

Ghiz v Schreck & Co., CPA's, P.C.

2015 NY Slip Op 31094(U)

April 21, 2015

Supreme Court, New York County

Docket Number: 158805/2012

Judge: Eileen A. Rakower

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. EILEEN A. RAKOWER
Justice

PART 15

Index Number : 158805/2012
GHIZ, DDS, RONALD
vs.
SCHRECK AND COMPANY, CPA'S,
SEQUENCE NUMBER : 005
STRIKE

INDEX NO.
MOTION DATE
MOTION SEQ. NO.

The following papers, numbered 1 to , were read on this motion to/for

Notice of Motion/Order to Show Cause — Affidavits — Exhibits No(s).

Answering Affidavits — Exhibits No(s).

Replying Affidavits No(s).

Upon the foregoing papers, it is ordered that this motion is

DECIDED IN ACCORDANCE WITH
ACCOMPANYING DECISION / ORDER

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: 4/21/15

[Signature], J.S.C.

APR 21 2015

HON. EILEEN A. RAKOWER

- 1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER
3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

failed to respond to defendants' discovery demands and has failed to produce responsive documents." Plaintiff[s] was directed to "respond, in good faith to defendant's discovery demands and specifically identify responsive documents to same within 30 days and that Plaintiff[s] produce all responsive documents to defendant within 30 days." Plaintiffs failed to do so.

On October 17, 2014, the Court granted Defendant's motion to compel and directed Plaintiff to respond to the Document Demands, within 30 days. The decision also provided that Plaintiffs' failure to comply with this Order shall be deemed willful and contumacious.

Defendant states that on November 18, 2014, Plaintiffs issued a written response to the Document Demands. Defendant alleges that Plaintiffs' response is deficient because Plaintiffs failed to "specifically identify responsive documents" to the Document Demands, as had been directed by the August 5, 2014 Compliance Conference Order. Defendant states, "Indeed, Defendant has been subjected to the proverbial 'document dump' virtually without explanation. Plaintiffs have stated that the some nearly 4,000 documents are responsive to each demand."

Plaintiffs, in turn, argue that they have complied with the Court Orders. Plaintiffs respond:

Ghiz in response to Schreck's has produced individually numbered pages (1-3981), and respective indexes along with unique accounting software data files. Said files were produced on CD disk and made readily available to defendant . . . Ghiz has maintained all relevant unique documents and produced them as they were maintained in the regular course of business.

While Plaintiffs' written response to Defendant's Document Demands have been annexed to the motions, the "respective indexes" have not been submitted.

Pursuant to CPLR 3122 (c), "[w]henver a person is required ... to produce documents for inspection, that person shall produce them as they are keep in the

regular course of business or shall organize and label them to correspond to the categories in the request.”

Here, pursuant to the parties’ August 5, 2014 Compliance Conference Order, Plaintiff has agreed to specifically identify responsive documents to Defendants’ Document Demands. Plaintiffs are directed to produce, within thirty days of service on their attorneys of a notice of entry of this order, a written response to Defendant’s’ document demand specifying which Bates-stamped documents correspond to each of Defendant’s numbered requests.

Wherefore, it is hereby

ORDERED that Defendant’s motion is granted to the extent that Plaintiff is directed to specifically identify responsive documents to Defendants’ Document Demands, as specified in this order, within thirty days of service on their attorneys of a notice of entry of this order; and it is further

ORDERED that Plaintiffs’ cross motion is denied.

This constitutes the decision and order of the court. All other relief requested is denied.

DATED: APRIL 21, 2015



EILEEN A. RAKOWER, J.S.C.

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