

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

GAYLE DICHARA,

Plaintiff,

v.

KENNETH PELSINGER,

Defendant/Judgment Debtor.

3:08-cv-1038 (CSH)

ORDER

HAIGHT, Senior District Judge:

This case was filed on July 14, 2008, alleging that Defendant Kenneth Pelsinger violated the Fair Debt Collection Practices Act and the Connecticut Unfair Trade Practices Act in sending a collection letter to Plaintiff Gayle DiChiara. On May 18, 2009, default judgment as to liability was entered against Defendant for failure to appear and defend, and the case was referred to Magistrate Judge Joan G. Margolis for a hearing on damages. After a hearing before Judge Margolis at which Defendant did not appear, a default judgment in the amount of \$10,185.73 was entered against him on July 13, 2009.

On October 30, 2009, Plaintiff moved to compel Defendant to respond to Plaintiff's post-judgment discovery requests seeking information about Defendant's income and assets in order to enforce the judgment. [Doc. 18] That motion to compel was granted on November 24, 2009, and Defendant was ordered to respond by December 24, 2009 [Doc. 19], which he has not done. On January 16, 2010, Plaintiff moved for sanctions against Defendant for his failure to pay the judgment and for his failure to comply with the Court's order that he respond to post-judgment discovery. [Doc. 20] Specifically, Plaintiff requested that the Court find Defendant in civil

contempt, issue a warrant for Defendant's arrest, impose upon Defendant a fine of up to \$1,000 for every day after the Court's order that Defendant fails to comply therewith, and award Plaintiff her costs and fees in maintaining this proceeding, to the extent they were not included in the previous judgment.

On March 2, 2010, this Court issued an Order to Show Cause [Doc. 21] why the Court should not grant Plaintiff's Motion for Sanctions. The Court required Plaintiff to serve the Order on Defendant and certify to the Court that she had done so, and she complied. On March 30, 2010, Defendant failed to appear for that duly-noticed hearing. Therefore, a warrant for his arrest was issued on March 31, 2010. When contacted by a United States Marshal pursuant to that warrant, Defendant called this Court's chambers, expressing his desire to be heard.

While Defendant's request is clearly untimely, the Court has stayed the execution of the arrest warrant to permit Defendant to appear and argue why the arrest warrant should be vacated. Defendant should also be prepared to satisfy the judgment or to comply at the hearing with post-judgment discovery regarding his assets. The Court will also hear argument on Plaintiff's motion for sanctions, including the motion that Defendant be held in contempt, that fines be imposed on him, and that Plaintiff's additional attorney's fees and costs, which she has incurred since the judgment in attempting to enforce it, be added to the judgment, as well as considering any other matters properly before this Court.

IT IS HEREBY ORDERED that Defendant-Default Judgment Debtor Kenneth Pelsinger shall appear before the United States District Court for the District of Connecticut, at the Connecticut Financial Center, 17th Floor, 157 Church Street, New Haven, CT before Judge Charles S. Haight, Jr., on the 12th day of April, 2010, at 3:00 PM. Defendant will be arrested

should he again fail to appear.

Both parties have verbally confirmed their availability at the above date and time. The Court has mailed a copy of this Order to Defendant at the address which he provided to chambers on the phone, 1900 Hempstead Turnpike, East Meadow, NY 11554, which the Court notes is the same address at which Defendant has been served throughout the case. [See, e.g., Docs. 4, 5, 22, 23] The Court has also forwarded copies of this Order to Defendant by fax and email, at 516-977-0751 and contact@kenpelsinger.com, which are the fax number and email address listed on the website www.kenpelsinger.com, which Defendant confirmed is the website of his law firm.

SO ORDERED.

Dated: New Haven, Connecticut

April 5, 2010

/s/ Charles S. Haight, Jr.
Charles S. Haight, Jr.
Senior United States District Judge