

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MAMBU BAYOH, :
: :
: :
Plaintiff, : 18cv5820 (DLC)
: :
-v- : ORDER
: :
AFROPUNK LLC, MATTHEW MORGAN and :
JOCELYN COOPER, individually, :
: :
Defendants. :
: :
-----X

DENISE COTE, District Judge:

The plaintiff having indicated in the November 10, 2020 submission that it seeks a permanent injunction and the defendants having indicated in that same submission that they wish to move to vacate the preliminary injunction issued on July 11, 2018, it is hereby

ORDERED that a bifurcated trial will be held on the plaintiff's request for a permanent injunction. If the plaintiff is able during the first phase of the trial to show irreparable harm, a trial will be held on the remaining elements of its request for an injunction. The following schedule shall govern the further conduct of pretrial proceedings in this case:

1. On **November 20, 2020** by **noon**, the plaintiff shall serve, and by **December 2** by **noon**, the defendants shall serve: (a) Proposed Findings of Fact and Conclusions of Law; (b) those portions of depositions that are being offered as substantive evidence, along with a one-page synopsis (with transcript citations) of such testimony for each deposition; and (c) affidavits constituting the direct testimony of its witnesses, except for testimony of an adverse party, a person whose attendance must be compelled by subpoena, or a witness for whom a party has requested and the Court has agreed to hear the direct testimony at hearing. Each filing shall relate to the existence of irreparable harm only.

2. At the same time (by November 20 for plaintiff; by December 2 for defendants), the parties shall file their Proposed Findings of Fact and Conclusions of Law and any Memorandum of Law. Each filing shall relate to the existence of irreparable harm only.
3. Three days after submission of the witness affidavits, counsel for each party shall submit a list of all affiants that he or she intends to cross-examine at the hearing. Affiants for whom such notice is not given are not required to be present at the hearing.
4. By **December 8**, the plaintiff shall file any Reply Memorandum of Law. The plaintiff may not file a Reply Memorandum of Law unless it filed an initial Memorandum of Law on November 20. Any reply may only address issues it was unable to anticipate as of November 20.
5. At the time the above-described documents are filed or served, counsel shall also send a complete set of the documents to the Court's Chambers email: Cotenysdchambers@nysd.uscourts.gov. The case name, case number, and email contents should be clearly set forth in the email's subject line.


IT IS FURTHER ORDERED that on **December 2**, the defendants shall file any motion to vacate the preliminary injunction. The plaintiff shall file any opposition to the motion to vacate on **December 8**; any reply shall be served by **December 11** at **noon**.

IT IS FURTHER ORDERED that a trial on the plaintiff's request for a permanent injunction, confined solely to the existence of irreparable harm, will be held on **Thursday, December 17** at **9:30 a.m.**

IT IS FURTHER ORDERED that the parties shall confer regarding whether that trial may be conducted solely through the Court's consideration of the trial evidence submitted on November 20 and December 2, or whether either party requests an opportunity to cross-examine witnesses. In the event a party seeks to cross-examine witnesses, the parties shall confer regarding whether the trial may be conducted remotely and the

witnesses appear for cross-examination via video. The parties shall notify the Court by **December 4** of their positions on these issues.

Dated: New York, New York
November 11, 2020



DENISE COTE
United States District Judge