

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WASEEM AKRAM and NADEEM AKRAM,

Plaintiff,

-against-

KHURSHID MUGHAL,

Defendant.

_____X

SHIELDS, United States Magistrate Judge:

This matter is presently before the Court on Defendant's motion for sanctions, pursuant to Federal Rule of Civil Procedure 37. Defendant seeks the Court recommend dismissal, and nothing less.

Based upon all prior proceedings in this case, which include the prior imposition of sanctions, and the testimony held in court today, this Court finds, as a matter of fact, that the Plaintiff, Waseem Akram, never attempted to participate in discovery in this Federal action. Instead, he assumed that production only of documents on hand, that were produced in the parties' previous state court proceeding, were the only documents that needed to be produced herein. While Plaintiff now argues that the documents requested in this Federal Action are not relevant and somehow beyond the scope of discovery herein, that argument was never raised before this Court. Instead, counsel repeatedly informed this Court that Plaintiff had, and would, produce all documents requested by Defendant. The Court finds that this was not the case and, further, that the representation made in Mr. Akram's sworn affidavit – that he made a diligent search of all documents to be produced in this case – was not true. Instead, Plaintiff decided to make the unilateral decision to produce only documents herein that were produced in the context of the prior state proceeding.

Defendant seeks the ultimate sanction – that this Court strike Plaintiff’s Complaint. The Court declines to make such an order. However, in view of the serious discovery violations and misrepresentations, this Court orders that Plaintiff be precluded from introducing any evidence at trial, other than the settlement agreement that forms the basis of this action. That settlement has already been ruled as final by the State Court. Defendants are not similarly precluded.

In addition, Plaintiff is ordered to pay all attorney’s fees and costs associated with today’s motion and hearing. Those fees and costs shall include attorney’s fees as well as the travel expenses incurred by Defendant. Defendant shall submit an affidavit detailing the fees and costs associated with the making of the present motion and the costs of attending today’s hearing for this Court’s review within two (2) weeks of the date of this order.

Discovery in this matter is now closed. Any party seeking to make a dispositive motion shall initiate that process, consistent with the Individual Rules of the assigned District Judge, within thirty (30) days after this Court rules on the amount of the sanction imposed today.

SO ORDERED.

Dated: September 8, 2022
Central Islip, New York

/s/ Anne Y. Shields
ANNE Y. SHIELDS
United States Magistrate Judge