

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

-against-

JEREMY KOSKI,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/5/2024

1:23-cv-7779-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

On February 2, 2024 at 11:30 AM EST, the Court conducted a remote Initial Pretrial Conference in this matter. [See ECF No. 12]. Despite several Court Orders filed on ECF advising Defendant of the Conference [see ECF Nos. 12, 15], and separate communication by Plaintiff notifying Defendant of the same [see ECF Nos. 13, 15], Defendant did not appear at the Conference.

The following issues were on the agenda and discussed at the Conference:

1. The Court is prepared to work with Defendant to obtain counsel, but the Court cannot appoint counsel in a civil case. Defendant is DIRECTED to provide information regarding his financial ability to obtain counsel by completing and filing the attached Application for the Court to Request Pro Bono Counsel and Application to Proceed Without Prepaying Fees or Costs, or otherwise advise the Court if he has retained or intends to retain counsel, by **February 20, 2024**. Defendant is FURTHER DIRECTED to sign up for ECF notifications so that he is aware of Court orders and filings in this case.
2. Although venue is proper in the Southern District of New York, the Court raised *sua sponte* the issue of whether this case might more appropriately be brought

in the District of Hawaii, where Defendant resides, or another District. It is HEREBY ORDERED that on or before **February 20, 2024**, the parties shall submit letter briefs, not to exceed four pages each, addressing whether the Court should transfer this case under the doctrine of *forum non conveniens* and pursuant to 28 U.S.C. § 1404(a). See *Tasciotti v. Trew*, No. 20 CV 6661 (NSR), 2021 WL 2456910, at *2 (S.D.N.Y. June 16, 2021) (“Even if venue is proper, a district court may sua sponte transfer an action in the interest of justice and for the convenience of the parties and witnesses to any other district where it might have been brought.”); *MRP, LLC v. Barr & Barr, Inc.*, No. 11 CIV. 0896 (DAB), 2011 WL 13266913, at *1 (S.D.N.Y. Mar. 7, 2011) (“[C]ourts may sua sponte transfer cases for forum non conveniens under 28 U.S.C. § 1404(a) where the interests of justice would be best served by doing so.” (internal quotation marks omitted)).

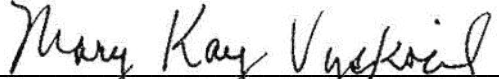
3. The Court has separately entered the Case Management Plan and Scheduling Order (as annotated) [ECF No. 16] and an Order of Reference to the Court’s Mediation Program [ECF No. 18], both of which the Court understands were discussed and shared in draft form with Defendant prior to the Initial Pretrial Conference, without any response or comments from Defendant.
4. As noted in the Case Management Plan and Scheduling Order [ECF No. 16], the Court DIRECTED Plaintiff to share with Defendant all discovery obtained from third parties, without any need for Defendant to request such materials.
5. The Court has scheduled a further remote Initial Pretrial Conference for **February 27, 2024 at 4:00 PM EST**. The Conference will be held via

Microsoft Teams. The parties shall dial (646) 453-4442 and use Conference ID 349 519 653#. [See ECF Nos. 16, 17].

Plaintiff is DIRECTED to serve a copy of this Order upon Defendant by e-mail. The Clerk of Court is respectfully requested to mail a copy of this Order to the *pro se* Defendant at the address of record.

SO ORDERED.

**Date: February 5, 2024
New York, NY**



**MARY KAY VYSKOCIL
United States District Judge**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(List the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

_____ CV _____ (____) (____)

**Application for the Court to
Request Pro Bono Counsel**

(List the full name(s) of the defendant(s)/respondent(s).)

I ask the Court to request a pro bono attorney to represent me in this action.

1. Have you previously filed a "Request to Proceed in Forma Pauperis" (an IFP application)? Please check the appropriate box below:

- I have previously filed an IFP application in this case, and it is a true and correct representation of my current financial status.
- I have not previously filed an IFP application in this case and now attach an original IFP application showing my financial status.
- I have previously filed an IFP application in this case, but my financial status has changed. I have attached a new IFP application showing my current financial status.

2. Explain why you need an attorney in this case. (Please note that requests for pro bono counsel are rarely granted at the early stages of a case and usually not before the Court has issued a decision on the merits of the case.)

PRO SE INTAKE WINDOW LOCATIONS:

40 FOLEY SQUARE | NEW YORK, NY 10007
300 QUARROPAS STREET | WHITE PLAINS, NY 10601

MAILING ADDRESS:

500 PEARL STREET | NEW YORK, NY 10007
PRO SE INTAKE UNIT: 212-805-0136

3. Explain what steps you have taken to find an attorney. (Please identify the lawyers, law firms or legal clinics you have contacted and their responses to your requests. If you have limited access to telephone, mail, or other communication methods, or if you otherwise have had difficulty contacting attorneys, please explain.)

4. If you speak a language other than English, state the language:
_____. (The Court may not be able to find a volunteer attorney who speaks your language.)

I understand that if an attorney volunteers to represent me and learns that I can afford to pay for an attorney, the attorney may give this information to the Court.

I understand that even if the Court grants this application, there is no guarantee that an attorney will volunteer to represent me.

_____		_____	
Date		Signature	
_____		_____	
Name (Last, First, MI)		Prison Identification # (if incarcerated)	
_____		_____	
Address	City	State	Zip Code
_____		_____	
Telephone Number		E-mail Address (if available)	

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(full name of the plaintiff or petitioner applying (each person must submit a separate application))

-against-

CV _____ () ()

(Provide docket number, if available; if filing this with your complaint, you will not yet have a docket number.)

(full name(s) of the defendant(s)/respondent(s))

APPLICATION TO PROCEED WITHOUT PREPAYING FEES OR COSTS

I am a plaintiff/petitioner in this case and declare that I am unable to pay the costs of these proceedings and I believe that I am entitled to the relief requested in this action. In support of this application to proceed *in forma pauperis* (IFP) (without prepaying fees or costs), I declare that the responses below are true:

1. *Are you incarcerated?* Yes No (If "No," go to Question 2.)

I am being held at: _____

Do you receive any payment from this institution? Yes No

Monthly amount: _____

If I am a prisoner, *see* 28 U.S.C. § 1915(h), I have attached to this document a "Prisoner Authorization" directing the facility where I am incarcerated to deduct the filing fee from my account in installments and to send to the Court certified copies of my account statements for the past six months. *See* 28 U.S.C. § 1915(a)(2), (b). I understand that this means that I will be required to pay the full filing fee.

2. *Are you presently employed?* Yes No

If "yes," my employer's name and address are: _____

Gross monthly pay or wages: _____

If "no," what was your last date of employment? _____

Gross monthly wages at the time: _____

3. In addition to your income stated above (which you should not repeat here), have you or anyone else living at the same residence as you received more than \$200 in the past 12 months from any of the following sources? Check all that apply.

- (a) Business, profession, or other self-employment Yes No
(b) Rent payments, interest, or dividends Yes No

- (c) Pension, annuity, or life insurance payments Yes No
- (d) Disability or worker's compensation payments Yes No
- (e) Gifts or inheritances Yes No
- (f) Any other public benefits (unemployment, social security, food stamps, veteran's, etc.) Yes No
- (g) Any other sources Yes No

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

If you answered "No" to all of the questions above, explain how you are paying your expenses:

4. How much money do you have in cash or in a checking, savings, or inmate account?

5. Do you own any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value, including any item of value held in someone else's name? If so, describe the property and its approximate value:

6. Do you have any housing, transportation, utilities, or loan payments, or other regular monthly expenses? If so, describe and provide the amount of the monthly expense:

7. List all people who are dependent on you for support, your relationship with each person, and how much you contribute to their support (only provide initials for minors under 18):

8. Do you have any debts or financial obligations not described above? If so, describe the amounts owed and to whom they are payable:

Declaration: I declare under penalty of perjury that the above information is true. I understand that a false statement may result in a dismissal of my claims.

Dated	Signature		
Name (Last, First, MI)	Prison Identification # (if incarcerated)		
Address	City	State	Zip Code
Telephone Number	E-mail Address (if available)		