

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KRISTY RELLA,

Plaintiff,

ORDER

-against-

16-cv-916 (AEK)

WESTCHESTER BMW, INC. *et al.*,

Defendants.

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THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.

Consistent with the Court’s in-court instructions on July 13, 2022, by no later than Monday, July 18, 2022, Plaintiff is hereby directed to file a letter advising the Court as to how she intends to proceed with respect to her application for a default judgment against Defendant Westchester BMW, Inc. *See* ECF Nos. 30, 33, 34, 39, 40 & Minute Entry dated Sept. 8, 2016.

It should be noted that courts in this Circuit generally disfavor entering default judgments if doing so could result in inconsistent outcomes for similarly situated defendants. *See, e.g., El Omari v. Buchanan*, No. 20-cv-2601 (VM), 2021 WL 465431, at *2-3 (S.D.N.Y. Feb. 9, 2021); *Diarama Trading Co., Inc. v. J. Walter Thompson U.S.A., Inc.*, No. 01-cv-2950 (DAB), 2002 WL 31545845, at *2-4 (S.D.N.Y. Nov. 13, 2002); *Hudson v. Universal Pictures Corp.*, No. 03-cv-1008 (FB) (LB), 2004 WL 1205762, at *4-5 (E.D.N.Y. Apr. 29, 2004) (“To allow [a plaintiff] to recover a default judgment against one defendant when claims against similarly situated co-defendants have been found to be meritless would be unseemly and absurd, as well as unauthorized by law.” (quotation marks omitted)).

To the extent Plaintiff continues to seek a determination from the Court on her pending application for a default judgment, her forthcoming submission must address the above-cited

authorities, and also discuss whether such a judgment against Westchester BMW, Inc. would “present[] an ‘incongruity’ with the factual findings made at the [] trial.” *See Chain v. N. E. Freightways, Inc.*, No. 16-cv-3371 (JCM), 2020 WL 7481142, at *15-18 (S.D.N.Y. Dec. 18, 2020) (where claims against appearing defendants brought under a theory of successor liability failed at trial, judgment against defaulting defendant could not stand), *report and recommendation adopted*, 2021 WL 5051656 (S.D.N.Y. Nov. 1, 2021).

Dated: July 14, 2022
White Plains, New York

SO ORDERED.



ANDREW E. KRAUSE
United States Magistrate Judge