

1
2
3
4
5
6
7
8
9
10

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PLAYUP, INC.,
Plaintiff(s),

v.

DR. LAILA MINTAS,
Defendant(s).

Case No. 2:21-cv-02129-GMN-NJK

Order

[Docket Nos. 425, 453]

11 Pending before the Court is the motion for discovery-related sanctions filed by
12 Defendant/Counterclaimant Laila Mintas. Docket No. 425. Plaintiff/Counter-Defendant PlayUp,
13 Inc. and Counter-Defendant Daniel Simic filed a response in opposition. Docket No. 441.¹ Mintas
14 filed a reply. Docket No. 444. Also pending before the Court is PlayUp's motion to supplement.
15 Docket No. 453. Mintas filed a response in opposition. Docket No. 456. PlayUp filed a reply.
16 Docket No. 462. The motions are properly resolved without a hearing. *See* Local Rule 78-1. For
17 the reasons discussed below, Mintas' motion for sanctions is **DENIED** without prejudice and
18 PlayUp's motion to supplement is **DENIED** as moot.

19 **I. REQUEST FOR ADVERSE INFERENCE INSTRUCTION**

20 The bulk of Mintas' motion is targeted at obtaining adverse inference jury instructions
21 based on an assertion of spoliation. *See, e.g.*, Docket No. 425 at 29; *see also, e.g., id.* at 17-23
22 (arguing that certain evidence was not preserved).

23 Federal courts have broad discretion in controlling their dockets. *See, e.g., Landis v. N.*
24 *American Co.*, 299 U.S. 248, 254 (1936). Courts also have a general duty to avoid deciding
25 unnecessary issues. *See, e.g., U.S. Sec. & Exch. Comm'n v. Jensen*, 835 F.3d 1100, 1113 n.6 (9th
26 Cir. 2016). "To that end, courts may sequence motion practice to avoid deciding unnecessary
27

28 ¹ The Court will refer to PlayUp, Inc. and Simic collectively hereafter as "PlayUp."

1 issues and generally resolve trial-related motions after it is clear that there will likely be a trial.”
2 *Motley v. Malta*, 2023 WL 2529778, at *1 n.1 (D. Nev. Mar. 14, 2023) (Navarro, J.). “Typically,
3 adverse inference instructions are provided to the jury at the end of trial and not at summary
4 judgment.” *Cardenas v. Am. Airlines, Inc.*, 2019 WL 2918162, at *10 n.6 (S.D. Cal. July 8, 2019).
5 Given that such relief is specific to trial, courts may find that a spoliation motion seeking an
6 adverse inference jury instruction is premature when presented during the summary judgment
7 phase or earlier in the case. *See Ingram v. Pacific Gas & Elec. Co.*, 690 Fed. Appx. 527, 530 (9th
8 Cir. 2017) (“Since adverse inference instructions are provided to juries at the conclusion of trial,
9 the district court did not abuse its discretion by denying Ingram’s request for an adverse inference
10 at the summary judgment stage of these proceedings”); *Swindell Dressler Int’l Co. v. Travelers*
11 *Cas. & Sur. Co.*, 827 F. Supp. 2d 498, 508 (W.D. Penn. 2011) (finding spoliation motion for an
12 adverse inference premature given that discovery had not closed, summary judgment motions had
13 not yet been filed, a pre-trial order had not been issued, a trial date had not been set, and the parties
14 had not submitted proposed jury instructions); *see also, e.g., Cardenas*, 2019 WL 2918162, at *10
15 n.6; *On Demand Direct Response, LLC v. McCart-Pollak*, 2018 WL 11409439, at *2 (D. Nev.
16 Sept. 24, 2018); *Kolas v. Wal-Mart Stores, Inc.*, 2018 WL 11444060, at *1 (D. Nev. Mar. 23,
17 2018).

18 The Court will follow that same course here. The deadline for filing motions for summary
19 judgment has not yet expired, *see* Docket No. 449 at 4, and it is not clear that there will be a trial.²
20 Given the current procedural posture, the Court declines to decide trial-related issues. If this case
21 proceeds past the summary judgment phase and Mintas continues to seek adverse inference jury
22 instructions, a renewed motion for that relief must be filed concurrently with the joint proposed
23 pretrial order.

24 **II. OTHER RELIEF SOUGHT**

25 In addition to seeking the adverse jury instructions identified above, Mintas seeks myriad
26 other relief based on various factual assertions, including: (1) an order compelling production of

27
28 ² The Court expresses no opinion herein as to the merits of either potential motions for
summary judgment or the request for adverse inference jury instructions.

1 documents reviewed in preparation for a deposition, Docket No. 425 at 16-17; (2) sanctions for
2 alleged discovery misconduct in the form of fees, an order compelling production of documents,
3 a second Rule 30(b)(6) deposition, and an order that unproduced discovery be precluded from trial,
4 *id.* at 23-25; and (3) a forensic examination of PlayUp’s electronics, *id.* at 25-28. PlayUp contends
5 as an overarching matter that Mintas’ motion “improperly combines [numerous discovery issues]
6 into one, omnibus Frankenstein of a motion.” Docket No. 441. PlayUp is correct.

7 Omnibus motions are improper because they impede the clear presentation of the facts and
8 the law, along with meaningfully developed argument on each of the issues for which relief is
9 sought. *See, e.g., Underwood v. O’Reilly Auto Enterps., LLC*, 2022 WL 1184883, at *2 (D. Nev.
10 Apr. 20, 2022). In this case, Mintas appears to have thrown at the wall any discovery-related
11 conduct she believes to be problematic in the hopes something will stick. By presenting her request
12 in this omnibus fashion, however, the factual and legal issues are convoluted, and the clear
13 articulation of arguments has been hampered.³ The Court will not endorse this “spaghetti
14 approach” and will not “sort through the noodles” to attempt to resolve the arguments on their
15 merits. *Cf. Independent Towers of Wash. v. Wash.*, 350 F.3d 925, 929 (9th Cir. 2003).

16 Accordingly, the Court declines to address the other requests raised in the pending motion.
17 If Mintas seeks relief beyond the adverse inference jury instructions discussed in the preceding
18 section, she must file a motion focused on the specific issues pertinent to that particular request.

19 **III. CONCLUSION**

20 For the reasons discussed above, Mintas’ motion for sanctions is **DENIED** without
21 prejudice and PlayUp’s motion to supplement is **DENIED** as moot.

22 IT IS SO ORDERED.

23 Dated: February 6, 2024

24
25 

Nancy J. Koppe
United States Magistrate Judge

26
27 ³ This is a problem in any context, but it is especially unfortunate when significant relief is
28 being sought. The more significant the relief being sought, the more mindful a movant must be to
clearly and fully develop both the factual showing and the legal arguments. *Taddeo v. Am. Invsclo*
Corp., 2015 WL 751072, *1 (D. Nev. Feb. 20, 2015).