INDEX, NO. 153554/2017 COUNTY CLERK RECEIVED NYSCEF: 11/13/2018 NYSCEF DOC. NO. 119 11-23-18 OURT: CITY OF NEW YORK INDEX No.153554/2017 COUNTY OF NEW YORK Hon. Gerald Lebovits 60 Centre Street, Room 334 New York, New York 10007 GILDRED CAROLINA Plaintiff, NOTICE OF MOTION - against -Motion to Compel Plaintiffs Admissions, Interrogatories, Productions Deemed Admitted and Defendant. Plaintiffs Complaint be Striked. FOSTER MICHAEL PLEASE TAKE NOTICE that the undersigned will move this Court at a Motions Part, at the Courthouse located at 60 Centre Street, Room 130, New York, New York 10007, on Nov 23rd, 2018, at 9:30AM, or as soon thereafter as counsel may be heard, for an Order, pursuant to CPLR 3126, compelling Plaintiff's Failure to comply with Defendant's discovery demands Deemed Admitted, and in the interim, striking the Complaint of Plaintiff based upon its wanton noncompliance with discovery, awarding Defendant the costs of this motion, and granting sanctions and such other and further relief as this Court deems just and proper. This action does not appear on any trial calendar of this Court. PLEASE TAKE FURTHER NOTICE that answering papers, if any, must be served at least two (2) days before the return date of this motion. Mr. Loster Michael Dated: New York, New York Pro Se Defendant Nov 13th, 2018 265 LAFAYETTE STREET

9D

NEW YORK, NEW YORK 10012

212-689-2250

FILED: NEW YORK COUNTY CLERK 11/13/2018 05:10 PM INDEX NO. 153554/2017

NYSCEF DOC. NO. 119

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Civil Court: CITY OF NEW YORK
COUNTY OF NEW YORK
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GILDRED CAROLINA

INDEX No.15355 4/2017 Hon. Gerald Lebovi ts 60 Centre Street, Room 334 N e w Yo r k , N e w Yo r k 10007

Plaintiff, - against -

**AFFIDAVIT** 

Defendant.

FOSTER MICHAEL

STATE OF NEW YORK )
) ss.:

COUNTY OF NEW YORK )

Mr. Foster Michael, being duly affirmed, deposes and says:

- 1. That your affiant is the Pro Se Defendant herein, and as such, is fully familiar with the facts and circumstances of this case.
- 2. That your affiant makes this affirmation in support of Defendant's motion to compel the Court to Order Plaintiff's Admissions, Interrogatories and Productions Deemed Admitted by Plaintiffs failure to comply with discovery, in the interim, strike its Complaint pursuant to CPLR 3126.
- 3. This action was commenced by Plaintiff's filing of the Summons and Complaint dated April 17, 2017, copies of which are annexed hereto as Exhibit A.
- 4. Issue was joined upon Defendant's service of his Answer Amended dated \_May 20, 2017. A copy of the Answer is annexed hereto as Exhibit B.
- 5. On Feb 28Th to Mar 10Th, 2018, your affiant served upon Plaintiff's attorney copies notorized by Defendant's Notice for Discovery and Inspection and Combined Demands, pursuant to CPLR 3120 and 3101, demanding production of documents and information by Plaintiff. Courtesy Copies of the Notices was also served repeatedly thereafter, is annexed hereto as Exhibit A.
- 6.. On May 24th, 2018, your affiant sent a good faith letter to Plaintiff's attorney, notifying of Plaintiff's failure to provide the necessary documents, as specified in the Notice for Discovery and Inspection and Combined Demands. No response was received to such letter. A copy of the letter is annexed hereto as Exhibit B.
- 7. On Apr 11th, 2018, at compliance conference plaintiffs council in the presence of your Jurest Court Clerk feud at accepting additional copies of your affiant request discovery demand immediately available at the court Plaintiffs councils flat faced innocuously refused the goodwill offer at the compliance hearing.
- 8. Despite the service of the discovery demands, sending a letter to the attorney, courtesy copies and follow-up telephone call to the attorney, your affiant has still not received the responses to the discovery demands.

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Upon information and belief, Plaintiff has wantonly failed to disclose information

which ought to be disclosed.

WHEREFORE, it is respectfully requested that this Court grant an Order, pursuant to CPLR 3126, compelling Plaintiff failure to comply with Defendant's discovery demands as Deemed Admitted, and in the interim, strike the Complaint of Plaintiff based upon its wanton noncompliance with discovery, awarding Defendant the costs of this motion, and granting such other and further relief as this Court deems just and proper.

Affirmed to before me this

3 day of

CW

Notary Public, State of New York No. 01LI6303092

Qualified in New York County Commission Expires May 12, 20 2 - Mr. Foster Michael

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chael Pro Se Defendant 265 LAFAYETTE STREET 9D NEW YORK, NEW

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To:

Mr. Alan Seth Radkin RAFKIN ESQ

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