

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

MADELYN CASILAO, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. CIV-17-800-SLP
	)	
HOTELMACHER LLC, dba HOLIDAY	)	
INN EXPRESS, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Before the Court is Plaintiffs' Motion for Sanctions and Opening Memorandum of Law in Support [Doc. No. 267]. The matter is fully briefed. *See* Defs.' Resp. [Doc. No. 271]. The Court conducted a hearing on this matter on October 4, 2022. Catherine Fisher and George Warner appeared on behalf of Plaintiffs. Wayne Billings appeared on behalf of Defendants.

Upon review of the parties' briefing submissions and argument at the hearing and pursuant to Rule 37 of the Federal Rules of Civil Procedure and the Court's inherent authority to issue sanctions, the Court finds Plaintiffs have provided sufficient evidence of prejudice, interference with the judicial process and culpability of the litigant. *See, e.g., Woodworker's Supply, Inc. v. Principal Mutual Life Ins. Co.*, 170 F.3d 985, 993 (10th Cir. 1999). In this regard, although a trial date has not been set, significant briefing has been submitted on the issue of whether decertification of the class is proper. The

newly produced discovery is central to resolution of the decertification issue.<sup>1</sup> The undisputed need to conduct additional depositions to address documents produced after the close of discovery and any additional discovery that may be forthcoming will delay the Court's ability to address the decertification issue and, consequently, delay the trial of this matter. Moreover, Defendants' efforts to ensure they have satisfied their obligations with respect to discovery has been less than optimal, as more fully addressed on the record at the hearing. Accordingly, the Court GRANTS Plaintiffs' Motion and further orders the following:


- 1) The parties shall notify the Court no later than **12:00 p.m. on October 5, 2022** of as to whether they have reached an agreement as to the manner, means and scope of Defendants' search for responsive materials.
- 2) Plaintiffs shall be permitted to conduct additional depositions as may be necessary as a result of responsive materials produced, or to be produced, after the close of discovery. The scope of the depositions shall be limited to issues related to the belated production. The additional depositions will be conducted at Defendants' expense utilizing a local court reporter.
- 3) The Court reserves ruling on Plaintiffs' request for any additional fees or costs incurred in relation to the filing of their Motion, their Sur-reply to the motion to decertify the class and the belated document production. The Court finds the issue is premature, pending the supplemental production. Plaintiffs may re-urge their request for fees and costs at the appropriate time once responsive materials have been produced and depositions and additional briefing submissions are complete.
- 4) Defendants have agreed to withdraw their Motion for Order Decertifying Class [Doc. No. 219], without prejudice to refiling. Defendants shall file a Notice of Withdrawal on or before **12:00 p.m. on October 5, 2022**.

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<sup>1</sup> As the Court noted at the hearing, the matters these documents relate to have been central to the case from the outset. Thus, Defendants have been well aware of the relevance of these documents and their discoverability. Although the Court has not been presented with evidence that Defendants purposefully failed to produce, or concealed, responsive materials, the inadequacy of Defendants efforts to comply with their discovery obligations is apparent.

- 5) The parties are granted sixty days from the date of this Order, or until **December 3, 2022** to complete the supplemental document production and related depositions.
- 6) Defendant shall file any motion requesting decertification of the class, if warranted based on the supplemental document production and deposition testimony, on or before **January 3, 2022**. Plaintiffs' response and Defendants' reply shall be filed within the time frames established by LCVR 7.1(g).

IT IS SO ORDERED this 4<sup>th</sup> day of October, 2022.

  
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SCOTT L. PALK  
UNITED STATES DISTRICT JUDGE