

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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A.S., an infant by and through his mother and
natural guardian Tara Moccio,
Plaintiff,

v.

CONNECTICUT POWER FIT EXPO LLC,
ANTHONY COGLIANDRO, and DONALD
RODRIGUES;
Defendants.
-----X

ORDER

22 CV 6223 (VB)

Copies Mailed/Faxed
Chambers of Vincent L. Briccetti

As discussed at a conference held today and attended by counsel for plaintiff, Connecticut Power Fit Expo LLC ("Connecticut Power"), and Donald Rodrigues, it is hereby ORDERED:

1. Defendants Connecticut Power and Donald Rodrigues have waived the affirmative defense of improper venue under Rule 12(b)(3).
2. Defendant Donald Rodrigues is granted leave to file a third party claim against Tara Moccio in her individual capacity, and counsel for plaintiff has consented to accept service on behalf of Tara Moccio.
3. The Second Amended Answer filed by Connecticut Power on November 17, 2022 (Doc. #31), is stricken as procedurally improper. The Court will, and the parties should, disregard the Second Amended Answer.

Pro se defendant Anthony Cogliandro did not appear for today's conference without excuse or explanation. The conference was scheduled pursuant to a Court order issued October 13, 2022 (Doc. #21), which was served on Mr. Cogliandro by mail and email. Nevertheless, Mr. Cogliandro did not contact the Court to request an adjournment or any other accommodation.

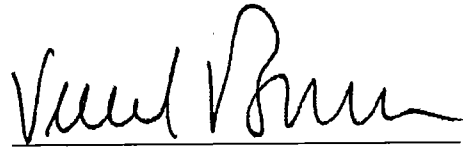
Mr. Cogliandro's failure to appear is a violation of the Court's October 13 Order. The Court could, but declines at this time, to impose a financial or other sanction on Mr. Cogliandro.

However, if Mr. Cogliandro continues to ignore or to fail to comply with Court orders, the Court may impose an appropriate sanction against him, including permitting plaintiff to seek a default judgment against him.

Chambers will mail a copy of this Order, the Civil Case Discovery Plan and Scheduling Order, and the Stipulation and Order of Discontinuance of Cross Claims without Prejudice, each of which was separately docketed today, to Mr. Cogliandro at the address listed on the docket.

Dated: November 21, 2022
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent L. Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge