UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

VINCENT MICHAEL MARINO,

Plaintiff,

- v -

Civ. No. 9:12-CV-801 (NAM/DJS)

DEBORAH G. SCHULT, *et al.*,

Defendants.

DANIEL J. STEWART
United States Magistrate Judge

ORDER

On January 25, 2017, the Court received Plaintiff's Motion to Compel, Dkt. No. 98, and directed a response be filed by Defendants on or before February 9, 2017. In response, Defendants filed a Letter-Motion explaining that the Defendants had never been served with the particular demands set forth in Plaintiff's Motion to Compel and such documents are not those which would have been included in their mandatory disclosure pursuant to a previous Court Order. Dkt. No. 99. Accordingly, they ask that Plaintiff's Motion to Compel be denied with leave to renew at some future date, if necessary, and that the Court instead construe the demands contained therein to have been submitted to the Defendants pursuant to Federal Rule of Civil Procedure 34. Defendants' request is **granted**.

WHEREFORE, it is hereby

ORDERED, that Plaintiff's Motion to Compel (Dkt. No. 98) is **denied** without prejudice to re-filing if necessary; and it is further

ORDERED, that Defendants' Letter-Motion (Dkt. No. 99) is **granted** and the demands set forth in Plaintiff's Motion shall be deemed as a properly served request for production of documents

pursuant to Federal Rule of Civil Procedure 34. Defendants shall respond to such demands in accordance with the time-frame set forth in Rule 34 as if the Plaintiff's demands had been served on the same date as this Order; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Date: February 15, 2017
Albany, New York

Daniel J. Stewart
U.S. Magistrate Judge