

MEMO ENDORSED

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November 5, 2023

VIA ECF

Honorable Dale E. Ho
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Brathwaite v. Martini Collections Inc., et al.*
Civil Action No. 1:22-cv-04929-JPC

Your Honor:

We represent Plaintiff in the above-captioned matter, and write pursuant to Your Honor's Individual Rules and Local Civil Rule 4(j) to respectfully request a pre-motion conference seeking leave to file a motion pursuant to Fed. R. Civ. P. 37(a)(3)(iii) and (iv) compelling Defendants to serve their responses to Plaintiff's First Set of Interrogatories and First Request for Production of Documents.

On June 26, 2023, Plaintiff served her First Set of Interrogatories and First Request for Production of Documents. Defendants failed to serve their discovery requests, or respond to Plaintiff's requests. On August 4, 2023, Judge Cronan granted the parties request for an extension of the deadline for Defendants to serve their responses to Plaintiff's discovery requests, and extended the deadline to complete fact discovery to November 17, 2023.

On September 6, 2023, having not received Defendants' responses to Plaintiff's first set of discovery requests in the intervening month, counsel for Plaintiff sent an email to Defendants' counsel asking when they could expect Defendants' responses. Defense counsel did not respond to that email. Accordingly, counsel for Plaintiff followed up via email to request an update on the status of Defendants' responses to Plaintiff's first set of discovery requests on September 28, 2023 and informed counsel for Defendants that we would be forced to seek court intervention if responses were not forthcoming. Counsel for Defendants did not respond. Counsel for Plaintiff once again emailed and called counsel for Defendants on October 16, 2023.

On October 24, 2023, defense counsel finally contacted us and provided initial disclosures which had been due in April 2023, but did not provide responses to Plaintiff's discovery requests. Later that day, counsel for Plaintiff conferred over the phone with counsel for Defendants and the parties agreed that counsel for Defendants would provide responses to the discovery requests by

end of day October 25, 2023, and that otherwise counsel for Plaintiff would inform the Court of Defendants' failure to abide by the discovery schedule. On October 25, 2023 at 6:12 p.m., counsel for Defendants sent an email to counsel for Plaintiff and stated that the responses were almost ready to be served. To date, Defendants have not served their responses to Plaintiff's first set of discovery requests.

Therefore, Plaintiff respectfully requests a pre-motion conference to seek leave of this Court in order to file a motion pursuant to Fed. R. Civ. P. 37(a)(3)(iii) and (iv) compelling Defendants to serve their responses to Plaintiff's first set of discovery requests.

We thank the Court for its attention to this matter.

Respectfully,

/Eliseo Cabrera/

Eliseo Cabrera

The Court construes this letter as an unopposed motion to compel that is hereby GRANTED. Plaintiff is advised that the Court's Individual Rules do not require a pre-motion conference to seek leave of this Court to file such motion. Defendants are hereby ORDERED to serve their responses to Plaintiff's first set of discovery requests by **November 17, 2023**.

The Clerk of Court is respectfully requested to close the open motion at ECF No. 46.

SO ORDERED.



Dale E. Ho

United States District Judge
Dated: November 13, 2023
New York, New York