

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

THIS DOCUMENT RELATES TO ALL CASES

**PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT AND OTHER SANCTIONS
AGAINST DEFENDANT RIDGELL**

Coordinated Plaintiffs, by and through their counsel, move for “default judgment or other appropriate sanctions” against Defendant Calvin Ridgell for failing to appear for his scheduled deposition this morning, September 18, 2023. In support, Plaintiffs state as follows:

BACKGROUND

1. This Court is well-aware of the three-and-a-half-year odyssey of attempting to schedule Defendant Ridgell’s deposition or otherwise obtaining his participation in discovery in the upwards of 50 lawsuits in which he is a defendant. Dkt. 520, at 1. The history is documented in docket entries 427, 438, 439, 446, 449, 474, 483, 484, and 520. *See also* Doc. 483-1 (email communications from Plaintiff documenting the efforts).

2. In short, as noted by this Court, “Plaintiffs have been attempting to schedule Ridgell’s deposition since March 2020 without success,” and were forced to seek a court order compelling the deposition. Dkt. 520 at 1.

3. On June 15, 2023, this Court granted Plaintiffs' motion to compel Ridgell's deposition. And when it did, this Court clearly explained the potential consequences if Ridgell continued to refuse to participate in the litigation:

Plaintiffs may notice his deposition. If Defendant Ridgell fails to appear for his next scheduled deposition, he risks a default judgment or other appropriate sanctions.

Dkt. 520 at 8.

4. The parties initially discussed and agreed to schedule the deposition for August 31, 2023. *See* Ex. 1. It was then rescheduled for September 14, 2023 at Defendant Ridgell's request. *Id.* Prior to that date, counsel Allyson West alerted Plaintiffs that Defendant Ridgell had retained supplemental or additional counsel, Victor Henderson, to represent him at the deposition. Attorney West continued to also represent Defendant Ridgell. On behalf of Mr. Henderson, Attorney West asked Plaintiffs' counsel if the September 14, 2023 deposition could be rescheduled because Mr. Henderson was not available. Plaintiff's counsel agreed and the deposition was rescheduled to September 18, 2023, upon agreement of the parties. Ex. 2.

5. On September 12, 2023, Attorney West informed counsel via phone that Defendant Ridgell no longer wanted Mr. Henderson's representation and instead had retained a different supplemental or second counsel.¹ Attorney West (on behalf of this supplemental counsel) asked if Plaintiffs would be willing to postpone the deposition to allow this new supplemental counsel to get up to speed. Plaintiffs declined to postpone the deposition a third time because of the extensive delay in scheduling Mr. Ridgell's deposition and his significant attempts to avoid being deposed.

6. Following that conversation, Attorney West and Plaintiffs' counsel had multiple phone and email conferrals during the week of September 11, 2023, about the scope, cases, and topics of the deposition, as well as outstanding written discovery Defendant Ridgell had not yet answered. Exs. 3-4. Defendant Ridgell agreed to answer the outstanding discovery prior to the deposition. Ex. 3. As far as the scope of the deposition, the parties had some disagreements but

¹ Plaintiff counsel believes Attorney West indicated the counsel's name was Tom Frieberg but Plaintiffs' counsel is not certain. Plaintiffs' counsel has only ever communicated with the attorneys listed on the docket as representing Defendant Ridgell.

there was a clear agreement that the deposition would proceed this morning via zoom at 10:00 a.m., and the parties would attempt to resolve any disputes during the deposition. Ex. 4.

7. On September 14, 2023, Defendant Ridgell responded in part to outstanding written discovery. Attorney West acknowledged there was still remaining outstanding written discovery that would be provided prior to the deposition. Ex. 4.

8. Shortly before the deposition was scheduled to begin on September 18, 2023, Attorney West sent an email to all parties stating the deposition would start 15 minutes late. Plaintiffs' counsel responded asking whether Defendant Ridgell would be providing the outstanding written discovery. There was no response.

9. Shortly after 10:00 a.m., while all parties were on Zoom waiting for the deponent and his two attorneys, Attorney West called Plaintiffs' counsel and stated that the deposition could not proceed. In response to Plaintiffs' counsel's request for an explanation, Attorney West informed counsel that she had learned information in the last 15 minutes that called into question whether she could continue to represent Defendant Ridgell and that there may be a conflict. Plaintiffs' counsel alerted Attorney West they would likely seek Court intervention. The parties then made a record of their positions with the Court reporter. Plaintiffs' counsel reiterated their intent to seek court intervention and does so here.

ARGUMENT

10. Rule 37(b)(2) authorizes sanctions for a litigant's failure to cooperate in the discovery process and specifically provides for default judgment when a party "fails to obey an order to provide or permit discovery." Fed. R. Civ. P. 37(b)(2)(A)(vi).

11. Plaintiffs' counsel and other staff spent significant time preparing for the long-awaited deposition of Defendant Ridgell. As this Court is well-aware, there is another Watts-

related case scheduled for a state court trial on October 16, 2023—resources were diverted away from preparation for that trial (and many other matters) as a result of that preparation. There were also court reporter and other costs associated with the cancellation of this deposition. Clearly, expenses and attorney fees are warranted. *See Fed. R. Civ. P. 37(b)(2)(C).*

12. Given the history of this matter, additional sanctions, including default judgment (at least on the test cases), are warranted. This Court’s Order was clear: If Defendant Ridgell does not appear for his next scheduled deposition, he risked default judgment. Dkt. 520 at 8.

13. Defendant Ridgell has had the same counsel for 6-7 years. It is difficult to stomach that counsel learned new information 15 minutes prior to this deposition that it did not or could not have learned during that time-period. Regardless, it is certainly not Plaintiffs’ fault. And even if there is a conflict with Attorney West, Defendant Ridgell had retained a second counsel who could have represented him at this deposition.

14. As this Court already concluded, there is prejudice to Plaintiffs by Ridgell’s failure to participate in discovery based on looming fact discovery deadlines. Dkt. 520 at 7. The prejudice continues to exacerbate as more time passes.

15. There is no question that default judgment is a severe sanction and careful consideration should be given before levying that sanction. *Roland v. Salem Contract Carriers, Inc.*, 811 F.2d 1175, 1177 (7th Cir. 1987). But it is appropriate where, as here, “there exists a clear record of delay or contumacious conduct or when less drastic sanctions have proven ineffective.” *Id.* The Seventh Circuit does not require “a warning shot” or the imposition of less drastic sanctions as a prerequisite to the entry of default judgment. *Priest v. Brummer*, 2008 WL 2788859, a *3 (citing *United States v. Di Mucci*, 879 F.2d 1488, 1493 (7th Cir. 1989)). The Court nonetheless gave one here.

16. Recognizing the immense amount of work involved in litigating the Watts cases, counsel on both sides have done their best to be accommodating about reasonable extensions for responding to written discovery and reasonable requests for scheduling and rescheduling depositions. Ridgell's behavior falls far outside out of that pattern. As is well documented, there is "a record of delay or contumacious conduct," sufficient to warrant a default judgment. *See Di Mucci*, 879 F.2d 1493-94. It is also abundantly clear no lesser sanction will prove effective. Defendant Ridgell has not responded to years' worth of Plaintiffs' patience and reasonable requests. He's been evasive about his reasons for delay, alternatively suggesting he could not medically sit for a deposition at all or refusing to do so while on medical leave. He never responded to this Court's March 27, 2023 order that he produce an affidavit. Dkt. 520 at 6. He has not responded to outstanding written discovery. And now, faced with this Court's explicit and very real threat of default judgment if he did not appear for his scheduled deposition (which was scheduled and then re-scheduled and then re-scheduled again to conform with his availability and that of his chosen second counsel), he did not show. Defendant Ridgell has cost Plaintiffs' counsel significant time and money; he has diverted Plaintiffs' counsels' resources that could have been expended elsewhere; he has cost this Court significant time and continues to do so. He does not and has not responded to multiple court orders.

17. There is, accordingly, more than enough record to show that Defendant Ridgell's discovery misconduct is willful and in bad faith. *See Roland*, 811 F.2d at 1179. The *Roland* court upheld a dismissal sanction against a plaintiff where the plaintiff did not first timely and then adequately respond to interrogatories even after the court ordered the Plaintiff to correct his inadequate responses. *Id.* at 1176-79. That process lasted about a year. *Id.* The Defendant Ridgell discovery saga has lasted about four times longer and similarly involves his flouting of multiple

orders from this Court. Default judgment is appropriate. *See National Hockey League v. Metropolitan Hockey Club, Inc.*, 427 U.S. 639, 643 (1976) (affirming Rule 37 dismissal where the party acts in bad faith and callous disregard of their responsibilities).

Respectfully Submitted,

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