

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STATE FARM MUTUAL AUTOMOBILE :
INSURANCE COMPANY, :
: Plaintiff, :
-against- : ORDER
: 04-CV-2609 (NG)
: SEMION GRAFMAN, et al., :
: Defendants. :
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GOLD, STEVEN M., U.S.M.J.:

The court recently received a letter from defaulting defendant Igor Vitukh, who is currently incarcerated in a federal prison.¹ Docket Entry 1146. In his letter, Mr. Vitukh indicates that he will be released from prison in mid-August, 2012 and requests that the inquest currently scheduled for July 12, 2012 be adjourned until September, after his release.

During a telephone conference on June 21, 2012, counsel for plaintiff and the Kagan defaulting defendants raised the possibility that the inquest proceeding would be held as an oral argument only without any witnesses or additional exhibits. The damages inquest will proceed on July 12, 2012. Thereafter, State Farm shall promptly produce a copy of the transcript of the July 12, 2012 proceedings to Mr. Vitukh. Mr. Vitukh shall contact the court with his new contact information promptly upon his release.

If the inquest proceeds as an oral argument without additional evidence, the court will set a briefing schedule for any opposition and legal arguments by Mr. Vitukh to be due in

¹ Igor Vitukh is the owner of defaulting defendant Arbov Inc., a retail defendant of durable medical equipment. Am. Compl. ¶¶ 88, 142-43. Because a corporate defendant in federal court may not proceed *pro se* but only through counsel, *Rowland v. California Men's Colony*, 506 U.S. 194, 202 (1993), this Order applies to Mr. Vitukh individually only.

September, 2012.² If State Farm presents the live testimony of any witnesses or introduces any new documents at the inquest, the court will schedule a hearing date in September with respect to Mr. Vitukh.

SO ORDERED.

/s

Steven M. Gold
United States Magistrate Judge

June 28, 2012
Brooklyn, New York

A copy of this Order will be mailed this day to Mr. Vitukh at the following address:

Igor Vetukh
Register No.:78263-053
Housing Unit: Camp
Federal Correction Institution
P.O. Box 2000
Fort Dix, NJ 08640

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² By virtue of his default, Mr. Vitukh has no right to an evidentiary hearing; rather, it is within the court's discretion whether to hold a hearing. FED. R. CIV. P. 55(b)(2) (providing that "[t]he court may conduct hearings" upon plaintiff's application for a default judgment); *Action S.A. v. Marc Rich & Co.*, 951 F.2d 504, 508 (2d Cir. 1991).