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Chambers of Vincent L. Briccetti

5/20/21

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DATE FILED: 5/20/21

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JIAN WANG a/k/a JAMES WANG, :
Plaintiff, :
v. :
INTERNATIONAL BUSINESS MACHINES :
CORP., :
Defendant. :
-----X

ORDER

11 CV 2992 (VB)

In its Order dated May 10, 2021 (Doc. #119), which denied plaintiff's latest motion to reopen and relitigate the outcome of this case, the Court warned plaintiff, in bold font, that if he filed another frivolous motion in this case, the Court would summarily deny it and also issue a filing injunction, barring him from filing any further motion or letter or other submission without first obtaining approval from the Court to file such motion, letter or submission.

In a submission entitled "Motion to Clarify Fact" dated May 13, 2021 (Doc. #122), plaintiff once again seeks to vacate the Judgment in this case. This is a frivolous motion because it raises arguments this Court and the U.S. Court of Appeals for the Second Circuit have repeatedly previously rejected. It is therefore DENIED as plainly without merit.

Moreover, in accordance with its May 10, 2021, Order, because of plaintiff's history of repeatedly filing frivolous and vexatious motions and other submissions—including the instant Motion to Clarify Fact—for which plaintiff has no objective good faith expectation of prevailing and which have caused needless expense to defendant and an unnecessary burden on the Court; because plaintiff has been explicitly warned not to file any more frivolous motions; because plaintiff, even though he is currently proceeding pro se, is an intelligent and sophisticated person who is fully able to comprehend the orders of the Court; and because no other sanction would be adequate to protect defendant and the Court from further such frivolous and vexatious submissions, the Court issues the following filing injunction:

IT IS HEREBY ORDERED that plaintiff shall not file any further motion or letter or other submission of any kind in this case, without first submitting a letter to the Court seeking permission to do so and explaining the basis for such submission. The letter shall not exceed one page in length, and plaintiff shall mail or otherwise deliver a copy of such letter to defendant's counsel. The Court will decide on the basis of that letter whether to grant plaintiff leave to file his motion, letter or other submission on the docket. See generally Iwachiw v. N.Y. State Dep't of Motor Vehicles, 396 F.3d 525, 528-29 (2d Cir. 2005).

In its May 10, 2021, Order, the Court also warned plaintiff, in bold font, that if he disregarded that Order, the Court might also impose monetary sanctions on him. At this time, in an exercise of its discretion, the Court will not impose monetary sanctions. However, if plaintiff files yet another frivolous motion, letter or other submission, the Court will impose a monetary

sanction in the form of an order directing him to reimburse defendant's attorneys for any attorneys' fees and costs incurred in connection with reviewing and addressing that submission.

To be clear, plaintiff shall not file any further motions, letters or submissions in this case. If plaintiff wishes to file anything at all, he must first seek the Court's permission to do so, in the manner explained above. If plaintiff wishes to avoid having monetary sanctions imposed against him, he should stop filing further submissions in this case.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purposes of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

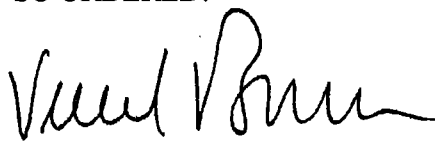
Chambers will mail a copy of this Order to plaintiff at the following address:

James Wang
14 Roy Lane
Highland, NY 12528

The Clerk is instructed to terminate the motion. (Doc. #122).

Dated: May 20, 2021
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge