

Saez v Prado
2022 NY Slip Op 33782(U)
November 4, 2022
Supreme Court, New York County
Docket Number: Index No. 653273/2022
Judge: Arlene P. Bluth
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

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FRANCISCO A SAEZ, individually and as a member and
Director of THE WORLD ASSOCIATION OF FORMER
UNITED NATIONS INTERNES AND FELLOWS, INC.,

Plaintiff,

- v -

VALDEMAR PRADO, LILLIAN BUCUR, THE WORLD
ASSOCIATION OF THE FORMER UNITED NATIONS
INTERNES AND FELLOWS, INC.,

Defendants.

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INDEX NO. 653273/2022

MOTION DATE N/A

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41

were read on this motion to/for VACATE - DECISION.

Defendant Bucur’s motion to vacate this Court’s prior order is denied.

Background

Previously, this Court granted plaintiff’s motion for a preliminary injunction without opposition. In this matter, plaintiff contends that defendants have used the World Association of Former United Nations Internes and Fellows, Inc. (“WAFUNIF”) to divert corporate assets and utilized schemes for their own personal benefit at the expense of WAFUNIF. Defendant Bucur now moves to vacate that order on the ground that the Court incorrectly assumed there was no opposition when, in fact, she had submitted opposition. Ms. Bucur claims she filed the opposition by fax and email (although the order to show cause directed that opposition papers be e-filed to NYSCEF).

Defendant Bucur insists that she is the rightful president of WAFUNIF and points to a decision by Justice Bransten appointing her as interim president. She demands a hearing as well.

Defendant Bucur also attaches her opposition. She contends that this lawsuit is frivolous and a criminal attempt to gain control of WAFUNIF and makes several *ad hominem* attacks against plaintiff. Defendant Bucur claims that plaintiff was removed from any possible position with WAFUNIF due to reports of self-dealing.

In opposition, plaintiff argues that defendant failed to raise a meritorious defense or reasonable excuse for not timely responding to motion sequence 001. He points out that that defendant's papers do not cite to any supporting evidence to challenge plaintiff's allegations about defendants' malfeasance with respect to the management of WAFUNIF.

In reply, defendant Bucur admits she is appearing self-represented and is not an attorney. She claims she has the qualifications and expertise to be president of WAFUNIF. Ms. Bucur alleges that plaintiff engaged in several fraudulent transactions. She asks for an extension of time to file and answer to the summons and complaint.

Discussion

As an initial matter, the Court will consider defendant Bucur's opposition as part of the instant application. However, the Court emphasizes that these papers were not uploaded to NYSCEF and the fact that they may have been faxed or emailed is not sufficient. Moreover, the Court emphasizes that because defendant Bucur is not an attorney, she can only represent herself—she cannot offer arguments on behalf of the other defendants.

With respect to the opposition papers, the Court finds that there is no basis to vacate the injunctive relief ordered in motion sequence 001. While defendant Bucur makes numerous accusations about misconduct by plaintiff, these assertions were not backed up with any

evidence. On the contrary, plaintiff submitted his own affidavit as well as the affidavit of Jessinia Estupinan (NYSCEF Doc. No. 10) in support of his allegations that defendants are mismanaging WAFUNIF.

The Court recognizes that there was a prior litigation in which defendant Bucur was named *interim* president pursuant to a stipulation of settlement from 2018. But simply because defendant Bucur was named interim president back then does not mean she is entitled to be president for life or that plaintiff is not entitled to raise questions about her current management of WAFUNIF.

To be clear, the Court makes no factual finding whatsoever. Rather, the Court can only consider the extent to which defendant Bucur has raised sufficient opposition to plaintiff's request for injunctive relief. The Court finds that she has not met her burden and so the Court declines to vacate the injunctive relief it previously ordered.

Summary


The Court observes that both parties made a variety of arguments in their papers that are immaterial to the instant dispute. Plaintiff's suggestion that he might make a contempt motion is not before this Court and while defendant Bucur is certainly entitled to seek counsel or make an application for an extension of time to answer, this Court cannot issue *sua sponte* orders or advisory opinions. The Court can only consider what is presently before it.

The Court also encourages the parties to explore potential settlement of this matter. Clearly, all parties involved care deeply about WAFUNIF and a lengthy litigation is certainly not in the best interest of the organization.

Accordingly, it is hereby

ORDERED that defendant Bucur's motion to vacate is denied.

Conference: December 14, 2022 at 10 a.m. (*see* instructions in NYSCEF Doc. No. 20 concerning uploading a discovery update by December 7, 2022).

<u>11/4/2022</u> DATE					 ARLENE P. BLUTH, J.S.C.
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE