

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

BURTON W. WIAND,

Plaintiff,

v.

Case No: 8:20-cv-862-T-33TGW

CHRIS ARDUINI, SHELLEY
ARDUINI, OFFER ATTIA, JOHN
BACON, STEVEN BARRIE,
MARGARET BARRIE, SHERRY
BARRY, ANN BARTON, TODD
BERRY, BLACK DRAGON
CAPITAL, LLC, LOUIS
CARDIELLO, MARIA
CARDIELLO, MICHAEL
CHAMBLESS, LESLEY
CHAMBLESS, MARY CHARUK,
RON CLARK, KIM CLARK,
COMMONWEALTH NETWORK
MARKETING CORP, GREGORY
CORCORAN, CRICHLOW
COMPUTER CONCEPTS, KAYLA
CROWLEY, JOSEPH CHARLES,
CUSHAUN CHARLES, THOMAS
DAIDONE, ANNE DAIDONE,
BENEDETTO DALIA, GREGORY
DAVIS, SILVIA DAVIS,
MICHAEL DEYOUNG, DIVERGENT
INVESTMENTS, LLC, BETSY
DOOLIN, MARIANA DUENAS,
PATRICK FLANDER, HENRY
FUKSMAN, ANNA FUKSMAN,
ROCCO GARBELLANO, JASON
GLADMAN, ETHEL HALEY,
ELMORE RUNEE HARRIS, ANNE
HENNESSEY, CHAD HICKS,
RICHARD HUBBARD, COURTNEY
HUBBARD, CHARLES HUCKABEE,
TIMOTHY HUNTE, TIM HUNTE
DBA KATT DISTRIBUTION,
JAMES JACKSON, IMPULSE

VENTURES, INC., ALAN
JOHNSTON, BRADLEY KANTOR,
CARRIE KANTOR, KEVIN
KERRIGAN, KERRIGAN
MANAGEMENT, INC., TAMI
LACY, JOSEPH LEVECCHIA,
LYNNE LEVECCHIA, MATTHEW
LEACH, LIFE'S ELEMENTS,
INC., DAVID PAUL
LIPINCZYK, LUDA PIOTR,
WAYNE LYNCH, SHAWN
MARSHALL, JOSEPH MARTINI,
JOSEPH MARTINI, JR.,
KATHRYN MCCLARE, MARY
MCCLARE, ELIZABETH
MCMAHON, JEAN MONAHAN,
STEPHEN MONAHAN, FRANK
NAGEL, NICK PATTERSON,
VINCE PETRALIS, VINCE
PETRALIS, JR., ANTHONY
PROCOPIO, JERRY PUCCIO,
JAY RENNER, MICHAEL RUBEL,
MARGARET SIMS, FORD SUMER,
CARMINE VONA, DAVID
WILKERSON, STEFANIA WOOD
and ZHUO XU,

Defendants.

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ORDER

This cause is before the Court sua sponte. A review of the file indicates that many Defendants in this matter are proceeding pro se. Because some Defendants are proceeding pro se, the Court takes the opportunity to inform them of some of the procedural rules with which they must comply. The Court does so because pro se litigants are subject to the same law and rules as litigants who are represented by counsel,

including the Federal Rules of Civil Procedure and the Local Rules. Moon v. Newsome, 863 F.2d 835, 837 (11th Cir. 1989). While the Court will set forth some of the more prominent procedural obligations and requirements, this Order does not set forth all of the requirements and should not be relied upon as limiting Defendants' duties and obligations.

For more information, pro se parties should review the ["Litigants without Lawyers"](#) section of the court's website. Of particular note is the [Handbook](#) designed to help guide pro se litigants. Another handbook for pro se litigants, created by the Federal Bar Association, is available at the following link: www.fedbar.org/prosehandbook.

I. Frequent Terms

Action	A "civil or criminal judicial proceeding." <i>Action</i> , Black's Law Dictionary (10th ed. 2014). An action is often used as a synonym for suit or lawsuit. <i>Id.</i>
Answer	A type of pleading. An answer is how a defendant responds to a complaint. Fed. R. Civ. P. 8(b).
Cause of Action	A "factual situation that entitles one person to obtain a remedy in court from another person." <i>Cause of action</i> , Black's Law Dictionary (10th ed. 2014).
Complaint	A type of pleading. A complaint is how a plaintiff initiates a civil lawsuit and it is the document that contains the plaintiff's allegations forming the basis of the suit. Fed. R. Civ. P. 8(a).

In Forma Pauperis	Latin for "in the manner of a pauper" and used by courts to indicate when a litigant is excused from paying filing fees. <i>In forma pauperis</i> , Black's Law Dictionary (10th ed. 2014).
Motion	How relief is requested from the court. A motion must (1) be in writing unless made during a hearing or at trial, (2) state with particularity the grounds for seeking the order, and (3) state the relief sought. Fed. R. Civ. P. 7(b).
Movant	The party that files a motion and is seeking relief from the court.
Pleading	There are only 7 types of filings that are considered pleadings under the Rules. Fed. R. Civ. P. 7(a). Two common types of pleadings are a complaint and an answer.
Process	"A summons or writ, [especially] to appear or respond in court." <i>Process</i> , Black's Law Dictionary.
Pro Se	"One who represents oneself in a court proceeding without the assistance of a lawyer." <i>Pro se</i> , Black's Law Dictionary (10th ed. 2014).
Service of Process	Refers to the procedure for notifying a defendant that a lawsuit has been filed against him or her. Federal Rule of Civil Procedure 4 lists the requirements for effecting service of process.
Sua Sponte	Latin for "of one's own accord; voluntarily" and used by the court to indicate when an order was entered on the court's own initiative. <i>Sua Sponte</i> , Black's Law Dictionary (10th ed. 2014).
Summons	"A writ or process commencing the plaintiff's action and requiring the defendant to appear and answer." <i>Summons</i> , Black's Law Dictionary (10th ed. 2014). Federal Rule of Civil Procedure 4(a) lists the required contents of a summons.

II. Local Rules

The [Local Rules](#) are available for review on the public website for the Middle District Court of Florida and a copy may be obtained by visiting the Clerk's Office.

III. Federal Rules of Civil Procedure

The [Federal Rules of Civil Procedure](#) are available for review online or in the law libraries of the state and federal courthouses.

IV. Filing Fee

In order to maintain an action in this Court, Plaintiff must either pay the [filing fee](#) to the Clerk's Office or file [a motion to proceed in forma pauperis](#). If the filing fee has not already been paid, Plaintiff is directed to either pay the filing fee or file a motion to proceed in forma pauperis.

V. Service of Process

In every civil case, "a summons must be served with a copy of the complaint." Fed. R. Civ. P. 4(c)(1). Plaintiff is required to complete service of process on all defendants within 90 days of filing the complaint. Fed. R. Civ. P. 4(m). It is Plaintiff's responsibility to ensure service of process occurs within the 90-day window. Fed. R. Civ. P. 4(c)(1). Failure to timely or otherwise properly perfect service of

process may, under some circumstances, result in dismissal of the case. Fed. R. Civ. P. 4(m), 12(b). Plaintiff must also file proof of service, generally by affidavit of the process server, as to each defendant who has not waived service. Fed. R. Civ. P. 4(l)(1).

For those plaintiffs who have filed a motion to proceed in forma pauperis, the Court endeavors to rule on such motions in a timely fashion. However, it remains the Plaintiff's burden to ensure service on all defendants is accomplished within 90 days from when the complaint was filed. Fed. R. Civ. P. 4(c)(1), 4(m). If the motion to proceed in forma pauperis is granted, the United States Marshals Service will attempt to serve the defendants after you provide fully executed summonses and copies of the complaint to the Marshals Service. However, the Marshals Service will not attempt to effect service until the motion to proceed in forma pauperis is granted. Fed. R. Civ. P. 4(c)(3). On its own initiative, or by the Plaintiff filing a motion, the Court will address extensions of time to serve defendants on an as needed basis. Nevertheless, you should actively monitor the docket.

VI. Filings with the Court

All filings with the Court must be made in accordance with the Federal Rules of Civil Procedure and this Court's

Local Rules.

A. Corresponding with the Court

No party shall correspond with the Court or any Judge or Magistrate Judge of the Court in letter form. M.D. Fla. L.R. 3.01(f). The Judges of this Court will only deliver their decisions and opinions in response to documents filed with the Clerk's Office in accordance with the governing rules of procedure. Any correspondence sent to judicial officers will not be responded to, will be stricken from the case file, and will be returned to the sending party.

B. Types of Filings

All documents filed with the Court must be in the form of either a pleading or a motion. Each pleading, motion, notice, or other paper shall be presented in a separate document.

C. Requesting Relief from the Court

All requests for relief from, or action by, the Court must be in the form of a motion. The motion must meet the requirements of all applicable rules. All motions must be accompanied by a legal memorandum with citation of authorities in support of the relief requested. M.D. Fla. L.R. 3.01(a). The motion and memorandum shall be filed as one single document and cannot exceed 25 pages in length. *Id.*

Further, prior to filing most motions, Local Rule 3.01(g) requires that the party filing the motion confer with opposing counsel in a good faith attempt to resolve the issue. The motion must include a certificate that the movant has complied with this requirement and shall also notify the Court whether the parties agree on the relief requested. The Court expects all parties to carry out their obligation under Local Rule 3.01(g) in good faith and to make themselves reasonably available for Local Rule 3.01(g) conferences.

Local Rule 3.01 sets forth several other requirements and rules governing motions filed with the Court. Failure to comply with these requirements or any other rule may result in the denial of the motion.

D. Responding to Motions

If a pro se party wishes to respond to a motion filed by another party in this case, the response must be timely filed. Any brief or legal memorandum in opposition to a motion must be filed within 14 days after the party is served with that motion. M.D. Fla. L.R. 3.01(b). If a party has missed a filing deadline, that party must file a motion seeking leave of Court to file the document out of time. If a response is not timely filed, the Court may assume the pro se party does not oppose that motion and any relief requested by it. Moreover, a

response in opposition may not exceed 20 pages. *Id.*

E. Additional Requirements

All documents filed with the Court must include a caption, a brief title that describes the nature of the document, the filing party's name and signature, and a Certificate of Service. Fed. R. Civ. P. 10, 11. The last two items are explained below.

1. Name and Signature

All pleadings, motions, or other papers filed with the Court by a Defendant must bear his or her original signature, or they will be rejected by the Court. Among other things, the signature serves as Defendant's certification under Rule 11(b) that the document is not submitted for any improper purpose; that the claims or defenses presented in it are warranted by existing law; and that there exists reasonable factual support for the allegations or assertions made. Defendants should carefully review Rule 11, as the failure to comply with its provisions can result in the imposition of sanctions, including monetary fines or dismissal of the case.

2. Certificate of Service

All pleadings, motions, or other papers filed with the Court by Defendants must also include a signed Certificate of Service. The Certificate of Service is confirmation that

Defendant has complied with the requirements of Rule 5 by serving on every other party to the action (or its attorney) a copy of the particular pleading, motion, or other paper filed with the Court. At a minimum, a Certificate of Service must state the date on which a copy of the particular document was served on the other parties to the action (or their attorneys) and the means by which such service was made (e.g., U.S. Mail, Federal Express, or hand delivery).

VII. Compliance with Court's Orders

Defendants must abide by and comply with all orders of this Court. Failure to do so may result in sanctions.

VIII. Compliance with Applicable Rules

Although proceeding pro se, Defendants are not relieved of all of the obligations that rest upon an attorney. There are still many requirements with which pro se parties must comply, including those imposed by the Federal Rules of Civil Procedure and the Local Rules of this Court. Defendant is warned that the failure to comply with these requirements and obligations can have significant consequences. For example, failure to respond to discovery requests as described in the Rules may result in sanctions. Fed. R. Civ. P. 37. In addition, failure to conduct a timely Case Management Conference and submit a Case Management Report can result in

dismissal of this case for lack of prosecution. M.D. Fla. L.R. 3.05, 3.10.

IX. Duty to Maintain Information and Monitor Docket

Defendant is under a continuing obligation to keep his or her address, phone number, and, if on file, e-mail address current. The Court must be informed of any change in Defendant's contact information.

In addition, Defendant is under a continuing obligation to regularly monitor the docket. Failure to do so may result in Defendant missing a deadline, which as described above can have severe consequences.

X. CM/ECF Access

CM/ECF is the Court's electronic docketing system. Use of CM/ECF allows for more efficient communication between the parties and the Court. Pro se parties may file a motion requesting access to CM/ECF. While use of CM/ECF is encouraged, it is not required for pro se litigants. If the Court grants a pro se litigant permission to use CM/ECF, that person must comply with the [Clerk's CM/ECF Administrative Procedures and other applicable rules](#).

XI. Judge Covington's Practices and Preferences

[Judge Covington's webpage](#) on the Middle District of Florida's website contains useful information and lists Judge

Covington's practices. Defendant is highly encouraged to thoroughly review the webpage.

XII. Miscellaneous

Until you request and are granted permission to use CM/ECF, you will receive the Court's orders in hard-copy format. As such, you will be unable to use the hyperlinks included in this order. But, you can find much of the information included herein on the undersigned's webpage, [http://www.flmd.uscourts.gov/JudicialInfo/Tampa/JgCovington](http://www.flmd.uscourts.gov/JudicialInfo/Tampa/JgCovington.htm)
[.htm](http://www.flmd.uscourts.gov/JudicialInfo/Tampa/JgCovington.htm).

Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

All pro se parties shall review and comply with the provisions of this Order, as well as the Federal Rules of Civil Procedure, the Local Rules of the Middle District of Florida, and any applicable statutes and regulations.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 18th day of August, 2020.



VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE