UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION

In re:	:	
	:	CHAPTER 7
SEAN DUNNE,	:	
	:	CASE NO. 13-50484(JAM)
Debtor.	:	
RICHARD M. COAN, TRUSTEE	:	
	:	
Plaintiff.	:	
	:	
V	:	
	:	
GAYLE KILLILEA et al	:	ADVERSARY PROCEEDING
	:	
Defendant.	:	No.: 15-05019 (JAM)

DEBTOR SEAN DUNNE'S
MOTION FOR STAY PENDING APPEAL

Sean Dunne (the "Debtor"), the debtor in this Chapter 7 bankruptcy case, by his undersigned attorneys, Zeisler & Zeisler, P.C., hereby moves, pursuant to Fed. R. Bankr. P. 8007, for a stay pending the appeal from this Court's Order Granting Richard M. Coan, Trustee's (the "Trustee") Renewed Motion to Compel Production of Documents from Sean Dunne (Doc. No. 329) (the "Order") entered on August 2, 2017. In support thereof, the Debtor respectfully represents as follows.

I. BACKGROUND

On March 29, 2013, the Debtor filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code, Case No. 13-50484. The Trustee filed this adversary proceeding (the "Adversary") against certain individuals and entities to, *inter alia*, recover certain allegedly fraudulent and preferential transfers. The Debtor is not a defendant in the

Adversary. On or about July 25, 2016, the Trustee served a subpoena (the "Subpoena") upon the Debtor, seeking the production of certain documents, including communications regarding the alleged fraudulent and preferential transfers. On December 19, 2016, the Trustee filed a Motion to Compel, seeking *inter alia*, to compel the Debtor to produce documents responsive to the Subpoena, to hold the Debtor in contempt of court, and an award of reasonable attorneys' fees and costs. A hearing was held regarding the Motion to Compel on January 3, 2017. At that hearing, the Court ordered, among other things, that the Debtor file a motion for a protective order, if he desired to do so, on or before January 10, 2017.

On January 10, 2017, the Debtor filed the Motion to Quash or Modify Subpoena (Doc. No. 256 (the "Motion to Quash")), seeking to modify the Subpoena so as not to burden or harass the Debtor on the grounds that the Subpoena demanded that the Debtor produce 131 categories of documents, defined overly broadly, without any temporal or other limitation, including any limitation on documents that may be privileged. Without waiving his objection, the Debtor had produced all documents that he identified and that were responsive to the Subpoena to the Trustee. On January 19, 2017, the Trustee filed his Objection to Debtor's Motion to Quash or Modify Subpoena (Bankr. Doc. No. 263), seeking denial of the Motion to Quash on the alleged unsupported grounds that the Debtor had failed to perform a search for responsive documents or was withholding or had destroyed relevant documents.

On February 24, 2017, the Bankruptcy Court entered Order to Appear and Show Cause (Bankr. Dkt. No. 277, the "Show Cause Order") ordering the Debtor's counsel to appear and show cause why he did not file an affidavit by February 3, 2017, certifying that certain documents had been provided to the Trustee in accordance the Bankruptcy Court's order. In response to the Show Cause Order, the Debtor filed the Debtor's Response to Order to Appear

and Show Cause (Doc. No. 279, the "Response"), in which counsel for the Debtor stated that he had provided a declaration to the Trustee's counsel on February 3, 2017, but did not understand that the Bankruptcy Court required the same to be filed in the Adversary. Attached to the Response as Exhibit A was a declaration (the "Declaration") from the Debtor stating that he had made a good faith search for all documents responsive to the Subpoena and that all responsive documents were provided to his counsel for production. The Court agreed with counsel's understanding and counsel was excused at the outset of the hearings scheduled in the subject adversary held on February 28, 2017, and the Bankruptcy Court found that the Show Cause Order was resolved by filing of the Response. (See Doc. No. 280.)

On July 5, 2017, the Trustee filed Plaintiff Richard M. Coan's, Trustee of the Bankruptcy Estate of Sean Dunne, Renewed Motion to Compel Production of Documents from Sean Dunne (Doc. No. 313, the "Renewed Motion"). In the Renewed Motion, the Trustee claimed that the Debtor failed to comply with the Subpoena and "omitted enormous amounts of responsive materiel." (Renewed Motion, p.2.) The Trustee claimed in the Renewed Motion that the Debtor had not produced any emails responsive to the Subpoena despite the fact that the Trustee had received emails that the Debtor sent or received from third parties that were responsive to the Subpoena to and from a Gmail account purportedly held by the Debtor with an address of seandunnebb@gmail.com (the "bb Gmail Account"). (Id., p.3.) By the Renewed Motion, the Trustee sought an order compelling the Debtor to produce all documents responsive to the Subpoena to the Trustee, to hold the Debtor in contempt of Court, and to award the Trustee attorneys' fees and costs in connection with the enforcement of the Subpoena. (Id., p.10.)

On July 26, 2017, the Debtor filed Sean Dunne's Objection to Plaintiff Richard M. Coan's, Trustee of the Bankruptcy Estate of Sean Dunne, Renewed Motion to Compel

Production of Documents from Sean Dunne (Doc. No. 325, the "Objection"). In the Objection, the Debtor argued that he had produced all responsive documents and that the bb Gmail Account to which the Trustee referred in the Renewed Motion had not been in existence 2012. (Objection, p.2.) The bb Gmail Account had been closed because of numerous hackings and attempted hackings of the bb Gmail Account. (Id.) Moreover, the Debtor argued that in over four years from the Debtor's 341 meeting of creditors, the Trustee had not made any assertion or demand for emails that he believed were omitted from the Debtor's production, and that the motion was nothing more than an attempt to harass and embarrass the Debtor. (Id., pp. 3-4.)

A hearing (the "July 27 Hearing") on the Renewed Motion and the Objection was held on July 27, 2017. the Trustee revealed for the first time at the July 27 Hearing that he had obtained emails from the Official Assignee in the Debtor's Irish insolvency proceeding from another Gmail account, seandunne366@gmail.com (the "366 Gmail Account" and together with the bb Gmail Account, the "Accounts"), which were responsive to the Subpoena. For the first time at the July 27 Hearing, the Trustee requested that the Court enter an order, *inter alia*, requiring the Debtor to disclose all the email accounts he uses and to require the Debtor to provide authorization to the Trustee to retrieve emails directly from the email providers, such as Google. The Court stated at the July 27 Hearing that it was granting the Renewed Motion and finding the Debtor in contempt regarding the emails that were attached to the Renewed Motion.

On August 2, 2017, the Court entered the Order. The Court ordered that (1) the Debtor was in contempt for failing to obey the Subpoena; (2) the Debtor produce all documents responsive to the Subpoena, including a list of email accounts he has used since January 1, 2010; (3) "[p]ursuant to Fed. R. Bankr. P. 9016, incorporating Fed. R. Civ. P. 45(e)(1)(D), the Trustee shall serve a copy of this order on the appropriate subsidiaries or divisions of Google and AT&T,

and Google and AT&T shall produce all electronic mail from the accounts seandunnebb@gmail.com and seandunne366@gmail.com;" (4) the Debtor must cooperate in the production of emails from the Accounts; (5) the Debtor must pay the Trustee's reasonable attorneys' fees and costs associated with the Motion to Compel and the Renewed Motion; and (6) the Trustee must file an affidavit regarding his attorneys' fees and costs on or before August 18, 2017. The Trustee did not file an affidavit regarding his attorneys' fees and costs on or before August 18, 2017, and has not filed such affidavit as of the date hereof.

The Debtor filed his Notice of Appeal (Doc. No. 336) on August 16, 2017, commencing the appeal (the "Appeal") bearing docket number 3:17-cv-01399 (MPS). In the Appeal, which is currently pending, the Debtor seeks to have the Order reversed on several grounds. In the Trustee's brief in the Appeal, he suggests that the Debtor could produce only responsive emails himself. (Brief for Appellee Richard M. Coan, Trustee of the Bankruptcy Estate of Sean Dunne (the "Appellee Brief") (Appeal Doc. No. 15), p.28. ("Furthermore, the Court should reject the Debtor's purported privacy or privilege issues because the Debtor has the option of simply producing all responsive emails himself.").) The Debtor has proposed such a resolution, but it was rejected by the Trustee.

II. ARGUMENT

A. Standards and Application of Law Governing A Stay Pending Appeal

Pursuant to Fed. R. Bankr. P. 8007(a)(1)(A), this Court may grant relief, including "a stay of a judgment, order, or decree of the bankruptcy court pending appeal[.]" The Second Circuit has established a four-part test for determining whether to grant a stay pending an appeal from the bankruptcy court:

> (1) whether the movant will suffer irreparable injury absent a stay,
> (2) whether a party will suffer substantial injury if a stay is issued,

(3) whether the movant has demonstrated a "substantial possibility, although less than a likelihood, of success" on appeal, and
(4) the public interests that may be affected.

LaRouche v. Kezer, 20 F.3d 68, 72 (2d Cir. 1994) (quoting Hirschfeld v. Board of Elections, 984 F.2d 35, 39 (2d Cir. 1993)); see also Nken v. Holder, 556 U.S. 418, 434 (2009). "The first two factors . . . are the most critical." Nken, 556 U.S. at 434.

The Second Circuit has further recognized that the degree to which a factor must be present varies with the strength of the other factors, meaning that these factors are treated "somewhat like a sliding scale"; "more of one [factor] excuses less of the other." Thapa v. Gonzales, 460 F.3d 323, 334 (2d Cir. 2006) (quoting Mohammed v. Reno, 309 F.3d 95, 101 (2d Cir. 2002) (internal quotation marks omitted)). In Thepa, the Second Circuit stated that "[a]s to the question of irreparable harm, 'this Circuit has granted a stay pending appeal where the likelihood of success is not high but the balance of hardships favors the applicant.'" 460 F.3d at 336 (quoting Mohammed, 309 F.3d at 101). Similarly, in Mohammed, 509 F.3d at 100-01, the Second Circuit noted that, with respect to the "substantial possibility of success on appeal" factor: "[t]he necessary 'level' or 'degree' of possibility of success will vary according to the court's assessment of the other [stay] factors." Id. at 101 (adopting the approach expressed by the District of Columbia Circuit and quoting Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 182 U.S. App. D.C. 220, 559 F.2d 841, 843 (D.C. Cir. 1977)). "The probability of success that must be demonstrated is inversely proportional to the amount of irreparable injury plaintiff[] will suffer absent the stay. Simply stated, more of one excuses less of the other." Mohammed, 509 F.3d at 101 (quoting Michigan Coalition of Radioactive Material Users, Inc. v. Griepentrog, 945 F.2d 150, 153 (6th Cir. 1991)) (citation omitted); see also Ofosu v. McElroy, 98 F.3d 694, 703 (2d Cir. 1996) (four stay factors "weighed").

B. In the Absence of a Stay, the Order Will Impose Irreparable Injury Upon the Debtor

The stay pending appeal is essential to prevent irreparable injury to the Debtor because the Order would permit the Trustee to access all of the Debtors emails from the Accounts. (See Order ("Pursuant to Fed. R. Bankr. P. 9016, incorporating Fed. R. Civ. P. 45(e)(1)(D), the Trustee shall serve a copy of this order on the appropriate subsidiaries or divisions of Google and AT&T, **and Google and AT&T shall produce all electronic mail from the accounts** seandunnebb@gmail.com and seandunne366@gmail.com[.]")) (Emphasis added.) This fishing expedition would lead to the Trustee having access to completely irrelevant emails in the Accounts, including those of a personal nature and potentially privileged communications. The only purpose of the Trustee having such broad access to the Accounts, including completely irrelevant emails, is to burden, embarrass, and harass the Debtor.

The Trustee appears to recognize that access to all of the Debtor's emails in the Accounts is overbroad, although not in front of this Court. In the Trustee's brief in the Appeal, he suggests that the Debtor could produce only responsive emails himself. (Appellee Brief, p.28 ("Furthermore, the Court should reject the Debtor's purported privacy or privilege issues because the Debtor has the option of simply producing all responsive emails himself.").) In an email dated December 26, 2017, four days after the Appellee Brief was filed, the Debtor's counsel proposed the solution suggested by the Trustee, i.e., that Google produce responsive documents to a neutral party or the Debtor's counsel so that responsive documents could be provided to the Trustee. The Trustee's counsel did not respond to this email. Again, in an email dated January 12, 2018, the Debtor's counsel stated that he would have no objection to having Google provide the emails to the Debtor's counsel, and that the Debtor's counsel would then provide responsive emails to the Trustee. The Trustee's counsel rejected this idea.

C. The Trustee Will Not Suffer Substantial Injury If a Stay Is Issued

While the Debtor would be greatly prejudiced by turning all of his emails over to the Trustee, the Trustee will not suffer substantial harm from a stay. The Trustee has shown no urgency in obtaining the emails in the Accounts. In fact, in the four years from the Debtor's 341 meeting of creditors, at which the Trustee contends the Debtor testified about email accounts, the Trustee had not made any assertion or demand for emails that he believed were omitted from the Debtor's production. This lack of any action to seek the emails in the Accounts for such a long period of time clearly evidences that the Trustee will not suffer substantial harm if the Order is stayed pending the resolution of the Appeal, and that the Renewed Motion was nothing more than an attempt to harass and embarrass the Debtor. At the same time, as discussed above, the Debtor will suffer irreparable injury if all of his emails, without any limitation, are produced to the Trustee. Furthermore, the Trustee's refusal to accept the Debtor's solution, which the Trustee first suggested to the district court, of having the Debtor produce responsive emails, demonstrates the Trustee's purpose to embarrass and harass the Debtor.

D. There Is a Substantial Possibility of Success on Appeal

In addition to the balance of the potential harm to the Debtor and the Trustee, there is a substantial possibility that the Debtor will be successful in the Appeal. First, it is respectfully submitted that the Court erred in finding that the Debtor did not comply with the Subpoena and in placing the burden on the Debtor, rather than the Trustee, to demonstrate that the Debtor did not have the practical ability to obtain the emails the Trustee sought from the Accounts. A party may seek documents from a third party if the third party has the practical ability to possess such documents. Shcherbakovskiy v. Da Capo Al Fine. Ltd., 490 F.3d 130, 138 (2d Cir. 2007). Conversely, a "person cannot be compelled to produce pursuant to a subpoena a document

which is neither in his possession nor under his control." Simuro v. Shedd, 2014 U.S. Dist. LEXIS, at *6 (D. Vt. Nov. 6, 2014) (quotation marks omitted). "For a party to have control over a third party's documents, all that is required is that the party have the right, authority, or practical ability to obtain the documents at issue." Alexander Interactive, Inc. v. Adorama, Inc., 2014 U.S. Dist. LEXIS 2113, at *9 (S.D.N.Y. Jan. 6, 2014) (quotation marks omitted) (citing cases).

> To determine a responding party's "practical ability" to obtain documents from a non-party, courts in this district have looked to the existence of cooperative agreements or contracts between the responding party and non-party, the extent to which the non-party has a stake in the outcome of the litigation, and the non-party's past history of cooperating with document requests. . . . Where control is contested, the party seeking production of documents bears the burden of establishing the opposing party's control over those documents.

Id. at *9-10.

Here, the Trustee did not meet his burden of establishing that the Debtor had control over the documents in the Accounts. The Debtor averred in the Declaration that he performed a good faith search of his files and that he produced all documents responsive to the Subpoena to his counsel. The Trustee has presented no evidence that demonstrates otherwise, and specifically presented no evidence that the Debtor had access to the Accounts at or after the time the Subpoena was served. It is clearly the Trustee's burden, as the party seeking production to demonstrate a practical ability for the Debtor to obtain the documents that the Trustee sought. See Alexander Interactive, Inc., 2014 U.S. Dist. LEXIS 2113, at *10.

In the Appeal, the Debtor also argues that the Court improperly found the Debtor in contempt for any alleged failure to comply with the Subpoena because there was no order compelling the Debtor to produce the requested emails that was violated by the Debtor and that Court erred in relying upon Fed. R. Civ. P. 37, which only applies to a motion to compel a party

to produce documents under Fed. R. Civ. P. 34, to find that sanctions were appropriate for the Debtor's alleged failure to respond to the Subpoena. Moreover, even assuming, *arguendo*, that the Court properly considered holding the Debtor in contempt, it failed to apply the appropriate standard for civil contempt.

The Court noted that it had the authority to compel a non-party to produce documents pursuant to Fed. R. Civ. P. 37(a). However, Fed. R. Civ. P. 37 only applies to motions to compel production from a party, and thus, sanctions under that Rule are only authorized against parties. Cruz v. Meachum, 159 F.R.D. 366, 368 (D. Conn. 1994); see also Jalayer v. Stigliano, 2016 U.S. Dist. LEXIS 135288, at *9-10 (E.D.N.Y. Sept. 29, 2016) (citing cases). The only authority for sanctions for failing to comply with a subpoena are under Fed. R. Civ. P. 45(g).[1] Jalayer, 2016 U.S. Dist. LEXIS 135288, at *9-10.

> Before sanctions can be imposed under Fed. Rule Civ. P. 45[g], there must be a court order compelling discovery. . . . A subpoena, obtainable as of course from the Clerk of the Court or issued by an attorney without any court involvement, is not of the same order as one issued by a judicial officer in the resolution of a specific dispute.

Cruz, 159 F.R.D. at 368 (citations omitted); see also Bricklayers & Allied Craftworkers Local 2, Albany, N.Y. Pension Fund v. Moulton Masonry & Constr., LLC, 2016 U.S. Dist. LEXIS 54818, at *10-11 (N.D.N.Y. Apr. 22, 2016); Fed. R. Civ. P. 45, Committee Notes, 2013 Amendment ("The rule is also amended to clarify that contempt sanctions may be applied to a person who disobeys a subpoena-related order, as well as one who fails entirely to obey a subpoena. In civil litigation, it would be rare for a court to use contempt sanctions without first ordering compliance with a subpoena, and the order might not require all the compliance sought by the

[1] Fed. R. Civ. P. 45(g) provides: "Contempt. The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it."

subpoena.").[2] Moreover, an award of attorneys' fees and costs under Fed. R. Civ. P. 45 is justified only upon a showing of bad faith. Cruz, 159 F.R.D. at 368.

Here, the Court relied upon Fed. R. Civ. P. 37 to impose sanctions against the Debtor. However, the only authority for a Court to impose sanctions for failure to comply with a subpoena is its inherent authority to find a non-party in contempt pursuant to Fed. R. Civ. P. 45(g). The Court found the Debtor in contempt at the same time that it compelled him to produce documents, without the Debtor having violated any order compelling him to produce emails from the Accounts. In fact, the Debtor could not have known that he would have been ordered to cooperate with the Trustee to obtain emails, to the extent that they exist, from various internet service providers because that issue was first raised at the July 27 Hearing, and he was first ordered to do so in the Order.

Even assuming, *arguendo*, that it was proper for the Court to find the Debtor in contempt where he did not violate a Court order, the Court erred by not applying the proper standard to find the Debtor in contempt. "A court may hold a party in contempt if (1) the order the party failed to comply with is clear and unambiguous, (2) the proof of noncompliance is clear and convincing, and (3) the party has not diligently attempted to comply in a reasonable manner." CBS Broad. Inc. v. FilmOn.com, Inc., 814 F.3d 91, (2d Cir. 2016). First, there was no order with which the Debtor failed to comply, and for this reason there was no basis to find the Debtor in

[2] While some Courts appear to consider contempt as a sanction without the non-party first disobeying a court order compelling production; Jalayer, 2016 U.S. Dist. LEXIS 135288, at *10-11; the better approach is that a non-party must disobey a Court order prior to being sanctioned with contempt. As Courts that have found disobedience in the face of an order to compel, "'[a] subpoena, obtainable as of course from the Clerk of the Court or issued by an attorney without any court involvement, is not the same order as one issued by a judicial officer in the resolution of a specific dispute.'" Moulton Masonry & Constr., LLC, 2016 U.S. Dist. LEXIS 54818, at *10-11 (quoting Cruz, 159 F.R.D. at 368). "The Second Circuit Court of Appeals has explained 'that [court] intervention serves to alert the offending party to the seriousness of its non-compliance and permits judicial scrutiny of the discovery request. The court's order also functions as a final warning that sanctions are imminent, and specifically informs the recalcitrant party concerning its obligations. A subpoena issued by counsel does not fulfill these purposes.'" Id. at *11 (quoting Daval Steel Prod., A Div. of Francosteel Corp. v. M/V Fakredine, 951 F.2d 1357, 1364-65 (2d Cir. 1991)).

contempt. Cf. Gesualdi v. Hardin Contracting Inc., 2016 U.S. Dist. LEXIS 60533, at *5 (E.D.N.Y. May 6, 2016) (finding party in contempt for failure to comply with numerous orders directing compliance). Second, there was no proof that the Debtor did not comply with any Court order because there was no order with which to comply. Moreover, there was no proof that the Debtor did not comply with the Subpoena as he submitted the Declaration in which he asserted that he made a good faith effort to obtain the documents demanded. The only evidence that the Trustee proffered was that certain third parties had possession of emails to and from the bb Gmail Account. This is hardly clear and convincing evidence that the Debtor had the practical ability to obtain such emails. Last, for the same reason there is no evidence that the Debtor did not diligently attempt to comply with any Court order, and no evidence that he did not diligently attempt to comply with the Subpoena. As the Trustee noted, the Debtor produced 1,563 pages of documents in response to the Subpoena.

The Debtor further argues in the Appeal that the Bankruptcy Court erred in ordering non-parties Google and AT&T to produce all the Debtor's emails. The Renewed Motion did not ask for such relief, and therefore, the Debtor did not have a reasonable opportunity to contest such relief. Moreover, Google and AT&T were never subpoenaed in this action, and the Court has no power to order them to do so.

The Court ordered that all emails, without limitation from the Accounts shall be produced by Google and AT&T. This is clearly beyond the scope of the Subpoena, the Renewed Motion, and the scope of allowable information that the Trustee could seek even if he had. The Order may improperly require the Debtor to produce privileged, irrelevant, and personal emails. See Fed. R. Civ. P. 45(d)(3)(A). In addition, since requiring the production of all the emails in the Accounts is clearly outside the scope of the subpoena, the Court improperly ordered the

production of documents that were never sought by the Trustee. See Anderson v. Healey (In re Healey), 2013 Bankr. LEXIS 1191, at *6 (Bankr. D. Conn. Mar. 27, 2013). The Debtor also did not have any notice or an opportunity to be heard regarding the Order finding him in contempt and ordering compliance from both him and third parties. "A person charged with civil contempt is entitled to notice of the allegations, the right to counsel, and a hearing at which the plaintiff bears the burden of proof and the defendant has an opportunity to present a defense." United States v. Yonkers, 856 F.2d 444, 452 (2d Cir. 1988), rev'd on other grounds, Spallone v. United States, 493 U.S. 265, 289 (1990). The Debtor had no notice whatsoever that such a remedy was sought or that such compliance would be required of him until the Trustee requested that the Court order Google and AT&T to turn over all the Debtor's emails with the Debtor's cooperation.

E. The Public Interests That May Be Affected

Generally, the public policy in favor of judicial economy supports the imposition of the stay pending appeal. See Northrup Corp. v. United States, 27 Fed. Cl. 795, 803 (1993), (citing Far West Fed. Bank S.B. v OTS, 930 F.2d 883, 891 (Fed Cir. 1991) ("In today's climate of burgeoning litigation and strained resources, duplication of litigation serves no congressional purpose; it squanders judicial governmental, and private resources.")). That policy is implicated in this case. The Trustee has already filed a further Motion for Contempt (Doc. No. 393). If the Order is not stayed, the Debtor (and the Trustee) will have to expend further resources by litigating this matter in both the district court and this Court. This duplication of litigation will unnecessarily squander judicial resources. Thus, this factor weighs in favor of granting a stay as well.

III. CONCLUSION

The Debtor faces irreparable harm if all the emails in the Accounts are turned over to the Trustee because those emails would include personal and potentially privileged information. On the other hand, there is absence of any injury to the Trustee if the stay is imposed. Given the balance of relative harms and the substantial possibility of success on appeal, this Court should grant a stay of the Order pending appeal.

Dated this 16th day of January, 2018.

THE DEBTOR,
SEAN DUNNE

By: */s/ James Berman*

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CERTIFICATE OF SERVICE

This is to certify that a copy of the Debtor Sean Dunne's Motion for Stay Pending Appeal was served via the Court's electronic CM/ECF system on January 16, 2018, on the following:

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Dated at Bridgeport, Connecticut, this 16th day of January, 2018.

/ s / James Berman
James Berman (ct06027)