

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: December 7, 2016

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MICHELE COLÓN,

Plaintiff,

-v-

ANDREW T. MILTENBERG; MARCO A.
SANTORI; AND NESENOFF MILTENBERG
GODDARD LASKOWITZ, LLP,

Defendants.
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16-cv-6938 (KBF)

OPINION & ORDER

KATHERINE B. FORREST, District Judge:

Plaintiff filed the instant action on September 2, 2016. (ECF No. 1.) The two claims in plaintiff’s complaint were brought pursuant to New York Judiciary Law § 487. On October 13, 2016, the Court ordered plaintiff “to show cause why this action should not be dismissed sua sponte for failure to state a cognizable claim under New York Judiciary Law § 487 based on the facts contained in the complaint. The Court note[d] that the alleged actions by defendants, as plead in the complaint, occurred outside of New York before a New Jersey court.” (ECF No. 9.) The Court ordered plaintiff to respond not later than November 2, 2016. (Id.)

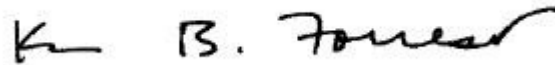
Plaintiff failed to respond to the Court’s October 13, 2016 order. The Second Circuit has held that New York Judiciary Law § 487 does “not [] apply to acts by attorneys outside New York’s territorial borders.” Schertenleib v. Traum, 589 F.2d 1156, 1166 (2d Cir. 1978); see also Amalfitano v. Rosenberg, 533 F.3d 117, 123

("Section 487 thus permits a civil action to be maintained by any party who is injured by an attorney's intentional deceit or collusion *in New York* on a court or on any party to litigation") (emphasis added). As noted in the Court's previous order, the alleged actions by defendants, as plead in the complaint, occurred outside of New York before a New Jersey court. (See ECF Nos. 1, 9.) Accordingly, this action is hereby DISMISSED without prejudice for failure to state a claim.

The Clerk of Court is directed to terminate this action.

SO ORDERED.

Dated: New York, New York
December 7, 2016

Handwritten signature of Katherine B. Forrest in black ink.

KATHERINE B. FORREST
United States District Judge