

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Walter Jackson,

Plaintiff,

ORDER

-against-

18 Civ. 3185 (CS)(AEK)

Phoenix Transportation Service, et al.,

Defendants.

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

In response to the Court's order of January 11, 2021, ECF No. 51, Plaintiff has filed a document entitled "Proposed Finding of Fact & Conclusion of Law," ECF No. 52, to support his request for damages from defaulting Defendant Phoenix Transportation Service. The Court has reviewed the submission and identified certain issues that need to be addressed by Plaintiff.

First, along with the proposed findings of fact and conclusions of law and any supporting documents, Plaintiff was directed to file a declaration, which was to be "signed and sworn under penalties of perjury" and was to "provide Plaintiff's written testimony regarding the basis for the damages he seeks." ECF No. 51 at 1 (emphasis added). Plaintiff has not included a Declaration with his filed submission and must do so.

Second, pages 14, 15, and 16 of ECF No. 52, which appear to be copies of paychecks or other evidence in support of Plaintiff's claimed damages, are not legible and must be re-submitted.

Third, Plaintiff's Affirmation of Service states that the "Case Order from Hon. Andrew Krause, U.S.M.J., Proposed Finding of Fact & Conclusion of Law from Walter Jackson, [a]nd copies of pay stubs and checks" were served on "SILERMAN & ASSOCIATES/Gary S. Smith." ECF No. 52 at 19. The Court does not recognize the name of this attorney or this law firm, and it

is not clear what connection either Mr. Smith or Silerman & Associates has to Defendant Phoenix Transportation Service. The Court previously ordered Plaintiff to serve a copy of the January 11, 2021 order, as well as a copy of Plaintiff's Proposed Findings of Fact and Conclusions of Law and supporting Declaration, upon Defendant Phoenix Transportation Service by mail at its last known address. ECF No. 51 at 1-2. Plaintiff must serve Defendant Phoenix Transportation Service as directed; if service upon Silerman & Associates/Gary S. Smith was meant to accomplish service upon Phoenix Transportation Service, Plaintiff must explain why this service is sufficient to comply with the January 11, 2021 order.

Accordingly, by no later than February 23, 2021, Plaintiff is ordered to take the following additional actions:

- (1) Plaintiff must file a Declaration, which shall be signed and sworn under penalties of perjury and provide Plaintiff's written testimony regarding the basis for the damages he seeks;
- (2) Plaintiff must re-file pages 14, 15, and 16 of ECF No. 52 in a legible form, or else such documents will not be considered by the Court in deciding the amount of damages to which Plaintiff is entitled;
- (3) Plaintiff must file a letter explaining to the Court who or what Silerman & Associates/Gary S. Smith are and why he served his papers upon them; and
- (4) Plaintiff must serve copies of (i) the Court's January 11, 2021 order (ECF No. 51), (ii) his "Proposed Finding of Fact & Conclusion of Law" and pay stubs and checks attached thereto (ECF No. 52), (iii) this Order, (iv) his Declaration, and (v) pages 14, 15, and 16 of ECF No. 52 in a legible form upon Defendant Phoenix Transportation Service by mail at its last known address, and (vi) file proof of service on the docket.

In light of the foregoing, the Court hereby extends the time for Defendant Phoenix Transportation Service to serve and file its response, if any, to Plaintiff's "Proposed Finding of Fact & Conclusion of Law" to no later than March 23, 2021.

Dated: February 9, 2021
White Plains, New York

SO ORDERED.



ANDREW E. KRAUSE
United States Magistrate Judge