2022</i> served on Lidia Orrego on 02/18/2022, filed by Lidia M. Orrego. (Dratch, Brian) (Entered: 02/22/2022)
02/22/2022	<u>46</u>	Letter to Judge Shields from pro se plaintiff Lidia M Orrego regarding 3/8/2022 Telephone Conference (Tirado, Chelsea) (Entered: 02/24/2022)
03/08/2022		ORDER granting in part and denying in part <u>43</u> Motion to Substitute Attorney. As set forth on the record during the conference held on March 8, 2022, Plaintiff's motion for substitution of counsel is GRANTED in part and DENIED in part. Plaintiff's appointed counsel, Mr. Dratch, is relieved as Plaintiff's counsel and the Clerk of the Court is directed to terminate his appearance on the docket herein. However, Plaintiff's request to have new bilingual counsel appointed is denied without prejudice to renewal to the District Judge. To be clear, if Plaintiff wishes to request new counsel be appointed, she must make a new pro bono counsel motion to the Honorable Gary R. Brown. The Court further orders that this matter be stayed for a period of 60 days for Plaintiff to either: (1) request appointment of new pro bono counsel; or (2) obtain new counsel; or (3) for Plaintiff to decide to proceed pro se. Plaintiff is directed to communicate with this Court via letter on or before May 9, 2022 stating how Plaintiff will proceed in this matter. Plaintiff is advised that failure to communicate with this Court may result in this Court's recommendation to the District Court that the case be dismissed for failure to prosecute. Further, the Court encourages all pro se litigants to consult with the Hofstra Law Pro Se Clinic located in the Central Islip Courthouse, which can provide free information, advice, and limited scope legal assistance to non-incarcerated pro se litigants. The Court notes that the Pro Se Clinic is not part of, nor affiliated with, the United States District Court. The Clinic offers services such as: providing brief legal counseling; advising you about potential federal claims prior to filing suit; explaining federal court rules and procedures; and reviewing and editing draft pleadings and correspondence with the Court. Additionally, the Clinic may aid you during the discovery process, and, in appropriate circumstances, may represent you at deposition or in the settlement process. Consultations with the Pro Se Clinic can be conducted remotely via telephone. If you wish to contact the Pro Se Clinic to make an appointment, email them at PSLAP@Hofstra.edu or leave a message at (631) 297-2575. Plaintiff's outgoing counsel is directed to serve a copy of this Order on Plaintiff and provide proof of service on ECF by March 10, 2022. So Ordered by Magistrate Judge Anne Y. Shields on 3/8/2022. (Mucciaccio, Dina) (Entered: 03/08/2022)

03/08/2022		Attorney Brian Michael Dratch terminated. So Ordered by Magistrate Judge Anne Y. Shields on 3/8/2022. (Mucciaccio, Dina) (Entered: 03/08/2022)
03/08/2022	<u>49</u>	Minute Entry for proceedings held before Magistrate Judge Anne Y. Shields: Motion Hearing held on 3/8/2022 re <u>43</u> Letter MOTION to Substitute Attorney , <i>new bilingual counsel/attorney</i> filed by Lidia M. Orrego (FTR Log #1:33-1:38.) (Torres, Jasmine) (Entered: 03/15/2022)
03/09/2022	<u>47</u>	AFFIDAVIT/AFFIRMATION re Order on Motion to Substitute Attorney,,,,,,, of service by Lidia M. Orrego (Dratch, Brian) (Entered: 03/09/2022)
03/10/2022	<u>48</u>	Letter to Judge Shields from pro se plaintiff Lidia M Orrego in response to 3/8/2022 Electronic Order. (Tirado, Chelsea) (Entered: 03/10/2022)
03/14/2022		ORDER re <u>48</u> Plaintiff's Letter for Reconsideration. Plaintiff's request for reconsideration of this Court's Order denying Plaintiff's application for new bilingual pro bono counsel to be appointed is DENIED. As stated during the conference and in the Order, if Plaintiff wishes to request new counsel be appointed, she must make a new pro bono counsel motion to the Honorable Gary R. Brown on or before May 9, 2022. Any new pro bono application will not be deemed to be made in bad faith as the Court has instructed Plaintiff to make such a request. Plaintiff is reminded that by May 9, 2022, Plaintiff must communicate to the Court, by letter, that she either: (1) requests appointment of new pro bono counsel; or (2) has obtained new counsel; or (3) has decided to proceed pro se. Plaintiff is advised that failure to communicate with this Court may result in this Court's recommendation to the District Court that the case be dismissed for failure to prosecute. So Ordered by Magistrate Judge Anne Y. Shields on 3/14/2022. c/m pltf 3/14/2022. (Mucciaccio, Dina) (Entered: 03/14/2022)
03/17/2022	<u>50</u>	Letter to Judge Shields from pro se plaintiff Lidia M Orrego in response to 3/14/2022 Order. (Tirado, Chelsea) (Entered: 03/17/2022)
04/14/2022	<u>51</u>	Letter to Judge Shields from pro se plaintiff Lidia M Orrego informing the Court of proceeding pro se, requesting to remove <u>42</u> from the docket, and requesting an interpreter for future conferences. (Tirado, Chelsea) (Entered: 04/18/2022)
04/19/2022	<u>52</u>	SCHEDULING ORDER: The Court is in receipt of Plaintiff's notification found in docket entry No. <u>51</u> . That notification advises the Court that Plaintiff wishes to proceed pro se, and that she is currently seeking the limited representation assistance provided by the Hofstra University School of Law legal assistance program. With respect to Plaintiff's request to remove docket entry No. <u>42</u> from the docket, the Court notes that it cannot remove items from the public docket. <u>See Gambale v. Deutsche Bank AG</u> , 377 F.3d 133, 144 (2d Cir. 2004) (noting that once "the genie is out of the bottle," courts "have not the means to put the genie back."). However, the Court interprets Plaintiff's request as a request to vacate its initial conference order found at docket entry No. <u>41</u> , effectively rendering docket entry No. <u>42</u> moot. In accord with that interpretation, the Court therefore will vacate that initial conference order. The request for a Spanish interpreter in this civil case has been made, and it is once again, denied. The Court does not provide interpreters for civil cases. Plaintiff is certainly free to retain her own interpreter, at her own expense, for any future conferences. She may also raise this issue with the Hofstra clinic. While they are not required to provide interpreting services, they may be able to assist Plaintiff. See attached Order for additional details as well as for the Tier I Discovery Schedule. So Ordered by Magistrate Judge Anne Y. Shields on 4/19/2022. c/m pltf on 4/19/2022 (Mucciaccio, Dina) (Entered: 04/19/2022)
04/22/2022	<u>53</u>	Letter to Judge Brown from pro se plaintiff Lidia M Orrego informing the Court of name change, but deciding to proceed as Lidia M. Orrego. (Tirado, Chelsea) (Entered: 04/26/2022)
04/26/2022	<u>54</u>	Letter to Judge Shields from pro se plaintiff Lidia M Orrego re <u>52</u> Orders (Tirado, Chelsea) (Entered: 04/26/2022)
04/27/2022	<u>55</u>	Mail receipt to Lidia M Orrego – Date of Delivery: 4/22/2022 (Tirado, Chelsea) (Entered: 04/28/2022)
05/02/2022		SCHEDULING ORDER: In light of Plaintiff's letter dated April 22, 2022 and found at docket entry No. <u>54</u> , this Court VACATES its April 19, 2022 Order, found at docket entry No. <u>52</u> . 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. All discovery in this case is STAYED pending the in-person July 5, 2022 conference. A 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) (Entered: 05/02/2022)
05/02/2022		SCHEDULING ORDER: The July 5, 2022 in-person initial conference is scheduled for 10:30 AM in courtroom 840 of the Central Islip courthouse. So Ordered by Magistrate Judge Anne Y. Shields on 5/2/2022. c/m pltf on 5/2/2022 (Mucciaccio, Dina) (Entered: 05/02/2022)
07/05/2022		SCHEDULING ORDER: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 Plaintiffs 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) (Entered: 07/05/2022)
07/05/2022	<u>56</u>	Minute Entry for proceedings held before Magistrate Judge Anne Y. Shields:Initial Conference Hearing held on 7/5/2022 (FTR Log #10:50–11:23.) (Torres, Jasmine) (Entered: 07/06/2022)
07/08/2022	<u>57</u>	NOTICE of Motion of Default Judgment by Lidia M. Orrego. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Affidavit in Support) (Cubano, Jazmin) (Entered: 07/08/2022)
07/11/2022		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) (Entered: 07/11/2022)
07/26/2022	<u>58</u>	First MOTION for Extension of Time to Complete Discovery (<i>To Serve Defendants' Initial Document Production</i>) by Stephanieanna James–Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua. (Minnah–Donkoh, Kuuku) (Entered: 07/26/2022)
07/27/2022	<u>59</u>	RESPONSE in Opposition re <u>58</u> First MOTION for Extension of Time to Complete Discovery (<i>To Serve Defendants' Initial Document Production</i>) filed by Lidia M. Orrego. (Cubano, Jazmin) (Entered: 07/27/2022)
07/28/2022		ORDER denying <u>58</u> 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) (Entered: 07/28/2022)
08/11/2022	<u>60</u>	MEMORANDUM in Opposition re <u>57</u> Notice (Other) filed by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua. (Minnah-Donkoh, Kuuku) (Entered: 08/11/2022)
08/11/2022	<u>61</u>	MEMORANDUM in Opposition re <u>57</u> Notice (Other) filed by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua. (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit A) (Minnah-Donkoh, Kuuku) (Entered: 08/11/2022)
08/12/2022	<u>65</u>	Letter MOTION to Compel <i>Challenging the Confidentiality of Documents of the Defendants Initial Discovery dated August 1, 2022</i> , by Lidia M. Orrego. (Ortiz, Grisel) (Entered: 08/18/2022)
08/15/2022	<u>62</u>	Letter to Judge Regarding Joint Status by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua (Minnah-Donkoh, Kuuku) (Entered: 08/15/2022)
08/16/2022		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) (Entered: 08/16/2022)
08/17/2022	<u>63</u>	Preliminary Statement: Reply Memoranda of Law in Support Plaintiff's Motion Default Judgment, filed by Pro Se Litigant Lidia M. Orrego dated 8/17/2022. (Ortiz, Grisel) Modified on 10/11/2022- pro se contacted the clerks office, added the additional language description to the document. (GO). (Entered: 08/17/2022)
08/17/2022	<u>64</u>	Letter from Pro Se Litigant to Judge Shields dated 8/17/2022 Re: 8/16/2022 Scheduling Order. (Ortiz, Grisel) (Entered: 08/17/2022)
08/22/2022	<u>66</u>	RESPONSE to Motion re <u>65</u> Letter MOTION to Compel <i>Challenging the Confidentiality of Documents of the Defendants Initial Discovery dated August 1, 2022</i> , filed by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua. (Attachments: # <u>1</u> Exhibit Exhibit A (Track-changed revisions to form Stipulation and Order of Confidentiality), # <u>2</u> Exhibit B (Clean version of Exhibit A)) (Minnah-Donkoh, Kuuku) (Entered: 08/22/2022)
08/24/2022	<u>67</u>	REPLY to Response to Motion re <u>65</u> Letter MOTION to Compel <i>Challenging the Confidentiality of Documents of the Defendants Initial Discovery dated August 1, 2022</i> , filed by Lidia M. Orrego. (Cubano, Jazmin) (Entered: 08/25/2022)
10/03/2022		ORDER : All pretrial proceedings, including DE 65, are hereby referred to the assigned Magistrate Judge. In addition, any dispositive pretrial motions are referred to the assigned Magistrate Judge for a Report and Recommendation. In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are reminded that, if all parties consent, a United States Magistrate Judge may: (1) conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment; or (2) conduct all proceedings and enter a final order on a particular motion. A consent form should be signed and filed electronically only if all parties wish to consent and it is signed by all parties. Consent forms may be accessed at the following links: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf

		http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085A.pdf. You may withhold your consent without adverse substantive consequences. DO NOT return or file a consent form unless all parties have signed the consent. The Clerk of Court is directed to mail a copy of this Order to the pro se plaintiff. Ordered by Judge Gary R. Brown on 10/3/2022. c/ecf (LJ) (Entered: 10/03/2022)
10/11/2022	<u>68</u>	LETTER dated 10/10/2022 from Lidia M. Orrego to Judge Brown re Request that the Court grant the motion ECF doc. <u>57</u> & <u>63</u> duly supported by a statement of facts, laws, and documentary evidence, pursuant to Federal Rules of Civil Procedure Rule 26 & 37. (LC) (Entered: 10/17/2022)
11/21/2022	<u>69</u>	Letter MOTION for Sanctions by Lidia M. Orrego. (Attachments: # <u>1</u> Documents in Support, # <u>2</u> Affirmation of Service) (JC) (Entered: 11/23/2022)
02/10/2023	<u>70</u>	Letter MOTION for Preliminary Injunction by Lidia M. Orrego. (GO) (Entered: 02/10/2023)
02/10/2023	<u>71</u>	RESPONSE to Motion re <u>70</u> Letter MOTION for Preliminary Injunction filed by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua. (Minnah-Donkoh, Kuuku) (Entered: 02/10/2023)
02/13/2023	<u>72</u>	Affirmation in REPLY to Defendants Response in Opposition to Plaintiff's Motion re <u>70</u> Letter MOTION for Preliminary Injunction filed by Lidia M. Orrego. (JC) (Entered: 02/13/2023)
02/13/2023	<u>73</u>	Notice of MOTION for Declaratory Judgment <i>with affirmation and exhibits attached</i> by Lidia M. Orrego. (JC) (Entered: 02/13/2023)
02/13/2023	<u>74</u>	Amended MOTION to Compel <i>for Injunctive Relief, Rulings on DE's <u>69</u> and <u>57</u>, and reschedule discovery process</i> by Lidia M. Orrego. (JC) (Entered: 02/13/2023)
02/13/2023	<u>75</u>	Letter from Lidia Orrego to Judge Brown dtd 1/13/2023 requesting EMERGENCY Conference with digital audio recording for rulings regarding motions, and Motion for Declaratory Relief. (JC) (Entered: 02/13/2023)
02/22/2023	<u>76</u>	NOTICE of Appearance by Jennifer A Gundlach on behalf of Lidia M. Orrego (aty to be noticed) (Gundlach, Jennifer) (Entered: 02/22/2023)
02/24/2023		ORDER. Plaintiff is reminded that the undersigned's individual rules prohibit parties from sending ex parte email communications – or email communications of any kind – to the Court's email without the Court's prior permission. So Ordered by Magistrate Judge Anne Y. Shields on 2/24/2023. (DM) (Entered: 02/24/2023)
02/27/2023	<u>77</u>	Letter MOTION to Change Venue <i>Request that the court grant the change to the District and Magistrate Judge and the Venue to Brooklyn Courthouse</i> , by Lidia M. Orrego. (GO) (Entered: 02/27/2023)
02/28/2023	<u>78</u>	RESPONSE in Opposition re <u>77</u> Letter MOTION to Change Venue <i>Request that the court grant the change to the District and Magistrate Judge and the Venue to Brooklyn Courthouse</i> , filed by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua. (Minnah-Donkoh, Kuuku) (Entered: 02/28/2023)
02/28/2023	<u>79</u>	MOTION to Withdraw as Attorney by <i>Limited Scope Pro Bono Counsel</i> by Lidia M. Orrego. (Gundlach, Jennifer) (Entered: 02/28/2023)
03/01/2023	<u>80</u>	Letter MOTION to Compel <i>to report new misconduct and fraudulent concealment or misrepresentation from Mr. Kuuku Minnah-Donkoh, Defendants' counsel</i> , by Lidia M. Orrego. (GO) (Entered: 03/01/2023)
03/02/2023	<u>81</u>	Letter <i>Status Letter to the Court</i> by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua (Attachments: # <u>1</u> Exhibit Exhibit A-Email) (Minnah-Donkoh, Kuuku) (Entered: 03/02/2023)
03/02/2023	<u>82</u>	Objection letter to <u>81</u> Status Letter to the Court filed by Lidia M. Orrego. (LF) (Main Document 82 replaced on 3/6/2023) (LF). (Entered: 03/03/2023)

03/03/2023	<u>83</u>	Letter from Lidia M. Orrego to Magistrate Judge Shields to report the status of Deposition and other discovery to develop after receiving the ruling on Motion Default Judgment ECF <u>57</u> . (LF) (Main Document 83 replaced on 3/6/2023) (LF). (Entered: 03/03/2023)
03/06/2023	<u>84</u>	Letter to Judge Shields from Lidia M. Orrego dtd 3/3/2023 in accordance with 8/16/2022 Scheduling Order to file this letter in connection to Defendant's Depositions. (JC) (Entered: 03/06/2023)
03/06/2023	<u>85</u>	REPLY to Response to Motion re <u>77</u> , <u>78</u> Letter MOTION to Change Venue <i>Request that the court grant the change to the District and Magistrate Judge and the Venue to Brooklyn Courthouse</i> , filed by Lidia M. Orrego. (JC) (Entered: 03/07/2023)
03/06/2023	<u>86</u>	RESPONSE to Motion re <u>80</u> Letter MOTION to Compel <i>to report new misconduct and fraudulent concealment or misrepresentation from Mr. Kuuku Minnah-Donkoh, Defendants' counsel</i> , filed by Lidia M. Orrego. (JC) (Entered: 03/07/2023)
03/09/2023		SCHEDULING ORDER: Defense counsel is directed to provide a complete copy of Plaintiff's February 27, 2023 deposition transcript for the Court's review. The transcript must be emailed to shields_chambers@nyed.uscourts.gov by 5:00 PM on Friday, March 10, 2023. So Ordered by Magistrate Judge Anne Y. Shields on 3/9/2023. (DM) (Entered: 03/09/2023)
03/09/2023	<u>87</u>	REPORT AND RECOMMENDATIONS re <u>73</u> Notice of MOTION for Declaratory Judgment <i>with affirmation and exhibits attached</i> filed by Lidia M. Orrego, <u>77</u> Letter MOTION to Change Venue <i>Request that the court grant the change to the District and Magistrate Judge and the Venue to Brooklyn Courthouse</i> , filed by Lidia M. Orrego. For the reasons set forth in the Order and Report and Recommendation, it is respectfully recommended that Plaintiff's motions for a declaratory judgment in her favor, and the motion to change venue to the Brooklyn Courthouse, be denied. A copy of this Order and Report and Recommendation is being provided to all counsel and Plaintiff via ECF. Any written objections to this Report and Recommendation portion must be filed with the Clerk of the Court within fourteen (14) days of filing of this report. Entered by Magistrate Judge Anne Y. Shields on 3/9/2023. (DM) (Entered: 03/09/2023)
03/10/2023	<u>88</u>	ORDER denying <u>65</u> Motion to Compel; denying <u>69</u> Motion for Sanctions; denying <u>70</u> Motion for Preliminary Injunction; denying <u>74</u> Motion to Compel; denying <u>79</u> Motion to Withdraw as Attorney; denying <u>80</u> Motion to Compel. For the reasons set forth in the attached Order, Plaintiff's motions appearing at docket entries <u>57</u> , <u>65</u> , <u>69</u> , <u>70</u> , <u>74</u> and <u>80</u> are denied. The proposed confidentiality order appearing as docket entry No. [66-1] is So Ordered. Defendants' motion for additional time in which to depose Plaintiff, appearing as docket entry No. <u>81</u> , is denied without prejudice to renew upon providing the Court with the transcript of Plaintiff's deposition. Finally, Limited Scope Counsel's motion appearing as docket entry No. <u>79</u> is denied without prejudice to renew in accord with this Order. So Ordered by Magistrate Judge Anne Y. Shields on 3/9/2023. (DM) (Entered: 03/10/2023)
03/10/2023	<u>89</u>	Letter from Lidia M. Orrego to Judge Shields dtd 3/10/2023 Plaintiff's depositions served on March 10, 2023 – Lack of review or approval. (JC) (Entered: 03/13/2023)
03/13/2023		SCHEDULING ORDER: Based upon Counsel's request, the Court's review of the transcript and the reference of the Court reporter to the time of testimony, the Court directs Plaintiff to appear for an additional 2 hours of deposition testimony. The deposition must be completed by April 7, 2023. Limited scope counsel is granted one week in which to determine whether to renew its request to be relieved from representation. In the event that no motion is made the Court will assume that limited scope counsel will represent Plaintiff at her continued deposition. In any event there will be no extension of the April 7, 2023 deadline. So Ordered by Magistrate Judge Anne Y. Shields on 3/13/2023. (DM) (Entered: 03/13/2023)
03/14/2023	<u>90</u>	Letter MOTION to Compel <i>to terminate or limit plaintiff's depositions/modify 3/13/2023 Scheduling Order</i> by Lidia M. Orrego. (JC) (Entered: 03/14/2023)
03/14/2023	<u>91</u>	Letter from Lidia M. Orrego dtd 3/14/23 requesting clarification regarding communication between the Court and the Defendants. (JC) (Entered: 03/14/2023)

03/15/2023	<u>92</u>	ORDER granting in part and denying in part <u>90</u> Motion to Compel. To the extent that Plaintiff's motion is one for reconsideration of this Court's prior ruling directing Plaintiff to appear for an additional 2 hours of deposition testimony, the motion for reconsideration is GRANTED. To the extent that Plaintiff seeks to modify the existing order directing her to appear for an additional 2 hours of deposition testimony, the motion is DENIED. Upon reconsideration, the Court adheres to its original ruling and directs Plaintiff to appear for an additional 2 hours of deposition testimony to be completed by April 7, 2023. For reference, attached is a copy of Plaintiff's February 27, 2023 deposition transcript as well as a copy of an email from the deposition court reporter to Plaintiff confirming the length of the February 27, 2023 deposition. So Ordered by Magistrate Judge Anne Y. Shields on 3/15/2023. (Attachments: # <u>1</u> Exhibit) (DM) (Entered: 03/15/2023)
03/15/2023	<u>93</u>	Notice of MOTION to Withdraw as Attorney <i>Renewed</i> by Lidia M. Orrego. (Gundlach, Jennifer) (Entered: 03/15/2023)
03/15/2023	<u>94</u>	Letter MOTION to Vacate <u>88</u> Order on Motion to Compel,,,,, Order on Motion for Sanctions,,,,, Order on Motion for Preliminary Injunction,,,,,,, Order on Motion to Withdraw as Attorney,,,,,,, by Lidia M. Orrego. (JC) (Entered: 03/17/2023)
03/16/2023		ORDER granting <u>93</u> Motion to Withdraw as Attorney. The request by Plaintiff's Limited Scope Counsel to withdraw is GRANTED. Attorney Jennifer A Gundlach terminated. So Ordered by Magistrate Judge Anne Y. Shields on 3/16/2023. (DM) (Entered: 03/16/2023)
03/17/2023	<u>95</u>	Letter Motion to Vacate from Lidia Orrego to Judge Shields dtd 3/16/2023 re: Letter Motion to Vacate Order DE <u>88</u> on "Letter Motion Challenging the Confidentiality DE (65) unrelated to the Unconscionable "Confidentiality Agreement" [66-1]. (JC) Modified on 3/21/2023 (JT). (Entered: 03/17/2023)
03/20/2023	<u>98</u>	Letter MOTION to Vacate <u>88</u> Order on Motion to Compel,,,,, Order on Motion for Sanctions,,,,, Order on Motion for Preliminary Injunction,,,,,,, Order on Motion to Withdraw as Attorney,,,,,,, by Lidia M. Orrego. (Attachments: # <u>1</u> Exhibit) (GO) (Entered: 03/22/2023)
03/21/2023		ORDER denying <u>95</u> Motion to Vacate <u>95</u> MOTION to Vacate. Plaintiff's request that this Court vacate the order found at docket entry No. <u>88</u> is DENIED. To be clear, the Court adheres to its original ruling with regard to the documents designated as confidential and the Order of Confidentiality entered to govern discovery herein. So Ordered by Magistrate Judge Anne Y. Shields on 3/21/2023. (DM) (Entered: 03/21/2023)
03/21/2023	<u>96</u>	Notice of MOTION to Vacate <i>the Challenged Order</i> by Lidia M. Orrego. (JC) (Entered: 03/22/2023)
03/22/2023	<u>97</u>	Letter Notice of Motion to Vacate the Challenged Order DE <u>88</u> . (JC) (Entered: 03/22/2023)
03/22/2023	<u>99</u>	MOTION for Extension of Time to File Response/Reply as to <u>73</u> Notice of MOTION for Declaratory Judgment <i>with affirmation and exhibits attached</i> , <u>77</u> Letter MOTION to Change Venue <i>Request that the court grant the change to the District and Magistrate Judge and the Venue to Brooklyn Courthouse</i> , by Lidia M. Orrego. (JC) (Entered: 03/23/2023)
03/22/2023	<u>100</u>	Notice of MOTION to Vacate <u>88</u> Order on Motion to Compel,,,,, Order on Motion for Sanctions,,,,, Order on Motion for Preliminary Injunction,,,,,,, Order on Motion to Withdraw as Attorney,,,,,,, by Lidia M. Orrego. (Attachments: # <u>1</u> Exhibit) (GO) (Entered: 03/24/2023)
03/23/2023	<u>101</u>	NOTICE ENTRY PLAINTIFF'S OBJECTIONS/ OBJECTION to <u>87</u> Report and Recommendations, filed by Lidia M. Orrego. (GO) (Entered: 03/24/2023)
03/23/2023	<u>102</u>	Amended MOTION to Vacate <u>88</u> Order on Motion to Compel,,,,, Order on Motion for Sanctions,,,,, Order on Motion for Preliminary Injunction,,,,,,, Order on Motion to Withdraw as Attorney,,,,,,, by Lidia M. Orrego. (GO) (Entered: 03/24/2023)
03/23/2023	<u>103</u>	Amended MOTION to Vacate <u>96</u> Notice of MOTION to Vacate <i>the Challenged Order</i> /AMENDED ECF <u>96</u> NOTICE OF MOTION VACATE THE CHALLENGED ORDER,

		by Lidia M. Orrego. (GO) (Entered: 03/24/2023)
03/23/2023	<u>104</u>	Amended MOTION to Vacate <u>97</u> Letter /AMENDED ECF <u>97</u> NOTICE OF MOTION VACATE THE CHALLENGED ORDER DE <u>88</u> , by Lidia M. Orrego. (GO) (Entered: 03/24/2023)
03/24/2023	<u>105</u>	SECOND NOTICE ENTRY PLAINTIFF'S OBJECTIONS/ OBJECTION to <u>87</u> Report and Recommendations, filed by Lidia M. Orrego dated 3/24/2023. (GO) (Entered: 03/24/2023)
03/28/2023		ORDER ADOPTING REPORT AND RECOMMENDATIONS for <u>73</u> Motion for Declaratory Judgment filed by Lidia M. Orrego, <u>77</u> Motion to Change Venue filed by Lidia M. Orrego, adopting <u>87</u> Report and Recommendations. Presently before the Court is the Report and Recommendation dated March 9, 2023, DE 87, of United States Magistrate Judge Anne Y. Shields recommending that Plaintiff's motions for a declaratory judgment in her favor, and the motion to change venue to the Brooklyn Courthouse, be denied. In reviewing a Report and Recommendation, the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party makes specific and timely objections to a Magistrate Judge's findings or recommendations as to dispositive motions, the district court must apply a de novo standard of review to the portions of the Report and Recommendation to which the objection is made. Fed. R. Civ. P. 72(b); <i>see LLC v. Doe 3</i>, 604 F.3d 110, 116 (2d Cir. 2010); <i>see also</i> 28 U.S.C. § 636(b)(1). However, "general or conclusory objections, or objections which merely recite the same arguments presented to the magistrate judge, are reviewed for clear error." <i>Caldarola v. Town of Smithtown</i>, No. 09-cv-272, 2011 U.S. Dist. LEXIS 37280, at *1 (E.D.N.Y. Apr. 4, 2011). On March 22, 2023, Plaintiff requested eight additional days to file her objections to the Report and Recommendation. DE 99. Whereas Plaintiff already filed objections to the Report and Recommendation on March 23 and March 24, 2023, <i>see</i> DEs 101, 105, the request for an extension of time is denied as moot. In her objections, Plaintiff argues that Magistrate Judge Anne Y. Shields "misapplied" the concept of the Plaintiff's motion for Declaratory Relief in order to protect the Defendant, <i>see</i> DE 101 at 5, and that transferring this case to Brooklyn would be a "win-win" because the Plaintiff will "try to seek justice in a forum that protects the working class" and "this Court will not have to deal with Plaintiff whom it has been rejecting after September 30, 2021," <i>see</i> DE 105 at 6. Although de novo review is not required, the Court has conducted a de novo review of the Report and Recommendation, and having reviewed the motion papers, the applicable law, and having conducted a careful review of the Report and Recommendation de novo, the Court has determined that Judge Shields correctly determined that the motion for declaratory judgment should be denied in light of this case's ongoing discovery and that this case was properly designated as a Long Island case. <i>See Orrego v. Knipping</i>, 564 F. Supp. 3d 273, 278-82 (E.D.N.Y. 2021) (summarizing allegations of misconduct against defendants in Nassau County). As such, the objections to the Report and Recommendation are OVERRULED and the Report and Recommendation dated March 9, 2023, DE 87, of United States Magistrate Judge Anne Y. Shields is ADOPTED in its entirety. The Clerk of Court is respectfully directed to mail a copy of this Order to the pro se Plaintiff. Ordered by Judge Gary R. Brown on 3/28/2023. (JT) (Entered: 03/28/2023)
03/28/2023		ORDER denying <u>99</u> Motion for Extension of Time to File Response/Reply. Ordered by Judge Gary R. Brown on 3/28/2023. c/ecf (JT) (Entered: 03/28/2023)
03/28/2023		ORDER denying <u>94</u> Motion to Vacate, <u>96</u> Notice of MOTION to Vacate, <u>98</u> Letter MOTION to Vacate, <u>100</u> Notice of MOTION to Vacate, <u>102</u> Amended MOTION to Vacate, <u>103</u> Amended MOTION to Vacate, <u>104</u> Amended MOTION to Vacate. Presently before the Court are a series of objections to the Orders of Magistrate Judge

		Anne Y. Shields dated March 9, 2023, DE 88. <i>See</i> DEs 94, 96, 98, 100, 102, 103, 104. Discovery orders by a magistrate judge are generally considered "nondispositive" of the litigation. <i>See Thomas E. Hoar, Inc. v. Sara Lee Corp.</i>, 900 F.2d 522, 525 (2d Cir. 1990). Accordingly, a district court must affirm such orders unless they are "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). This standard of review is "highly deferential," <i>see Thai Lao Lignite (Thai.) Co. v. Gov't of Lao People's Dem. Rep.</i>, 924 F. Supp. 2d 508, 511–12 (S.D.N.Y. 2013) (citations and internal quotation marks omitted), and "magistrates are afforded broad discretion in resolving discovery disputes," <i>see MASTR Adjustable Rate Mortgs. Tr. 2006–OA2 v. UBS Real Estate Secs. Inc.</i>, No. 12 Civ. 7322, 2013 WL 6840282, at *1 (S.D.N.Y. Dec. 27, 2013) (citation omitted). In a series of repetitive and verbose objections, Plaintiff principally argues that Judge Shields lacked the authority to issue the Orders in DE 88 and calls into question Judge Shields' impartiality. Whereas all of the Orders issued by Judge Shields concerned discovery matters and the allegations of bias are unsubstantiated, Plaintiff's objections are OVERRULED. PLAINTIFF IS CAUTIONED ONCE AGAIN THAT THE CONTINUED FILING OF BLOATED AND WHOLLY UNSUPPORTED MOTIONS MAY SUBJECT HER TO THE IMPOSITION OF SANCTIONS FOR ENGAGING IN FRIVOLOUS LITIGATION CONDUCT UNDER 28 U.S.C. § 1927. The Clerk of Court is respectfully directed to mail a copy of this Order to the pro se Plaintiff. Ordered by Judge Gary R. Brown on 3/28/2023. (JT) (Entered: 03/28/2023)
03/31/2023	<u>106</u>	Letter MOTION to Compel <i>defendants counsel to provide plaintiff with copies of numerous things</i> by Lidia M. Orrego. (JC) (Entered: 03/31/2023)
04/04/2023	<u>107</u>	Letter <i>In Response to Plaintiff's March 31, 2023 Letter Motion to Compel</i> by Stephanieanna James–Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua (Minnah–Donkoh, Kuuku) (Entered: 04/04/2023)
04/04/2023	<u>108</u>	Plaintiff Lidia M. Orrego's request for Judicial Notice Adjudicative of Facts, filed concurrently with Notice of Motion to take Judicial Notice Adjudicative of Facts and instruction to the Jury to accept the noticed fact as conclusive, granting relief to Plaintiff of the burden of proof in the Trial pursuant Fed. Rules of Evidence 201 (JC) (Entered: 04/05/2023)
04/06/2023	<u>109</u>	MOTION to Vacate <i>03/28/2023 ORDER denying 94 Motion to Vacate, 96 Notice of MOTION to Vacate, 98 Letter MOTION to Vacate, 100 Notice of MOTION to Vacate, 102 Amended MOTION to Vacate, 103 Amended MOTION to Vacate, 104 Amended MOTION to Vacate</i> by Lidia M. Orrego. (JC) (Entered: 04/06/2023)
04/10/2023		ORDER REFERRING MOTION: <u>106</u> Letter MOTION to Compel <i>defendants counsel to provide plaintiff with copies of numerous things</i> filed by Lidia M. Orrego. Plaintiff's motion (DE 106) is respectfully referred to the assigned Magistrate Judge for all appropriate action, if any. Ordered by Judge Gary R. Brown on 4/10/2023. Motions referred to Anne Y. Shields. (MR) (Entered: 04/10/2023)
04/10/2023		ORDER. Plaintiff's motion pursuant to Federal Rule of Evidence 201 (DE 108) is denied without prejudice to renewal at the time of trial. Ordered by Judge Gary R. Brown on 4/10/2023. (MR) (Entered: 04/10/2023)
04/10/2023		ORDER denying <u>109</u> Motion to Vacate. Plaintiff's motion, construed as an objection to the Court's previous rulings, is denied. Further, Plaintiff's motion, construed as again seeking to disqualify Magistrate Judge Shields is denied. Ordered by Judge Gary R. Brown on 4/10/2023. (MR) (Entered: 04/10/2023)
04/10/2023	<u>111</u>	Letter from Pro Se Litigant Lidia M. Orrego dated 4/10/2023 Re: respectfully request the issues of subpoenas pursuant the Federal Rules Civil Procedure Rule 45. Subpoena (3). (GO) (Entered: 04/13/2023)
04/11/2023	<u>110</u>	Notice of MOTION for Reconsideration <i>on Order entered March 28, 2023, at 4:45 pm, pursuant to Federal Rule Civil Procedure Rule (FRCP) Rule 7 (b)(1), Local Civil Rule 6.3, Title 18, U.S.C., Section 241</i> by Lidia M. Orrego. (Attachments: # <u>1</u> Exhibits

		1, # <u>2</u> Exhibits 2) (JC) (Entered: 04/11/2023)
04/12/2023		ORDER denying <u>106</u> Motion to Compel. Plaintiff's motion to compel Defendants to provide a copy of all cases or authorities since October 10, 2020 is DENIED. A review of the docket indicates that Defendants have complied with Local Civil Rule 7.2 which provides that "[i]n cases involving a pro se litigant, counsel shall, when serving a memorandum of law (or other submissions to the Court), provide the pro se litigant with copies of cases and other authorities cited therein that are unpublished or reported exclusively on computerized databases. Upon request, counsel shall provide the pro se litigant with copies of such unpublished cases and other authorities as are cited in a decision of the Court and were not previously cited by any party." Further, as Plaintiff never requested copies of any unpublished cases and/or authorities cited in any of the decisions of the Court from Defendants, Plaintiff's request is similarly denied. Going forward, should Plaintiff desire copies of such cases, Plaintiff must make a timely request to Defendants to provide such. So Ordered by Magistrate Judge Anne Y. Shields on 4/12/2023. (DM) (Entered: 04/12/2023)
04/13/2023	<u>112</u>	Letter from Pro Se Office to Pro Se Litigant Lidia M. Orrego, dated 4/13/2023 Re: Response to <u>111</u> Letter. (GO) (Entered: 04/13/2023)
04/13/2023	<u>113</u>	Notice of MOTION for Reconsideration <i>on Order entered April 10, 2023, on Judicial Notice ECF <u>108</u>, pursuant to Federal Rule of Evidence Rule 201 – Judicial Notice of Law and Adjudicative Facts, Federal Rule Civil Procedure Rule (FRCP) Rule 7 (b)(1), Local Civil Rule 6.3.</i> by Lidia M. Orrego. (JC) (Entered: 04/13/2023)
04/20/2023	<u>117</u>	Notice of MOTION for Reconsideration <i>and Objections on Denial Without Memorandum of Plaintiff's Motion to Vacate ECF <u>109</u> on improper Order ECF <u>88</u> by Judge Shields for Lack of Specificity and Legal Authorities – Order Entered April 10, 2023</i> by Lidia M. Orrego. (JC) (Entered: 04/27/2023)
04/22/2023	<u>114</u>	Notice of MOTION for Reconsideration <i>and Objections on Order entered on April 12, 2023 on Motion to Compel ECF <u>106</u></i> by Lidia M. Orrego. (JC) (Entered: 04/24/2023)
04/27/2023	<u>115</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on March 8, 2022, before Judge Anne Y. Shields. Transcriber Writer's Cramp, Inc., Telephone number 609-588-8043. Email address: wtrscrap@verizon.net. Transcript may be viewed at the court public terminal or purchased through the Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/18/2023. Redacted Transcript Deadline set for 5/29/2023. Release of Transcript Restriction set for 7/26/2023. (KS) (Entered: 04/27/2023)
04/27/2023	<u>116</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on July 5, 2022, before Judge Anne Y. Shields. Transcriber Writer's Cramp, Inc., Telephone number 609-588-8043. Email address: wtrscrap@verizon.net. Transcript may be viewed at the court public terminal or purchased through the Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/18/2023. Redacted Transcript Deadline set for 5/29/2023. Release of Transcript Restriction set for 7/26/2023. (KS) Modified on 4/27/2023 (KS). (Entered: 04/27/2023)
05/08/2023	<u>118</u>	NOTICE of Subpoenas by Lidia M. Orrego (JC) (Entered: 05/09/2023)
05/18/2023	<u>119</u>	ORDER OF RECUSAL. Judge Gary R. Brown recused. Case reassigned to Judge Joan M. Azrack for all further proceedings. So Ordered by Judge Gary R. Brown on 5/18/2023. (GO) Entry was deleted and re-docketed to correct a typographical error. (GO) (Entered: 05/19/2023)
05/24/2023	<u>120</u>	LETTER dated 5/24/2023 from Lidia M. Orrego to Judge Azrack re Submission of Affidavits for Subpoenas. (LC) (Entered: 05/24/2023)
05/25/2023	<u>121</u>	MOTION to Quash by County Attorney, Nassau County. (Attachments: # <u>1</u> Memorandum in Support DSS Response Letter/memo of law, # <u>2</u> Exhibit Subpoena) (McLaughlin, Brian) (Entered: 05/25/2023)
05/26/2023	<u>122</u>	Affirmation in Opposition to <u>121</u> MOTION to Quash Subpoena filed by Lidia M. Orrego. (LF) (Entered: 05/30/2023)

05/30/2023	<u>124</u>	MOTION to Compel /Emergency Motion to Request a Court Order to Serve by affixing a true copy of subpoena to the door of said premises which is Rebeca Uzcategui's current Counsel's Office by Lidia M. Orrego. (LC) (Main Document 124 replaced on 6/1/2023) (LC). (Entered: 06/01/2023)
05/31/2023	<u>123</u>	REPLY to Response to Motion re <u>121</u> MOTION to Quash Reply to Plaintiff's Opposition filed by County Attorney, Nassau County. (McLaughlin, Brian) (Entered: 05/31/2023)
06/02/2023	<u>125</u>	RESPONSE in Opposition re <u>124</u> MOTION to Compel /Emergency Motion to Request a Court Order to Serve by affixing a true copy of subpoena to the door of said premises which is Rebeca Uzcategui's current Counsel's Office filed by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua. (Minnah-Donkoh, Kuuku) (Entered: 06/02/2023)
06/02/2023	<u>126</u>	MOTION to Seal Document <u>121</u> MOTION to Quash by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua. (Minnah-Donkoh, Kuuku) (Entered: 06/02/2023)
06/02/2023	<u>127</u>	LETTER dated 6/2/2023 from Lidia M. Orrego to Judge Shields re Affidavit of Service Subpoena refused by Gordon Rees Scully Mansukhani, LLP on behalf current client and witness Ms. Rebeca Uzcategui aka Lugo. (LC) (Entered: 06/06/2023)
06/02/2023	<u>128</u>	Plaintiff's "REPLY and Challenge the fraudulent misrepresentation Defendants Opposition ECF doc. <u>125</u> to Plaintiff's request for a Court Order to serve by affixing a true copy of the Subpoena ECF doc. <u>124</u> ." (LC) (Entered: 06/06/2023)
06/02/2023	<u>129</u>	MOTION to Set Aside , MOTION to Vacate or cancel all the Orders by H. Judge Gary R. Brown denying the Plaintiff's Motion due to judicial bias and request to expedite the ruling on pending motions by Lidia M. Orrego. (Attachments: # <u>1</u> Affirmation) (LC) (Entered: 06/06/2023)
06/06/2023	<u>130</u>	PLAINTIFF'S OBJECTION & OPPOSITION to <u>126</u> Motion Seal the <u>121</u> Motion to Quash Subpoena filed by Lidia M. Orrego. (LC) (Entered: 06/09/2023)
06/06/2023	<u>131</u>	MOTION to Vacate /"Notice of Motion for an Order to Set Aside, Vacate or Cancel the H. Judge Gary R. Brown's Order Denying ECF doc. <u>35</u> Motion to Withdraw Answer to Amended Complaint (Pages 19 & 20) dated November 16, 2021 for Judicial Bians and Protective Order" and Affirmation in Support. Filed by Lidia M. Orrego. (LC) (Entered: 06/09/2023)
06/13/2023		ORDER granting <u>121</u> Motion to Quash. Non-party Nassau County Department of Social Services ("DSS") motion to quash pursuant to Rule 45(d)(3)(3) of the Federal Rules of Civil Procedure is GRANTED. Plaintiff's subpoena seeks information that cannot be disclosed pursuant to N.Y. SOC. SERV. LAW. § 422(5). As Plaintiff does not qualify as one of the listed entities that the information may be disclosed to, her subpoena must be quashed. Whether Plaintiff is the "source" of the report is irrelevant. So Ordered by Magistrate Judge Anne Y. Shields on 6/13/2023. (DM) (Entered: 06/13/2023)
06/13/2023		ORDER granting <u>126</u> MOTION to Seal Document <u>121</u> MOTION to Quash . As the document found at docket entry No. [121-1] contains the names and identifying information of infants, the motion to seal the document is GRANTED and docket entry No. <u>121</u> is hereby SEALED. So Ordered by Magistrate Judge Anne Y. Shields on 6/13/2023. (DM) (Entered: 06/13/2023)
06/13/2023		ORDER denying <u>124</u> Motion to Compel. Plaintiff's motion for an order compelling defense counsel's office to accept a subpoena on behalf of non-party Rebecca Uzcategui ("Uzcategui") is DENIED. Uzcategui is a not a party to this litigation and defense counsel does not represent her in connection with this litigation. Therefore, defense counsel cannot accept a subpoena on her behalf. Further, Uzcategui is no longer employed by Defendants or under the control of any of the Defendants. Accordingly, Plaintiff's motion to compel is DENIED. So Ordered by Magistrate Judge Anne Y. Shields on 6/13/2023. (DM) (Entered: 06/13/2023)
06/14/2023	<u>132</u>	MOTION for Recusal and Disqualification of Judge Anne Y. Shields by Lidia M. Orrego. (LC) (Entered: 06/16/2023)

06/20/2023	<u>133</u>	RESPONSE in Opposition re <u>132</u> MOTION for Recusal <i>and Disqualification of Judge Anne Y. Shields</i> filed by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Steve Savitsky, Teresa A. Zantua. (Minnah-Donkoh, Kuuku) (Entered: 06/20/2023)
06/20/2023	<u>134</u>	NOTICE OF SUBPOENA to T-Mobile filed by Lidia M. Orrego. (LC) (Entered: 06/22/2023)
06/21/2023		ORDER denying <u>132</u> Motion for Recusal. Plaintiff's motion requesting the recusal of the undersigned is DENIED. So Ordered by Magistrate Judge Anne Y. Shields on 6/21/2023. (DM) (Entered: 06/21/2023)
06/22/2023	<u>135</u>	Plaintiff's Reply to Defendants' improper Opposition to the Motion Recusal of M. Judge Anne Y. Shields ECF doc. <u>132</u> , filed by pro se litigant dated 6/22/2023. (GO) (Entered: 06/23/2023)
06/23/2023	<u>136</u>	CERTIFICATE OF SERVICE by Lidia M. Orrego re Plaintiffs' Motion to Recuse – ECF doc. <u>132</u> filed 06/14/2023 ; Defendants' Opposition improper "Letter Motion" ECF doc. <u>133</u> filed 06/20/2023; Plaintiff's Reply to improper Defendants' Opposition ECF doc. <u>135</u> filed 06/22/2023.. (LC) (Entered: 06/26/2023)
06/30/2023	<u>137</u>	NOTICE of Non-Opposition to Plaintiff's <u>129</u> MOTION to Set Aside, MOTION to Vacate <i>or cancel all the Orders by H. Judge Gary R. Brown denying the Plaintiff's Motion due to judicial bias and request to expedite the ruling on pending motions</i> (LC) (Entered: 07/06/2023)
06/30/2023	<u>138</u>	NOTICE of Non-Opposition to Plaintiff's Motion ECF doc. <u>131</u> for an Order to Set Aside, Vacate or Cancel the H. Judge Gary R. Brown's Order Denying ECF doc. <u>35</u> Motion to Withdraw Answer to Amended Complaint (Pages 19 & 20) dated November 16, 2021 for Judicial Bias and Protective Order. (LC) (Entered: 07/06/2023)
07/01/2023	<u>139</u>	NOTICE of Non-Opposition to Plaintiff's Letter Motion ECF doc. <u>64</u> for an Order to Modify the Scheduling Order Dated August 16, 2022. (LC) (Entered: 07/06/2023)
07/01/2023	<u>140</u>	NOTICE of Non-Opposition to Plaintiff's Letter Motion ECF doc. <u>91</u> for an Order to Clarify the Ex Parte Communications Between M. Judge Anne Y. Shields' Chambers and Defendants. (LC) (Entered: 07/06/2023)
07/02/2023	<u>141</u>	NOTICE of Non-Opposition to Plaintiff's Motion for Reconsideration & Objections ECF doc. <u>114</u> filed on April 12, 2023, for an Order to Compel ECF doc. <u>106</u> . (LC) (Entered: 07/06/2023)
07/11/2023		ORDER denying <u>110</u> Motion for Reconsideration, <u>113</u> Notice of MOTION for Reconsideration, <u>114</u> Notice of MOTION for Reconsideration, <u>117</u> Notice of MOTION for Reconsideration, <u>129</u> MOTION to Set Aside MOTION to Vacate, <u>131</u> MOTION to Vacate. Before the Court are several motions filed by Plaintiff for reconsideration of various orders issued by Judge Gary R. Brown and Magistrate Judge Anne Y. Shields. The standard for granting a motion for reconsideration is "strict," and "reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." <i>Shrader v. CSX Transp., Inc.</i>, 70 F.3d 255, 257 (2d Cir. 1995) (citations omitted). "This strict standard is intended to ensure the finality of decisions and to prevent the practice of a losing party examining a decision and then plugging the gaps of a lost motion with additional matters." <i>Great Am. Ins. Co. v. Zelik</i>, 439 F. Supp. 3d 284, 286 (S.D.N.Y. 2020) (internal quotation marks and citations omitted). Accordingly, "a motion to reconsider should not be granted where the moving party seeks solely to relitigate an issue already decided." <i>Shrader</i>, 70 F.3d at 257. The Court has reviewed Plaintiff's submissions and concludes that she has not satisfied the "strict" standard for reconsideration. Accordingly, the motions are DENIED in their entirety. Ordered by Judge Joan M. Azrack on 7/11/2023. (SP) (Entered: 07/11/2023)
07/11/2023	<u>142</u>	MOTION for Reconsideration re Order on Motion to Quash,, "Notice of Motion for an Order to Set Aside, Vacate, or Cancel Order filed June 13, 2023 on Motion Quash

		<i>Subpoena ECF doc. <u>121</u> " by Lidia M. Orrego. (LC) (Entered: 07/13/2023)</i>
07/12/2023	<u>143</u>	AMENDED MOTION for Reconsideration re Order on Motion to Quash,, <i>"Notice of Motion for an Order to Set Aside, Vacate, or Cancel Order filed June 13, 2023 on Motion Quash Subpoena ECF doc. <u>121</u> " by Lidia M. Orrego. (GO) Modified on 7/14/2023- to correct the docket from Letter to Amended. (GO). (Entered: 07/14/2023)</i>
07/14/2023	<u>144</u>	MOTION for Reconsideration /" <i>For an Order to Set Aside, Vacate, or Cancel Order Filed June 13, 2023 on Motion to Compel Subpoena ECF doc. <u>124</u> ." by Lidia M. Orrego. (LC) (Entered: 07/17/2023)</i>
07/18/2023	<u>145</u>	MOTION to Vacate Order on Motion for Recusal / <i>Motion For An Order To Set Aside, Vacate, Or Cancel Order Filed June 21, 2023, Under FRCP Rule 54 (B) On Motion Recusal M. Judge Anne Y. Shields Ecf Doc. <u>132</u> , by Lidia M. Orrego. (GO) (Entered: 07/19/2023)</i>
07/19/2023	<u>146</u>	MOTION to Compel / <i>PLAINTIFF'S MOTION FOR CLARIFICATION ON DISCOVERY ORDERS</i> , by Lidia M. Orrego. (GO) (Entered: 07/20/2023)
07/20/2023		ORDER denying <u>142</u> Motion for Reconsideration, <u>143</u> Letter MOTION for Reconsideration, <u>144</u> MOTION for Reconsideration, <u>145</u> MOTION to Vacate Order on Motion for Recusal. Before the Court are several objections filed by Plaintiff to various orders issued by Magistrate Judge Anne Y. Shields. Plaintiff styles these motions as seeking reconsideration -- apparently mistakenly -- under Fed. R. Civ. P. 54(b). However, she also states that she objects to Magistrate Judge Shields' orders. Accordingly, the Court construes Plaintiff's motions as presenting objections under Fed. R. Civ. P. 72(a), which provides that a district court may reverse a magistrate judge's decision on a non-dispositive matter only if that decision is "clearly erroneous or contrary to law." Upon consideration of Plaintiff's objections under this highly deferential standard of review, the Court finds that Magistrate Judge Shields' orders were not "clearly erroneous or contrary to law." Accordingly, Plaintiff's objections are OVERRULED. For the avoidance of doubt, even if the Court were to construe Plaintiff's motions as seeking reconsideration under Fed. R. Civ. P. 54(b) or 60, the motions would be denied because Plaintiff has not satisfied the strict standard for reconsideration. Ordered by Judge Joan M. Azrack on 7/20/2023. (SP) Modified on 7/21/2023- to correct a typographical error. (GO). (Entered: 07/20/2023)
07/20/2023	<u>147</u>	Letter MOTION for Reconsideration / <i>PLAINTIFFS MOTION RIGHT TO FILE AT ANY TIME FOR AN ORDER UNDER FED. R. CIV. P. 54 (b), TO SET ASIDE, VACATE OR CANCEL THE NOT FINAL ORDER DATED JULY 11, 2023 ON MOTIONS ECF doc. <u>113</u> , ACCORDING TO THE COURT OF APPEALS SECOND CIRCUIT DECISION DATED MAY 18, 2023</i> , by Lidia M. Orrego. (GO) (Entered: 07/21/2023)
07/20/2023	<u>148</u>	Letter MOTION for Reconsideration <i>PLAINTIFFS MOTION RIGHT TO FILE AT ANY TIME FOR AN ORDER UNDER FED. R. CIV. P. 54 (b), TO SET ASIDE, VACATE OR CANCEL THE NOT FINAL ORDER DATED JULY 11, 2023 ON MOTIONS ECF doc. <u>110</u> , ACCORDING TO THE COURT OF APPEALS SECOND CIRCUIT DECISION DATED MAY 18, 2023</i> by Lidia M. Orrego. (GO) (Entered: 07/21/2023)
07/21/2023	<u>149</u>	MOTION to Vacate Order on Motion for Reconsideration,,,,,,,,,,,,,, Order on Motion to Set Aside,,,,,,,,, Order on Motion to Vacate,,,,,,,,,, <i>PLAINTIFFS MOTION RIGHT TO FILE AT ANY TIME FOR AN ORDER UNDER FED. R. CIV. P. 54 (b), TO SET ASIDE, VACATE OR CANCEL THE NOT FINAL ORDER DATED JULY 11, 2023 ON MOTIONS ECF doc. <u>117</u> , ACCORDING TO THE COURT OF APPEALS SECOND CIRCUIT DECISION DATED MAY 18, 2023</i> by Lidia M. Orrego. (GO) (Entered: 07/24/2023)
07/21/2023	<u>150</u>	MOTION to Vacate Order on Motion for Reconsideration,,,,,,,,,,,,,, Order on Motion to Set Aside,,,,,,,,, Order on Motion to Vacate,,,,,,,,,, <i>PLAINTIFFS MOTION RIGHT TO FILE AT ANY TIME FOR AN ORDER UNDER FED. R. CIV. P. 54 (b), TO SET ASIDE, VACATE OR CANCEL THE NOT FINAL ORDER DATED JULY 11,</i>

		2023 ON MOTIONS ECF doc. <u>129</u> , ACCORDING TO THE COURT OF APPEALS SECOND CIRCUIT DECISION DATED MAY 18, 2023 by Lidia M. Orrego. (GO) (Entered: 07/24/2023)
07/21/2023	<u>151</u>	MOTION to Vacate Order on Motion for Reconsideration,,,,,,,,,,,,,, Order on Motion to Set Aside,,,,,,,,, Order on Motion to Vacate,,,,,,,,, <i>PLAINTIFFS MOTION RIGHT TO FILE AT ANY TIME FOR AN ORDER UNDER FED. R. CIV. P. 54 (b), TO SET ASIDE, VACATE OR CANCEL THE NOT FINAL ORDER DATED JULY 11, 2023 ON MOTIONS ECF doc. <u>131</u> , ACCORDING TO THE COURT OF APPEALS SECOND CIRCUIT DECISION DATED MAY 18, 2023 by Lidia M. Orrego. (GO) (Entered: 07/24/2023)</i>
07/21/2023	<u>152</u>	MOTION for Certificate of Appealability / <i>PLAINTIFF'S MOTION TO CERTIFY AN ORDER FOR INTERLOCUTORY APPEAL ON ORDERS DATED JULY 11, 2023, AND JULY 20, 2023 UNDER 28 U.S.C. 1292(b)</i> , by Lidia M. Orrego. (GO) Modified on 7/27/2023– document was inadvertently filed as Notice of Interlocutory Appeal instead of a Motion for Certificate of Appealability– Corrections have been made to the docket and the CA2 has been notified. (GO). (Entered: 07/27/2023)
07/21/2023		Incorrect Case/Document/Entry Information: The DE# <u>152</u> document was inadvertently filed as Notice of Interlocutory Appeal instead of a Motion for Certificate of Appealability. Corrections have been made to the docket and the Court of Appeals has been notified. There is NO Appeal filing fee due. (GO) (C/M via CM/ECF) (Entered: 07/27/2023)
07/23/2023	<u>153</u>	MOTION to Compel / <i>PLAINTIFF'S MOTION TO CLARIFY THE ORDER JULY 20, 2023</i> , by Lidia M. Orrego. (GO) (Entered: 07/24/2023)
07/24/2023	<u>154</u>	MOTION for Contempt / <i>PLAINTIFF'S MOTION FOR CONTEMPT OF COURT CIVIL AND CRIMINAL SANCTIONS AGAINST REBECA UZCATEGUI, A/K/A REBECA LUGO, FOR FAILURE TO COMPLY WITH A SUBPOENA ON JUNE 5, 2023 & OBSTRUCTION OF JUSTICE</i> by Lidia M. Orrego. (GO) (Entered: 07/25/2023)
07/25/2023		ORDER granting <u>146</u> Motion to Compel. Plaintiff's motion requesting clarification of prior discovery orders is granted. On December 7, 2021, this Court issued an initial conference order scheduling a telephonic initial conference to be held on February 14, 2022 and included this Court's individual rules and template discovery schedules as examples for the attorneys to review and confer about prior to submitting a joint proposed discovery schedule and joint initial letter for the Court's review before the scheduled initial conference. Upon review the Court declined to adopt the joint proposed discovery schedule. Rather, the Court directed counsel to complete the undersigned's Employment Protocols by April 12, 2022, cancelled the initial conference, and scheduled a status conference for April 19, 2022. However, on February 14, 2022, Plaintiff filed a letter requesting a substitution of counsel. As a result, a conference was held, Plaintiff's counsel was relieved, and Plaintiff ultimately proceeded in this case pro se. On April 19, 2022, in response to Plaintiff's request to remove this Court's prior discovery orders, the undersigned vacated the initial conference order which rendered the discovery scheduling order directing that the Employment Protocols be completed by April 12, 2022 moot. The undersigned also set forth a new Tier I discovery schedule. However, once again, due to Plaintiff's request for an in-person initial conference rather than a Tier I discovery schedule to initiate discovery, the undersigned vacated the newly issued Tier I discovery schedule and scheduled an in-person initial conference for July 5, 2022. During the July 5, 2022, all parties were given ample time to request any Phase I discovery they sought and a Phase I discovery schedule was entered. HIPAA authorizations were not requested. This Court does not order settlement conferences as part of discovery schedules. If all parties agree, they may request a settlement conference. In light of Plaintiff's representation that she is interested in a settlement conference, Plaintiff and defense counsel are directed to confer, and by August 1, 2023, submit a joint letter on ECF advising this Court whether all parties request such a conference. Finally, the following discovery schedule is now in effect: All discovery in this case shall be completed by November 1, 2023. Any party seeking to make a dispositive motion shall initiate that process, consistent with the undersigned's individual rules, on or before December 1, 2023. The joint proposed pre-trial order shall be filed on January 4, 2024, or, in the event that a dispositive motion is made, 30 days after a final decision

		on the motion is rendered. So Ordered by Magistrate Judge Anne Y. Shields on 7/25/2023. (DM) (Entered: 07/25/2023)
07/26/2023	<u>155</u>	Letter <i>Opposition to Plaintiff's Petition/Motion for Certification of an Interlocutory Appeal</i> (ECF No. 152) by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua (Minnah-Donkoh, Kuuku) (Entered: 07/26/2023)
07/26/2023	<u>156</u>	Letter from Pro Se Litigant dated 7/26/2023 Re: COMPLIANCE ORDER M. JUDGE ANNE Y. SHIELDS ORDER DATED JULY 25, 2023. I, Lidia M. Orrego, Plaintiff, respectfully submit a copy of the email to schedule the conference with the Defendants. (GO) (Entered: 07/28/2023)
07/26/2023	<u>157</u>	Letter from Pro Se Litigant dated 7/27/2023 Re: PLAINTIFF'S CONFIRMATION OF CLOSING DISCOVERY AND REQUEST MOVE FOR SUMMARY JUDGMENT ON NOVEMBER 1, 2023. (GO) (Entered: 07/28/2023)
07/26/2023	<u>158</u>	Letter from Pro Se Litigant dated 7/26/2023 Re: PLAINTIFF'S PROPOSAL RETURN DAY ON PENDING MOTIONS. (GO) (Entered: 07/28/2023)
07/26/2023	<u>159</u>	Letter from Pro Se Litigant 7/26/2023 dated Re: PLAINTIFF'S CERTIFICATION ON HIPAA AUTHORIZATIONS & STATEMENT ON MAGISTRATE JUDGE SHIELDS' ORDER JULY 25, 2023. (GO) (Entered: 07/28/2023)
07/28/2023		ORDER denying <u>152</u> Motion for Certificate of Appealability. Under 28 U.S.C. § 1292(b), a district judge may certify an interlocutory appeal if the party seeking certification demonstrates that the order to be appealed from "involves a controlling question of law as to which there is substantial ground for difference of opinion and... an immediate appeal from the order may materially advance the ultimate termination of the litigation." The party seeking leave to appeal bears the burden of establishing all three substantive criteria. <i>See Casey v. Long Island R.R.</i>, 406 F.3d 142, 146 (2d Cir. 2005). Moreover, that party must show "exceptional circumstances to overcome the general aversion to piecemeal litigation and justify a departure from the basic policy of postponing appellate review until after the entry of a final judgment." <i>Robinson v. De Niro</i>, No. 19-CV-09156, 2023 WL 4561590, at *2 (S.D.N.Y. July 17, 2023) (internal quotations marks and citation omitted). Even where the statutory criteria are met, a district court retains "broad discretion to deny certification[.]" <i>Nat'l Asbestos Workers Med. Fund v. Philip Morris, Inc.</i>, 71 F. Supp. 2d 139, 166 (E.D.N.Y. 1999). Here, Plaintiff asserts that the Court's July 11, 2023 and July 20, 2023 Orders satisfy the requirements of § 1292(b). However, because the Court disagrees that there is "substantial ground for difference of opinion" regarding any legal issues raised in the Orders -- including the underlying orders of Judge Brown and Magistrate Judge Shields -- the Court declines Plaintiff's request to certify these Orders for immediate interlocutory appeal. In light of Plaintiff's <i>pro se</i> status, the Court notes that to the extent she appeals from an interlocutory order, <i>see</i> 28 U.S.C. § 1292(a)(1), she need not seek this Court's leave to file an appeal. Ordered by Judge Joan M. Azrack on 7/28/2023. (SP) (Entered: 07/28/2023)
07/31/2023	<u>160</u>	STATUS REPORT by Lidia M. Orrego. (LC) (Entered: 07/31/2023)
08/01/2023	<u>161</u>	STATUS REPORT by Stephanieanna James-Knipfing, Kevin Knipfing, Old Westbury EDDIE LLC, Old Westbury LLC, Teresa A. Zantua (Minnah-Donkoh, Kuuku) (Entered: 08/01/2023)
08/01/2023	<u>162</u>	LETTER dated 8/1/2023 from Lidia M. Orrego to Judge Shields re Plaintiff's Reply to Defendants' Letter ECF doc. <u>161</u> Status Report Conference – Magistrate Judge Shields Order dated July 25, 2023. (LC) (Entered: 08/02/2023)
08/01/2023	<u>163</u>	MOTION to Compel /PLAINTIFF'S OBJECTION & MOTION TO CLARIFY THE ORDER JULY 28, 2023 ON MOTION FOR CERTIFICATE OF APPEALABILITY ECF DOC. <u>152</u> by Lidia M. Orrego. (GO) (Entered: 08/03/2023)

08/01/2023	<u>164</u>	Letter from Pro Se Litigant to Judge Shields dated 8/1/2023 Re: Re: Plaintiff's Reply to Defendants' Letter ECF doc. <u>161</u> Status Report Conference – Magistrate Judge Shields' Order dated July 25, 2023. (GO) (Entered: 08/03/2023)
08/02/2023		SCHEDULING ORDER: Upon review of the parties' letters it is clear that a settlement conference would not be fruitful. Accordingly, no settlement conference will be scheduled at this time. The parties are reminded that all discovery in this case must be completed by November 1, 2023 and any party seeking to make a dispositive motion shall initiate that process, consistent with the undersigned's individual rules, on or before December 1, 2023. So Ordered by Magistrate Judge Anne Y. Shields on 8/2/2023. (DM) (Entered: 08/02/2023)
08/03/2023	<u>165</u>	Letter from Pro Se Litigant to Judge Shields dated 8/3/2023 Re: Re: Plaintiff's Letter Motion request instructions to submit evidentiary records "Plaintiff's Records" to comply with Order dated August 2, 2023. (GO) (Entered: 08/04/2023)
08/03/2023	<u>166</u>	NOTICE OF INTERLOCUTORY APPEAL by Lidia M. Orrego. (CL) (Entered: 08/04/2023)
08/04/2023	<u>167</u>	USCA Appeal Fees received \$ 505 receipt number 200002102 re <u>166</u> Notice of Interlocutory Appeal filed by Lidia M. Orrego (CL) (Entered: 08/04/2023)
08/04/2023		Electronic Index to Record on Appeal sent to US Court of Appeals. <u>166</u> Notice of Interlocutory Appeal Documents are available via Pacer. For docket entries without a hyperlink or for documents under seal, contact the court and we'll arrange for the document(s) to be made available to you. (CL) (Entered: 08/04/2023)