

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

|                       |   |                        |
|-----------------------|---|------------------------|
| _____                 | ) |                        |
| Androne Batavitchene, | ) |                        |
|                       | ) |                        |
| Plaintiff,            | ) |                        |
|                       | ) |                        |
| v.                    | ) | Civil No. 16-10383-LTS |
|                       | ) |                        |
| Jeffrey B. Rubin,     | ) |                        |
|                       | ) |                        |
| Defendant.            | ) |                        |
| _____                 | ) |                        |

ORDER ON MOTION TO DISMISS AND MOTION FOR SANCTIONS (DOC. NO. 12)

March 31, 2016

SOROKIN, J.

On April 16, 2013, Judge O’Toole dismissed Plaintiff Batavitchene’s claims against, inter alia, Jeffrey Rubin, which arose out of Rubin’s defense of Batavichene in a criminal case in Quincy District Court. 1:13-cv-10729, Doc. No. 7. Now, Batavitchene again sues Rubin asserting various claims arising out of the same set of facts. Doc. No. 1. Rubin has filed a Motion to Dismiss, Doc. No. 9, asserting, on what amounts to claim preclusion grounds, that the Court’s prior decision both revolved the very claims Batavichene advances. Batavitchene’s opposition, Doc. No. 11, asserts various alleged technical deficiencies with Rubin’s motion, chiefly that he has failed to file an Answer pursuant to the Federal Rules of Civil Procedure.

The Motion to Dismiss is ALLOWED. Judge O’Toole’s decision plainly both resolved and bars the claims Batavichene advances. The arguments Batavichene puts forth in support of her opposition are irrelevant; Rubin has no obligation to answer under the Federal Rules of Civil Procedure when he has moved to dismiss. Finally, the Court cautions Batavichene that future

meritless filings may result in sanctions or prohibitions on filings with the Court absent prior judicial permission. See Batavichene v. Clarke, C.A. No. 10-11854-DJC, Doc. No. 19 at 5-6.

Plaintiff's Motion for ECF Access, Doc. No. 12, is DENIED. The Clerk shall close this case.

SO ORDERED.

/s/ Leo T. Sorokin  
Leo T. Sorokin  
United States District Judge