

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

BREAKING GLASS PICTURES, LLC,

Plaintiff,

v.

Case No: 2:13-cv-331-FtM-38DNF

ALEXIS DEVORA,

Defendant.

ORDER¹

This matter comes before the Court on Plaintiff Breaking Glass Pictures, LLC's Motion for Sanctions against Defendant for His Failure to Comply with the Court's Orders ([Doc. 24](#)) filed on July 24, 2014. Although given the opportunity, Defendant Alexis Devora has not filed a response in opposition. This matter is now ripe for review.

On April 30, 2013, Plaintiff Breaking Glass Pictures, LLC initiated this matter against a Defendant Doe 10. ([Doc. 1](#)). The Complaint contains two counts: Direct Copyright Infringement (Count I) and Contributory Copyright Infringement (Count II).

Thereafter, on December 5, 2013, Breaking Glass Pictures filed an Amended Complaint. ([Doc. 13](#)). The Amended Complaint contains the same two counts that were contained in the original complaint. The Amended Complaint also replaces Defendant Doe 10 with Defendant Alexis Devora.

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or Web sites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other Web sites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the Court has no agreements with any of these third parties or their Web sites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

Devora, who is proceeding *pro se*, filed an Answer on January 28, 2014. ([Doc. 16](#)). On this same day, the Court entered an Interested Persons Order for Civil Cases. ([Doc. 17](#)). This Order required Devora to file and serve a Certificate of Interested Persons and Corporate Disclosure Statement within fourteen days from the date of this Order. This Interested Persons Order is helpful because it allows the Court “to screen every case in order to identify parties and interested corporations in which any assigned judge may be a shareholder, as well as for other matters that might require consideration of recusal.” ([Doc. 17, at 1](#)). Devora never complied with the Court’s Interested Persons Order.

On April 21, 2014, Breaking Glass Pictures filed a Motion to Compel Devora to participate in a Case Management Conference pursuant to Middle District of Florida Local Rule 3.05(c)(2)(B). ([Doc. 19](#)). Breaking Glass Pictures asserted it attempted to connect with Devora to jointly prepare the case management report but to no avail.

Thereafter, on April 28, 2014, the Court held a Preliminary Pretrial Conference. (Doc. 21). Breaking Glass Pictures attended the conference but Devora did not. On the same day, the Court entered a Case Management and Scheduling Order. ([Doc. 20](#)).

On April 29, 2014, the Court denied Breaking Glass Picture’s Motion to Compel as moot. ([Doc. 22](#)). The Court, however, warned Devora. The Court explicitly said,

Defendant Alexis Devora is hereby warned that he needs to participate in this case, follow the proper legal rules, and comply with Court orders. Failure to do so could result in the imposition of sanctions. Sanctions may include but are not limited to an award of reasonable attorney’s fees and costs, the striking of pleadings, the entry of default, the dismissal of the case, and a finding of contempt of court.

([Doc. 22, at 2](#)).

Now, Breaking Glass Pictures seeks sanctions against Devora. Breaking Glass Pictures asserts since Devora has failed to file its Certificate of Interested Persons and

Corporate Disclosure Statement, failed to participate in a Case Management Conference, failed to attend the Preliminary Pretrial Conference, and failed to return Breaking Glass Picture's phone calls regarding the selection of a mediator, sanctions are warranted.

Breaking Glass relies on Rules 26(f) and 37(b)(2) of the Federal Rules of Civil Procedure and Middle District of Florida Local Rule 3.05(c)(2)(B) to support its motion. [Rule 26\(f\)](#) requires parties to confer before a scheduling conference or a scheduling order is due. [Fed.R.Civ.P. 26\(f\)\(1\)](#). [Rule 37\(2\)](#) provides that if a party fails to obey an order to provide or permit discovery, including pursuant to [Rule 26\(f\)](#), then the court may issue just orders. [Fed.R.Civ.P. 37\(2\)\(A\)](#).

Breaking Glass Pictures specifically requests this Court to issue an order directing Devora to show cause, pay Breaking Glass Pictures' attorney's fees, and grant other relief this Court deems just and necessary. The Court addressed the issues Breaking Glass Pictures brought up at the April 28, 2014 Preliminary Pretrial Conference. ([See Doc. 21](#)). The Court issued a scheduling order in this case. ([Doc. 20](#)). If Devora continues to not participate in this matter, then the Court may choose to impose sanctions, *sua sponte* or upon a motion. At this point in time, however, the Court will exercise its discretion and not impose sanctions but will caution the Defendant that further refusals to participate in this case will be looked upon unfavorably by the Court.


Accordingly, it is now

ORDERED:

1. Plaintiff Breaking Glass Pictures, LLC's Motion for Sanctions against Defendant for His Failure to Comply with the Court's Orders ([Doc. 24](#)) is **DENIED without Prejudice**.

2. Defendant Alexis Devora is again warned he needs to participate in this case, follow the proper legal rules, and comply with Court orders. Failure to do so could result in the imposition of sanctions. Sanctions may include but are not limited to an award of reasonable attorney's fees and costs, the striking of pleadings, the entry of default, the dismissal of the case, and a finding of contempt of court.
3. The Clerk is directed to mail a copy of this order to Defendant.

DONE and **ORDERED** in Fort Myers, Florida this 11th day of August, 2014.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record