

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FILED  
U.S. DISTRICT COURT  
DOCUMENT  
ELECTRONICALLY  
DOC #:  
DATE FILED: 4-1-21

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JOSEPH RABADI,  
Plaintiff,  
v.  
CITY OF YONKERS, MIRIAM E. ROCAH, in  
her official capacity as district attorney for  
Westchester County, COUNTY AUTO &  
COMMERCIAL TOWING NORTH, INC.,  
Defendants.  
-----X

**ORDER**  
21 CV 1258 (VB)

Plaintiff commenced this action on February 11, 2021.

On February 16, 2021, plaintiff moved for a writ of replevin. (Doc. #10). Plaintiff did not move by order to show cause. As a result, this motion is an ordinary motion on notice. See S.D.N.Y. Local Civil Rule 6.1.

On March 10, 2021, defendant County Auto & Commercial Towing North, Inc. (“County Auto”), filed an answer to the complaint and a crossclaim against defendants City of Yonkers and Miriam E. Rocah. (Doc. #15). County Auto did not file a response to the motion for a writ of replevin.

On March 19, 2021, defendant Rocah moved to dismiss the complaint, arguing (i) the complaint should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(1) and (b)(6), and (ii) the motion for a writ of replevin should be denied on procedural grounds. Rocah did not address the merits of the motion for a writ of replevin. (Doc. #16).

By Order dated March 22, 2021, the Court required plaintiff to notify the Court by letter whether he (i) intended to file an amended complaint in response to the motion to dismiss, or (ii) would rely on the complaint that is the subject of the motion to dismiss. (Doc. #22). The Court also ordered plaintiff to respond to the portion of defendant Rocah’s motion opposing plaintiff’s motion for a writ of replevin.

On March 29, 2021, plaintiff filed an amended complaint (Doc. #23) and responded to the portion of defendant Rocah’s motion opposing plaintiffs’ motion for a write of replevin (Doc. #24). Plaintiff also requested the Court schedule a hearing on the writ application.

On March 31, 2021, defendant City of Yonkers (the “City”) filed an answer to the complaint. (Doc. #25). The City has not responded to the motion for a writ of replevin.

Accordingly, it is HEREBY ORDERED:

1. By **April 8, 2021**, all defendants, including defendant Rocah, shall respond to the

merits of plaintiff's motion for a writ of replevin.

2. A status conference for the purpose of addressing plaintiff's motion for a writ of replevin and defendants' responses thereto is scheduled for **April 15, 2021, at 10:00 a.m.** All counsel shall attend the conference by calling the following number and entering the access code when requested:

**Dial-In Number: (888) 363-4749 (toll free) or (215) 446-3662**  
**Access Code: 1703567**

3. Prior to the April 15 conference, **ALL** counsel are directed to meet and confer regarding the return of plaintiff's vehicle and discuss in good faith a resolution of this dispute. If, as the Court expects, the parties reach a resolution prior to the scheduled conference, they shall write a joint letter to the Court regarding such resolution.

4. By **April 19, 2021**, defendants must either (i) file an answer to the amended complaint; or (ii) file a motion to dismiss the amended complaint. In addition, defendant Rocah may instead notify the Court by letter that she is relying on her initially filed motion to dismiss.

Dated: April 1, 2021  
White Plains, NY

SO ORDERED:



Vincent L. Briccetti  
United States District Judge