UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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LUIS FLORES *on behalf of herself and all others similarly situated,*

Plaintiff,

-against-

STANAN MANAGEMENT CORP.,

Defendant.
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ORDER
18-CV-1614 (JMA) (ARL)

AZRACK, United States District Judge:

On March 15, 2018, plaintiff initiated a civil action against the defendant. (ECF No. 1.)

On April 6, 2018, counsel for plaintiff filed the summons returned executed and defendant's answer was due on April 17, 2018. On April 12, 2018, counsel for defendant filed a Notice of Appearance on ECF and, on April 13, 2018, the parties filed a consent motion for extension of time to file an answer to May 17, 2018. The application was granted by Magistrate Judge Lindsay. A second motion for extension of time to file an answer was filed on May 16, 2018 and granted to June 18, 2018. Counsel for the plaintiff filed an Amended Complaint on May 31, 2018. A third motion for extension of time to file an answer was filed on June 14, 2018 and granted to July 16, 2018. A fourth motion for extension of time to file an answer was filed on July 16, 2018 and granted to August 15, 2018. A fifth motion for extension of time to file answer was filed on August 16, 2018 and granted to September 14, 2018. A sixth motion for extension of time to file an answer was filed on September 14, 2018. On September 17, 2018, Magistrate Judge Lindsay granted the extension to October 12, 2018 and ordered that no further extensions will be granted without a showing of good cause. To date, the answer has not been filed.

On November 29, 2018, this Court issued an Order directing counsel for the plaintiff to file a status report by December 14, 2018. No response was received. On January 22, 2019, this Court issued a further Order directing plaintiff to file a status report by February 1, 2019. Counsel for plaintiff was warned that failure to respond may result in dismissal of the action for failure to prosecute. It appears that counsel for plaintiff and defendant have received each Notice of Electronic Filing on this case.

To date, defendant has not filed an answer and plaintiff has not responded to the status report Orders or otherwise communicated with the Court.

Rule 41(b) provides, "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it." Fed. R. Civ. P. 41(b). The Second Circuit considers five principal factors when reviewing a district court's order of dismissal for failure to prosecute:

> (1) the duration of the plaintiff's failures, (2) whether plaintiff had received notice that further delays would result in dismissal, (3) whether defendant is likely to be prejudiced by further delay, (4) whether the district judge has taken care to strike the balance between alleviating the court calendar congestion and protecting the party's right to due process and a fair chance to be heard, and (5) whether the judge has adequately assessed the efficacy of lesser sanctions.

Shannon v. Gen. Elec. Co., 186 F.3d 186, 193–94 (2d Cir. 1999) (quoting Nita v. Conn. Dep't of Envtl. Prot., 16 F.3d 482, 485 (2d Cir. 1994)). Generally, no single factor is dispositive. Id. at 194.

Plaintiff has failed to respond to the Court's Orders and appears to have abandoned this action. The Court warned plaintiff that failure to respond could result in the dismissal of the case. Plaintiff's failure to comply with the Court's Orders constitutes grounds for dismissal.

Accordingly, this case is dismissed for failure to prosecute, and the Clerk of Court is directed to close this case.

SO ORDERED.

Dated: February 13, 2019
Central Islip, New York

/s/ JMA
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE