

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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AGNIESZKA DWULIT,

Plaintiff,

-against-

TACTICAL, SCRAPEFIX AND DEER
MANAGEMENT SYSTEMS LLC a/k/a
DEER MANAGEMENT SYSTEMS LLC
d/b/a TACTACAM, INC.,

Defendants.

1:22-cv-6092-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

On June 9, 2022, Plaintiff commenced this action in the Supreme Court of the State of New York, New York County, by filing a Summons and a Verified Complaint. [ECF No. 1, Ex. A]. On July 18, 2022, Defendants removed this action to the United States District Court for the Southern District of New York. [ECF No. 1].

On July 25, 2022, Plaintiff filed a Motion to Remand the action to State Court [ECF No. 8], which Defendants opposed [ECF Nos. 9-10]. Additionally, Defendants submitted a letter on July 25, 2022, requesting that the Court hold a pre-motion conference on Defendants' anticipated Motion to Dismiss [ECF No. 7]. As set forth in Rule 4(A) of this Court's Individual Rules of Practice, Plaintiff was required to respond to Defendants' pre-motion letter within three business days. No response was ever filed.

On September 9, 2022, Plaintiff submitted a letter to this Court withdrawing its Motion to Remand the case to State Court and requesting an extension of time to respond to Defendants' pre-motion letter. [ECF No. 13]. On September 13, 2022, Defendant submitted a letter to this Court, requesting that the Court: (i) deny Plaintiff's Motion to Remand; (ii) dismiss the Complaint; and

(iii) sanction Plaintiff's counsel and grant Defendants attorneys' fees for having to oppose a supposedly frivolous Motion to Remand. Plaintiffs did not respond to this letter.

After reviewing the arguments set out in the parties' submissions, leave is given to Plaintiff to withdraw the Motion to Remand [ECF No. 8], and the Motion is hereby deemed withdrawn. Additionally, Defendants' motion for a pre-motion conference and Defendants' request for sanctions are both DENIED. However, Defendants are GRANTED leave to file a motion to dismiss on the schedule set forth below.

IT IS FURTHER ORDERED that on or before September 26, 2022, Plaintiff must inform the Court via letter whether she intends to amend her complaint. This will be Plaintiff's last opportunity to amend the complaint in response to arguments raised in the parties' letters.

IT IS FURTHER ORDERED that if the Plaintiff does not amend her complaint, Defendant must file its motion to dismiss on or before October 10, 2022. Further briefing shall be submitted on the schedule set forth in Local Rule 6.1(b).

IT IS FURTHER ORDERED that if the Plaintiff elects to amend her complaint, the amended complaint is due on or before October 10, 2022. Defendant must respond to any amended complaint within 14 days of its filing. In the event Defendant files a new motion to dismiss, the briefing for that motion will be on the schedule set forth in Local Rule 6.1(b).

Any request for an extension or adjournment shall be made by letter filed on ECF at least 48 hours before the deadline.

The Clerk of Court is respectfully requested to terminate the pending motions at docket numbers 7, 8, and 13.

SO ORDERED.

Dated: New York, NY
September 19, 2022

Mary Kay Vyskocil

MARY KAY VYSKOCL
United States District Judge