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November 18, 2021

VIA ECF

Judge Barbara Moses
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 20A
New York, NY 10007

MEMO ENDORSED

Re: *Bronx Conservatory of Music, Inc. v.
Bronx School for Music, Inc. et al.
Case No.: 21 cv 1732 (AT)*

Dear Judge Moses:

I represent plaintiff with respect to defendants' counterclaims for alleged labor law violations. Please allow this letter to serve as plaintiff's request, pursuant to Local Civil Rule 37.2 and provision 2.b. your individual practices, for a conference to discuss defendants' utter failure to comply with plaintiff's discovery demands, despite multiple extensions of the Court's discovery deadlines.

I was retained to represent plaintiff in late July. Shortly thereafter, on August 25, 2021, we requested an extension of the discovery deadlines so that plaintiff could address outstanding discovery issues. Plaintiff served document demands, interrogatories, and a Notice of Deposition in September, but defendant failed to respond. On October 25, I sent an email to defendants' counsel warning that we needed immediate compliance with our discovery demands and a new deposition date or we would seek judicial intervention. On October 26, defendants' counsel sent an email apologizing for the delay, assuring us that production would be forthcoming, and offering to reschedule his clients' deposition. He noted that the discovery delays have been caused by medical issues. That day, I requested that the Court adjourn the fact and expert discovery deadlines to November 29, 2021, and January 10, 2022, respectively, to provide defendants' counsel with time to respond to our discovery demands, and to allow us to take depositions. Our request was granted on October 29, 2021 (E.C.F. Doc. No. 45).

Defendants have still not complied with any of plaintiff's discovery demands. On November 16, I sent an email to defendants' counsel advising that we now have less than two weeks until the extended fact discovery deadlines, yet we still have not received any discovery responses or possible deposition dates. Plaintiff's email also warned that we would seek judicial intervention in the absence of full compliance. On November 17 and November 18, 2021, I telephoned defendants' counsel, but each time I received a message stating that the number was out of service. I searched my records, the New York State Unified Court System's ("NYSUCS")

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website, and the internet, but could not find any other telephone number for defendants' counsel. It should be noted that the NYSUCS' records provide the same telephone number that I dialed, and notes that defendants' counsel's registration status is "delinquent." *See Exhibit "1."* Moreover, defendants failed to submit opposition to plaintiff's motion to dismiss portions of their counterclaims by the November 8, 2021 deadline set by Judge Torres (*see E.C.F. Doc. No. 40*).

Copies of the discovery demands at issue are annexed hereto as Exhibits "2," "3," "4," "5," and "6." Plaintiff has been left without the discovery to which it is entitled, and has been unable to contact defendants' counsel to address the problem. Accordingly, plaintiff respectfully requests your assistance.

Thank you for your time and consideration.

Very truly yours,

/s/ Brian L. Greben

Brian L. Greben

Encls.

Application GRANTED to the extent that the Court will hold a telephonic discovery conference on **November 30, 2021, at 11:00 a.m.** The parties must call (888) 557-8511 on their scheduled date, a few minutes before their scheduled time, and enter the access code 7746387. In accordance with Moses Ind. Prac. §2(e), defendants' responding letter brief is due no later than **November 23, 2021**. In light of the Thanksgiving holiday, plaintiff's optional reply letter is due no later than **12:00 noon on November 29, 2021**.

SO ORDERED.



Barbara Moses
United States Magistrate Judge
November 19, 2021