



John Doe 1 v. East Side Club, LLC et al

2020 | Cited 0 times | S.D. New York | March 27, 2020

MEMO ENDORSED

1

Thomas D. Shanahan, P.C. 535 Fifth Avenue, Twenty -Fifth Floor New York, New York 10017

(212) 867-1100, x11

March 25, 2020

Katherine Polk Fiaila United States District Judge Southern District of New York 40 Foley Square,
Room 2103 New York, New York 10007

Re: Doe v. East Side Club, LLC, et al. Docket: 1:18-cv-11324-KPF

Honorable District Court Judge Failla:

As your Honor is aware, my firm represents all Defendants named in the above captioned action. On March 3, 2020, I submitted a Stipulation to the Court regarding dates for the submission of my motion for sanctions in the form of legal fees and costs. See ECF Doc. 100, 103. Pursuant to the agreement of counsel, my motion is due April 3

rd ; Plaintiff and his counsel to serve opposition on or before May 4 th

; and, Defendants to serve a final reply if any on or before May 25 th

. Yesterday, I emailed my adversary and requested consent to modify the so ordered briefing schedule. I requested my adversary consent to the motion being filed on or before May 4, 2020, Plaintiff's opposition on or before June 8, 2020 and our reply if any on or before June 15, 2020. My adversary declined his consent, asserting my motion is frivolous, brought in bad faith and in-and-of-itself sanctionable. For the reasons articulated on the record at two recent conferences, see ECF Doc. 102, 110, I respectfully disagree. Given we have "met and conferred" without success, I am filing this letter motion seeking to have the existing schedule modified as proposed above.

I am requesting additional time to file as I when I agreed to the briefing schedule, the extent to



John Doe 1 v. East Side Club, LLC et al

2020 | Cited 0 times | S.D. New York | March 27, 2020

which the current Corona virus would impact me , my practice (as a solo practitioner) and my family, was unforeseeable. Since that time, the following unforeseeable circumstances have arisen both personally and professionally:

2

1. As an employment lawyer, I have been working with numerous client s in regard to

layoffs, severance agreement and other legal matters that have arisen giv en the New York State Governor's Executive Order regarding closure of non-essential business, on March 7, 2020. See Exhibit A . At the time we agreed to the existing schedule, I did not for esee the e xtent of the pandemic and Governor 's Executive Order which ha s impacted many clients, including the clients sued in this action. The amount of time it has taken to address these time sensitive issues is extensive and was not foreseeable in very early March 2020. 2. My niece who was studying abroad in Spain returned on March 14, 2020. She is in

quarantine with her entire family since then . She was tested for Corona virus o n March 17, 2020 but the test results have not come back. Her mother (my sister) who is subject to quarantine, assists in the care of my 90-year-old Mother who is partially disabled. Since March 14 , 2020, I have been in Albany , New York living with my Mother to assist in her day -to-day care, given my sister is in quarantine. This is a major undertaking which was not forese eable at the time we agreed to the briefing schedule. 3. I have portions of the file in this matter with me in Albany, but the vast majority in

my Manhattan office. I have not been able to travel back to Manhattan given I am with my Mother and my sister is unable to help. It is my hope that my sister and her entire family will be cleared of having the Corona virus which would then allow me to travel to Manhattan to obtain the rest of this file and other client files. If my sister and her family are found to have the Corona virus, I will have to make other home care arrangements and will then travel to Manhattan to obtain additional portions of this file. I am hope ful we will know the status of my sister and her family by Friday at the very latest. None of the foregoing was foreseeable or contemplated at the time the so ordered briefing sche dule was entered. I therefore respec tfully request the existing motion schedule be amended as possible: Our motion filed on or before May 4, 2020; Plaintiff's opposition on or before June 8, 2020; and, our reply if any on or before June 15, 2020. I thank the Court for its consideration and for understanding given the extent of the pandemic.

Respectfully, T/D/S Thomas D. Shanahan

Cc: Johnmack Cohen, Esq.

SO ORDERED.



John Doe 1 v. East Side Club, LLC et al

2020 | Cited 0 times | S.D. New York | March 27, 2020

HON. KATHERINE POLK FAILLA UNITED STATES DISTRICT JUDGE

