

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ABSOLUTE NEVADA, LLC,

Plaintiff,

19-cv-11479 (PKC)

-against-

ORDER

GRAND MAJESTIC RIVERBOAT COMPANY
LLC,

Defendant.

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CASTEL, U.S.D.J.

Joseph Baer has been adjudicated to be in civil contempt of this Court.

He appealed that finding to the United States Court of Appeals for the Second Circuit raising lack of subject matter jurisdiction, lack of personal jurisdiction, improper service of process and erroneous findings of civil contempt. Absolute Nevada, LLC v Baer, 21-50-cv. The Second Circuit affirmed this Court concluding that it had subject matter jurisdiction and personal jurisdiction over Joseph Baer and that service of process on him was proper. Id. Summary Order of February 7, 2022. It also affirmed the finding of contempt but remanded on the issue of the remedy so that the Court may “consider what is reasonable at this time under the facts.” Id. at 9.

The Court has set a hearing for November 21, 2022 at 2 p.m. in Courtroom 11D of the United States Courthouse, 500 Pearl Street, New York, NY, on all pending motions, including but not limited to those filed by Joseph Baer (e.g. Docs 104, 105, 108) and the motion by Absolute Nevada, LLC to set the remedy for the adjudicated finding of contempt. The date of that hearing was set on September 29, 2022. (Doc

Mailed to Joseph Baer on November 17, 2022.

116).

Baer moved to modify the Court's Order to permit him to appear remotely citing the high cost of travel and the national inflation rate. The Court denied that motion in its Order on November 3, 2022. (Doc. 122). Because Baer may be a witness at the hearing on the appropriate fine to be imposed to coerce compliance with the Court's original Order, the Court Ordered Baer's physical appearance at the hearing. (Doc 122).

Baer now seeks a stay of the November 21 hearing pending his petition for a writ of mandamus in the Second Circuit. Case No. 22-2929. Baer was adjudicated to be in civil contempt on September 1, 2020, more than two years ago based upon a violation of an Order issued on January 6, 2020. The acts giving rise to the adjudication of contempt took place in the period of June and July 2020. Baer had not complied with the Order since. The date of the hearing has long been known to Baer. The Court anticipates his being called as a witness in the proceeding on the issues of his present intent to comply with (or remain in disobedience of) the Court's January 6, 2020 Order and an appropriate remedy that is sufficient but not greater than necessary to coerce his compliance with that Order. An assessment of his credibility will be an important component of the Court's finding.

The motion for a stay is DENIED.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
November 17, 2022

Mailed to Joseph Baer on November 17, 2022.