

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ANTONIO FERRI,

Plaintiff,

ORDER
CV 09-182 (LDW)(ARL)

-against-

JAN M. BERKOWITZ, et al.,

Defendants.

-----X
JAN M. BERKOWITZ and JMB GROUP, LLC.,

Third- Party Plaintiffs,

-against-

MATTEO PATISSO, et al.,

Third- Party Defendants.

-----X
LINDSAY, Magistrate Judge:

By order dated November 2, 2010, the court clarified that the stay on discovery imposed pending determination of counsel for the defendants/third-party plaintiffs' motion to withdraw had been lifted. The court directed the plaintiff and third-party defendants to provide complete responses to the defendants/third-party plaintiffs' outstanding demands and extended the deadline for the completion of all discovery to December 23, 2010. Thereafter, the matter was settled between the plaintiff and the defendants. However, by letter dated November 30, 2010, the defendants/third-party plaintiffs have advised the court that the third-party defendants have not complied with the court's November 2, 2010 order and seek to strike the answer to the third-party complaint.

Although it is clear to the court that the third-party defendants have not complied with the courts' prior orders and, the instant application remains unopposed, the court will nevertheless give the third-party defendants one final opportunity to comply with all outstanding discovery including producing their representative for a deposition by January 7, 2010. The third-party defendants must also pay the defendants the \$300 previously awarded as Rule 37(a)(5)(A) sanctions on or before January 7, 2010. Failure to comply with this order will result in a recommendation that the answer be stricken.

Given the third-party defendants failure to comply, the court will extend the discovery deadline to January 7, 2010 for the limited purpose of allowing the defendants to complete discovery. The third-party defendants may not serve any new requests during this extended time period. The balance of the deadlines set forth in the court's November 2nd order will remain in

effect.

Dated: Central Islip, New York
December 14, 2010

SO ORDERED:

_____/s_____
ARLENE R. LINDSAY
United States Magistrate Judge