

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

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JULIUS SIMMONS	:	3:11 CV 1913 (JGM)
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	:	
v.	:	
	:	
AMERICAN MEDICAL RESPONSE	:	DATE: NOVEMBER 20, 2012
OF CT, INC.	:	
-----X	:	

RULING ON DEFENDANT'S MOTION TO DISMISS AND FOR SANCTIONS

On or about November 10, 2011, plaintiff Julius Simmons, through counsel, commenced an action in the Superior Court, Judicial District of Fairfield in Bridgeport, Connecticut against defendant American Medical Response of Connecticut, Inc., in which complaint plaintiff alleges violations of CONN. GEN. STAT. §§ 46a-60(a)(1), 46a-81(c), and 31-51 (First through Third Counts), and as well as negligent and intentional infliction of emotional distress (Fourth and Fifth Counts), regarding his termination of employment by defendant on November 2, 2009. (Dkt. #1). In his complaint, plaintiff, a paramedic, alleges that he was terminated for blogging about his job on Facebook, and posting a photograph of himself in his uniform. (*Id.*). On December 9, 2011, defendant removed that action to this Court (*id.*), and on January 13, 2012, defendant filed its Answer. (Dkt. #19). Plaintiff is appearing pro se in this federal action.

On June 12, 2012, United States District Judge Janet Bond Arterton referred this file to this Magistrate Judge for discovery. (Dkt. #28; see Dkts. ##25-27, 29). On June 4, 2012, defendant had filed its Motion for Discovery and Costs (Dkt. #25) due to plaintiff's failure to respond to discovery requests served on March 20, 2012, more than two months prior; on June 28, 2012, this Magistrate Judge granted defendant's motion, no timely brief

in opposition having been filed, with plaintiff to comply by July 18, 2012. (Dkt. #29).

On July 30, 2012, defendant filed the pending Motion to Dismiss and Motion for Sanctions, with brief and affidavits in support, along with a Notice to a Pro Se Litigant regarding filing a timely opposition, as required by Local Rule 12(a), in that plaintiff never complied with the July 18, 2012 deadline. (Dkts. ##31-34).<sup>1</sup> On or about August 13, 2012, plaintiff forwarded a letter with attachments, including a Motion for Appointment of Counsel, to this Magistrate Judge's Chambers, which correspondence was forwarded to the Clerk's Office, as correspondence and motions are not to be directed to the Judge's Chambers. On September 20, 2012, both parties consented to trial before this Magistrate Judge, and the case was transferred from Judge Arterton to this Magistrate Judge. (Dkt. #35).

On September 21, 2012, this Magistrate Judge filed an Order (Dkt. #36), which directed the pro se plaintiff to file a Motion for Appointment of Counsel by October 5, 2012, if he so desired, to make all filings electronically through the Court's electronic docketing system (PACER/CMECF), to refrain from submitting correspondence to this Judge's Chambers, and to file his response to defendant's pending motions by October 19, 2012. (At 2). When the pro se plaintiff failed to make any filings at all, and none in opposition to defendant's pending motions, on October 25, 2012, this Magistrate Judge filed a Supplemental Order – Additional Warning to Pro Se Plaintiff (Dkt. #39). The Supplemental Order advised plaintiff, consistent with defendant's prior Notice to Pro Se Litigant Opposing Motion to Dismiss as Required by Local Rule 12(a), that:

**THE DEFENDANT'S MOTION MAY BE GRANTED AND YOUR CLAIMS  
MAY BE DISMISSED WITHOUT FURTHER NOTICE IF YOU DO NOT**

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<sup>1</sup>Attached to defendant's brief as Exh. A is a copy of a decision in this district; attached as Exh. A to defense counsel's affidavit is a copy of e-mail correspondence between the pro se plaintiff and defense counsel, dated June 19-20, and July 11, 2012.

**FILE OPPOSITION PAPERS AS REQUIRED BY RULE 12 OF THE  
FEDERAL RULES OF CIVIL PROCEDURE AND IF THE DEFENDANT'S  
MOTION SHOWS THAT THE DEFENDANT IS ENTITLED TO  
DISMISSAL OF ANY OR ALL OF YOUR CLAIMS. COPIES OF RELEVANT  
RULES ARE ATTACHED TO THIS NOTICE, AND YOU SHOULD REVIEW  
THEM VERY CAREFULLY.**

(At 2)(emphasis in original). The Supplemental Order required plaintiff's brief in opposition to be filed on or before November 13, 2012. Plaintiff has failed to respond to the Supplemental Order as well.

In light of plaintiff's failure to comply with any of the Court's three orders, as well as his failure to respond to discovery requests from eight months old ago, defendant's Motion to Dismiss (Dkt. #31) is granted. See Mills v. City of New Haven, 3:08 CV 1046 (MRK), 2009 U.S. Dist. LEXIS 105159, at \*15-21 (D. Conn. Nov. 10, 2009)(Kravitz, J.). As before (see Dkt. #29), however, defendant's Motion for Sanctions, in the form of costs and fees incurring in trying to obtain plaintiff's compliance with his discovery obligations, is denied.

The Clerk's Office is directed to close this file.

Dated at New Haven, Connecticut, this 20th day of November, 2012.

/s/ Joan G. Margolis, USMJ  
Joan Glazer Margolis  
United States Magistrate Judge