

**Dated: August 13, 2021**  
**The following is ORDERED:**



A handwritten signature in black ink, appearing to read "M. Ruthie Hagan".

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**M. Ruthie Hagan**  
**UNITED STATES BANKRUPTCY JUDGE**

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**THE UNITED STATES BANKRUPTCY COURT**  
**WESTERN DISTRICT OF TENNESSEE**  
**WESTERN DIVISION**

In re  
**Carnita Faye Atwater**  
Debtor

Case No. 20-22880  
Chapter 7

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Scott B. Peatross  
Plaintiff,

v.  
Carnita Faye Atwater,  
Defendant.

Adv. Pro. 20-00131

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Scott B. Peatross  
Plaintiff,

v.  
Carnita Faye Atwater,  
Defendant.

Adv. Pro. 20-00133

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ORDER REGARDING PLAINTIFF’S MOTION FOR: (1) ORDER COMPELLING  
DEFENDANT, FOR THE THIRD TIME, TO COMPLY WITH ORDER REQUIRING HER TO  
RESPOND COMPLETELY TO DISCOVERY REQUESTS; (2) ORDER COMPELLING  
DEFENDANT TO COMPLY WITH CONSENT ORDER FOR INSPECTION OF PERSONAL  
PROPERTY; AND (3) “FURTHER JUST ORDERS,” AS CALLED FOR BY FED. R.  
BANKR. P. 7037(b)(2)(A)

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THIS MATTER CAME ON TO BE HEARD on July 13, 2021, upon the Plaintiff’s Motion for: (1) Order Compelling Defendant, for the Third Time, to Comply with Order Requiring Her to Respond Completely to Discovery Requests, (2) Order Compelling Defendant to Comply with Consent Order for Inspection of Personal Property; and (3) “Further Just Orders,” as Called for by FED. R. BANKR. P. 7037(b)(2)(A) (“Third Motion to Compel”) [Case No. 20-22880, DE 109; AP 20-131, DE 61; AP 20-00133, DE 63], Defendant’s Response thereto [Case No. 20-22880, DE 119], Debtor’s Letter filed with the Court [Case No. 20-22880, DE 126], the statements and arguments of counsel for both parties, and upon the entire record in this cause, from all of which the Court finds as follows:

This matter stems from an ongoing discovery dispute wherein Plaintiff has filed two prior motions to compel responses to certain discovery requests as outlined herein. After Plaintiff filed his first motion to compel discovery, the Court ordered Defendant to file and serve by March 30, 2021, “complete answers to Plaintiff’s First Request for Production of Documents (AP 20-00133, DE 8) and produce all documents requested therein that are within Defendant’s possession, custody, or control, as set forth in FED. R. BANKR. P. 7034(a)(1)” and to file and serve by March 30, 2021, “complete answers to Plaintiff’s First Set of Interrogatories in Adversary Proceeding 20-00131 (AP 20-00131, DE 9) and Plaintiff’s First Set of Interrogatories in Adversary Proceeding 20-00133 (AP 20-00133, DE 9).” *See* Order Granting in Part Motion to Compel Defendant to Answer Interrogatories, to Compel Defendant to Answer Requests for Production and Produce Documents Requested Therein, and Awarding Attorney Fees and Expenses and/or Other Sanctions (AP 20-00131, DE 33 and AP 20-00133, DE 36).

Defendant failed to comply<sup>1</sup> with the Court’s March 26, 2021 Order (AP 20-0131, DE 33; AP 20-00133, DE 36) which resulted in Plaintiff’s Second Motion to Compel. *See* AP 20-

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<sup>1</sup> The Court is not aware of any supplement to any of Defendant’s discovery responses beyond the initial responses which were late. Defendant’s Responses to Plaintiff’s First Request for Production of Documents (DE 30 in Adv. Proc. 20-00133) were served and filed approximately 10 weeks after Plaintiff propounded his Requests and three days after Plaintiff filed his first Motion to Compel and for Sanctions. At the time, Defendant produced copies of certain documents requested. Plaintiff has continuously alleged that Defendant’s responses were evasive and incomplete and that the documents produced were not all of the documents requested. Similarly, Defendant’s Response to Plaintiff’s First Set of Interrogatories in Adversary Proceeding 20-00131 (DE 28) were served and filed approximately 7 weeks after Plaintiff propounded those interrogatories and three days after Plaintiff filed his Motion to Compel and for Sanctions. Plaintiff contends that said responses to interrogatories are evasive and incomplete. Likewise, Defendant’s Response to Plaintiff’s First Set of Interrogatories in Adv. Proc. 20-00133 (DE 31) were served and filed approximately 7 weeks after Plaintiff propounded those interrogatories and three days after Plaintiff

0131, DE 45; AP 20-00133, DE 46. The Court, likewise, on May 17, 2021 entered a Second Order Compelling Defendant to Comply with Prior Order Requiring Her to Answer Completely All Interrogatories and Requests for Production and To Produce All Documents Requested Therein and Awarding Plaintiff His Reasonable Attorney Fees and Expenses (AP 20-0131, DE, 56; AP 20-00133, DE 58). Defendant failed to comply with the Court's May 17, 2021 Order, which resulted in Plaintiff's Third Motion to Compel which is presently before this Court. *See* Case No. 20-22880, DE 109; AP 20-0131, DE, 61; AP 20-00133, DE 63.

Defendant has not attempted to supplement any of her discovery responses since her initial responses which the Court previously found insufficient. *See* AP 20-0131, DE 33 and 56; AP 20-00133, DE 36 and 58. The Court previously urged Defendant to search records, request a copy of the Probate Court's file (as it should have retained all exhibits pending an appeal), and attempt to make lists of relevant information. To date, Defendant has not done anything more than what she did prior to this Court ruling on the first Motion to Comply. This is perplexing.

In light of the nature of this case (and background leading up to the underlying bankruptcy case), Defendant has motive to move slowly and withhold information in order to create delay and frustrate Plaintiff's efforts. Defendant has acted, at a minimum, with deliberate indifference towards her discovery obligations and more importantly, her obligations to comply with this Court's prior discovery orders.

### ***Conclusions of Law***

In civil litigation, parties have "a duty to provide true, explicit, responsive, complete and candid answers to [discovery]." *Chubb Integrated Sys. Ltd. v. Nat'l Bank of Washington*, 103 F.R.D. 52, 61 (D. D.C. 1984)(citations omitted); *see* FED. R. BANKR. P. 7026; FED. R. CIV. P. 26(g). With regard to requests for the production of documents, a court may, when appropriate, order a party to verify that either (a) no responsive documents exist or, if they do exist, (b) they have all been produced. *Wagner v. Dryvit Sys., Inc.*, 208 F.R.D. 606, 609-10 (D. Neb. 2001)(citations omitted). Providing false or incomplete discovery responses violates the Federal Rules of Civil Procedure. *Id.* When a party violates an order compelling discovery, the court "may issue further just orders," which may include:

- (i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;
- (ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (iii) striking pleadings in whole or in part;
- (iv) staying further proceedings until the order is obeyed;
- (v) dismissing the action or proceeding in whole or in part;
- (vi) rendering a default judgment against the disobedient party; or

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filed his Motion to Compel and for Sanctions. Plaintiff contends that said responses to interrogatories are evasive and incomplete.

(vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

FED. R. CIV. P. 37(b)(2)(A); FED. R. BANKR. P. 7037. In addition, “the court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney’s fees, caused by the failure, unless the failure was substantially justified or other circumstances make an award of expenses unjust.” FED. R. CIV. P. 37(b)(2)(C); FED. R. BANKR. P. 7037. The court has discretion to determine the appropriate sanction for the violation of its discovery orders. *Arnold v. ADT Sec. Servs., Inc.*, 627 F.3d 716, 720 (8th Cir.2010); *see also Regional Refuse Sys., Inc. v. Inland Reclamation Co.*, 842 F.2d 150, 154 (6th Cir. 1988) (“It is well-established ... that district court dismissal orders under this rule are reviewable only for abuse of discretion.”)(citations omitted).

Having found that Defendant violated two of its prior orders, this Court concludes that sanctions are appropriate under the circumstances and Orders the following:

**a. *Production of Documents (AP 20-00133, DE 30) and Prohibition Against Offering Evidence.***

Plaintiff is entitled to prepare for trial, without wondering if Defendant will suddenly find additional documents, or if Defendant will suddenly decide to produce documents that have been withheld. Pursuant to FED. R. CIV. P. 37(b)(2)(A)(ii), Defendant is hereby barred from using or offering into evidence any documents, records or data that she does not produce to Plaintiff on or before August 31, 2021, *to the extent* that those materials are within the scope of Plaintiff’s Document Request Numbers 1 through 6, 9-12, 16-17, 21-26, 28-29 (AP 20-00133, DE 8). This does not relieve Defendant from her continuing obligation to supplement her responses to discovery requests. In other words, if additional responsive documents exist, or are found, they must be produced to Plaintiff. Plaintiff, at its option, may elect to use those documents for any permissible purpose in this case or related adversary proceeding. Defendant, however, may not.

**b. *Nonresponsive and/or Evasive Responses Relating to Document Requests in AP 20-00133 (DE 30).***

Further, the Court finds Defendant’s responses to Document Request Numbers 5 and 6 to be evasive. Document Request Number 5 requests any list of Museum Items that Defendant or Foundation owned on August 9, 2013, but did not donate, bequeath, sell, transfer, or convey to New Chicago CDC on or about August 9, 2013 (AP 20-00133, DE 8). Similarly, Document Request Number 6 requests any lists of Museum Items that you or Foundation donated, bequeathed, sold, transferred, conveyed or loaned to New Chicago CDC after August 9, 2013 (AP 20-00133, DE 8). Defendant has an obligation to fully respond to Plaintiff’s requests. Defendant is Ordered to fully respond to Document Request Numbers 5-6 by August 31, 2021. Furthermore, the Court will further consider Plaintiff’s request for default judgment in AP 20-00133 (in addition to any other potential sanctions).

***c. Nonresponsive and/or Evasive Responses Relating to Interrogatories in AP 20-00131 (DE 28).***

INTERROGATORY NO. 1: Describe in detail each item that Museum or Foundation owned, purchased, received, or had possession, custody, or control of, and each Museum Item (as defined in the Instructions and Definitions Section above) that you owned, purchased, received, or had possession, custody, or control of, on January 1, 2013. Include in your description of each item, the type of item (including, if know[sic], the manufacturer and the style or model name or number); its approximate age; when and from whom you, Museum, or Foundation acquired it; its condition at that time; its cost if it was purchased; its value if it was not acquired by purchase or if its value was different from its cost; when, why, to whom, and for what consideration you, Museum, or Foundation sold, donated, or otherwise deaccessioned it; what person or entity owned such item or had possession, custody, or control of it as of May 19, 2020, when this bankruptcy case was filed; its condition and value as of May 19, 2020; how you determined such value; and if you claim that you, Museum, or Foundation purchased, received, or had possession, custody, or control of it at one time but did not own it, explain why it was not owned by you, Museum, or Foundation.

RESPONSE NO. 1: The African American International Museum Foundation do not own any museum items, displace cases, museum furniture, painting, artworks, statues, display stands, or any other furniture that was donated or purchased for the museum. The foundation is not the museum. The museum inventory list that I had was sold in the storage sale at U-Storage. The inventory list is the duty of the New Chicago CDC. No artifacts was sold. New Chicago CDC has the rights to govern the artifacts the way they see fit. The artifacts was not inventoried in the bequest donation form to the New Chicago CDC. The wording of how the museum artifacts, furniture, display, etc. was transferred was in the bequest document. At this point, that is the business of the New Chicago CDC.

Defendant's response fails to identify any Museum Item that *Defendant* (or Foundation) owned, purchased, received or had possession, custody, or control of, on January 1, 2013. Defendant's response further fails to include any "description of each item, the type of item (including, if known, the manufacturer and the style or model name or number); its approximate age; when and from whom you, Museum, or Foundation acquired it; its condition at that time; its cost if it was purchased; its value if it was not acquired by purchase or if its value was different from its cost; when, why, to whom, and for what consideration you, Museum, or Foundation sold, donated, or otherwise deaccessioned it; what person or entity owned such item or had possession, custody, or control of it as of May 19, 2020, when this bankruptcy case was filed; its condition and value as of May 19, 2020; how you determined such

value; and if you claim that you, Museum, or Foundation purchased, received, or had possession, custody, or control of it at one time but did not own it, explain why it was not owned by you, Museum, or Foundation.”

Defendant is ordered to fully respond to Interrogatory No. 1 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff’s request for default judgment in AP 20-00131 (in addition to any other potential sanctions).

INTERROGATORY NO. 2: Describe in detail each item that Museum or Foundation owned, purchased, received, or had possession, custody, or control of, and each Museum Item (as defined in the Instructions and Definitions Section above) that you owned, purchased, received, or had possession, custody or control of, at any time after January 1, 2013. Include in your description of each item, the type of item (including, if known, the manufacturer and the style or model name or number); its approximate age; when and from whom you, Museum, or Foundation acquired it; its cost if it was purchased; its value if it was not acquired by purchase or if its value was different from its cost; when, why, to whom, and for what consideration you, Museum, or Foundation sold, donated, or otherwise deaccessioned it; what person or entity owned such item or had possession, custody, or control of it on May 19, 2020; its condition and value as of May 19, 2020; how you determined such value; and if you claim that you, Museum, or Foundation purchased, received, or had possession, custody, or control of it but did not own it, explain why it was not owned by you, Museum, or Foundation.

RESPONSE NO. 2: The African American International Museum Foundation is not the Museum. I, as the sole proprietor of the Foundation, transferred all items to the New Chicago CDC August 9, 2013 and there was no written detailed inventory.

Defendant’s response fails to identify any Museum Item that *Defendant* (or Foundation) owned, purchased, received, or had possession, custody or control of, at any time after January 1, 2013. Defendant’s response further fails to include any “description of each item, the type of item (including, if known, the manufacturer and the style or model name or number); its approximate age; when and from whom you, Museum, or Foundation acquired it; its condition at that time; its cost if it was purchased; its value if it was not acquired by purchase or if its value was different from its cost; when, why, to whom, and for what consideration you, Museum, or Foundation sold, donated, or otherwise deaccessioned it; what person or entity owned such item or had possession, custody, or control of it as of May 19, 2020, when this bankruptcy case was filed; its condition and value as of May 19, 2020; how you determined such value; and if you claim that you, Museum, or Foundation purchased, received, or had possession, custody, or control of it at one time but did not own it, explain why it was not owned by you, Museum, or Foundation.”

Defendant is ordered to fully respond to Interrogatory No. 2 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff's request for default judgment in AP 20-00131.

INTERROGATORY NO. 3: Describe in detail each Museum Item (as defined in the Instructions and Definitions Section above) that you contend you, Museum, or Foundation donated, bequeathed, sold, transferred, or conveyed to New Chicago CDC on or about August 9, 2013. Include in your description of each item, the type of item (including, if known, the manufacturer and the style or model name or number); its approximate age; when and from whom you, Museum, or Foundation acquired it; its condition at that time; its cost if it was purchased; its value if it was not acquired by purchase or if its value was different from its cost; when, why, to whom, and for what consideration you, Museum, or Foundation donated, bequeathed, sold, transferred, or conveyed it; what person or entity owned such item or had possession, custody, or control of it immediately prior to August 9, 2013; its condition and value as of August 9, 2013, and May 19, 2020; and how you determined such value.

RESPONSE NO. 3: The African American International Museum Foundation bequeathed all museum contents, artifacts, collections, exhibits, display cases, furniture, etc. on August 9, 2013 to the New Chicago CDC.

Defendant's response fails to identify each Museum Item that Defendant contends she, Museum, or Foundation donated, bequeathed, sold, transferred, or conveyed to New Chicago CDC on or about August 9, 2013. Defendant's response further fails to include any "description of each item, the type of item (including, if known, the manufacturer and the style or model name or number); its approximate age; when and from whom you, Museum, or Foundation acquired it; its condition at that time; its cost if it was purchased; its value if it was not acquired by purchase or if its value was different from its cost; when, why, to whom, and for what consideration you, Museum, or Foundation donated, bequeathed, sold, transferred, or conveyed it; what person or entity owned such item or had possession, custody, or control of it immediately prior to August 9, 2013; its condition and value as of August 9, 2013, and May 19, 2020; and how you determined such value."

Defendant is ordered to fully respond to Interrogatory No. 3 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff's request for default judgment in AP 20-00131 (in addition to any other potential sanctions).

INTERROGATORY NO. 4: Describe in detail each Museum Item (as defined in the Instructions and Definitions Section above) that you contend you, Museum, or Foundation donated, bequeathed, sold, transferred, or conveyed to New Chicago CDC after August 9, 2013. Include in your description of each item, the type of item (including, if known, the manufacturer and the style or model name or number); its approximate age; when and from whom you, Museum, or Foundation acquired it; its condition at that time; its cost if it was purchased; its value if it was not acquired by purchase or if its value was different from its cost; when, why, to whom, and for what consideration you, Museum, or Foundation donated, bequeathed, sold, transferred, or conveyed it; what person or entity owned such item or had possession, custody, or control of it immediately prior to August 9, 2013; its condition and value as of August 9, 2013, and May 19, 2020; and how you determined such value.

RESPONSE NO. 4: The African American International Museum Foundation bequeathed all museum contents, artifacts, collections, exhibits, display cases, furniture, etc. on August 9, 2013.

Defendant's response is evasive in that it simply could state that there were no additional donations after August 9, 2013. To the extent there were donations made after August 9, 2013, Defendant has an obligation to fully respond to Plaintiff's interrogatory.

Defendant is ordered to fully respond to Interrogatory No. 4 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff's request for default judgment in AP 20-00131 (in addition to any other potential sanctions).

INTERROGATORY NO. 5: With respect to each item identified in response to the two immediately preceding numbered interrogatory[sic], state its current location and value; and how you determined such value.

RESPONSE NO. 5: The Museum artifacts is the business affairs of the New Chicago CDC. This business is located at 1036 Firestone Avenue, Memphis, Tennessee 38107.

Defendant's response is evasive and nonresponsive. Defendant is ordered to list each item identified in prior interrogatories and give values to each item (and how Defendant determined the value). Defendant is further ordered to disclose the location of each item or if Defendant does not know the location, Defendant must state so clearly.

Defendant is ordered to fully respond to Interrogatory No. 5 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive



sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff's request for default judgment in AP 20-00131 (in addition to any other potential sanctions).

INTERROGATORY NO. 6: Describe in detail each Museum Item (as defined in the Instructions and Definitions Section above) that you contend you, Museum, Foundation, New Chicago CDC, or Kukutani Museum owned on January 7 or 8, 2015. Include in your description of each item, the type of item (including, if known, the manufacturer and the style or model name or number); its approximate age; when and from whom such item was acquired; its condition at that time; its cost if it was purchased; its value if it was not acquired by purchase or if its value was different from its cost; when, why, to whom, and for what consideration, if any, it was transferred, sold, donated, bequeathed, lost, stolen, or deaccessioned; its current value; and how you determined such value.

RESPONSE NO. 6: Museum was bequeathed to the New Chicago CDC. Items that were in storage at U-Storage was sold in auction which these items were to be transferred to the museum. No items was intentionally sold. The initial inventory list was lost in the storage sale. All museum artifacts, furniture, display cases, collection, exhibits, display stands or miscellaneous is the business affairs of the New Chicago CDC. Items that were sold was reported to the Police.

Defendant's response is evasive and nonresponsive. Defendant is ordered to list each item responsive to Interrogatory No. 6 along with a description of each item, the type of item (including, if known, the manufacturer and the style or model name or number); its approximate age; when and from whom such item was acquired; its condition at that time; its cost if it was purchased; its value if it was not acquired by purchase or if its value was different from its cost; when, why, to whom, and for what consideration, if any, it was transferred, sold, donated, bequeathed, lost, stolen, or deaccessioned; its current value; and how you determined such value.

Defendant is ordered to fully respond to Interrogatory No. 6 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff's request for default judgment in AP 20-00131 (in addition to any other potential sanctions).

INTERROGATORY NO. 7: Describe in detail each item with respect to which you claim you acted as "a facilitator to acquire items for the CDC Museum and other organizations," including its age, its approximate value, when and from [where] it was acquired, whose funds were used to pay for it, and if you were paid for your services as a facilitator, who paid you and how much and when you were paid.

RESPONSE NO. 7: Initially in 1991, I owned the museum which I later served as a facilitator to acquire items for the Kukutana African American History and Culture Museum of Memphis and other organizations. I did not receive any pay for being a facilitator. I received funds through having tours or performing traveling exhibits that was on loan to me by the CDC.

Defendant's response is evasive and nonresponsive. Defendant is ordered to list each item and identify whose funds were used to pay for each item.

Defendant is ordered to fully respond to Interrogatory No. 7 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff's request for default judgment in AP 20-00131 (in addition to any other potential sanctions).

c. ***Nonresponsive and/or Evasive Responses Relating to Interrogatories in AP 20-00133 (DE 31).***

INTERROGATORY NO. 1: At the 341 meeting held on October 7, 2020, in this bankruptcy case, did you testify under oath that you do not claim any property as exempt, other than what is shown in the photos that were made Exhibit E to your testimony, a copy of which is attached hereto as Exhibit 1? Is that your present position? If that is not your present position, state your present position and explain the basis for any change.

RESPONSE NO. 1: At the 341 meeting held on October 7, 2020 I was asked to provide photos of the contents of my home, which I did. I included in the overall value of my household furnishings certain items that were in storage. I have since inventoried those items and that inventory is attached in response to Plaintiff's Request for Production of Documents.

Defendant's response is evasive and nonresponsive. Defendant is ordered to state whether she does not claim any property exempt other than what was shown in the photos that were attached as Exhibit E to Defendant's 341 meeting. If Defendant has changed her position, she is to state the basis for the change.

Defendant is ordered to fully respond to Interrogatory No. 1 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff's request for default judgment in AP 20-00133 (in addition to any other potential sanctions).

INTERROGATORY NO. 5: With respect to any fee, charge, commission, or other compensation that you, Museum, Foundation, New Chicago CDC, or Kukutana Museum received in connection with any exhibition of Museum Items from January 1, 2013, through the present, regardless of whether such compensation was received as a rental fee, payment for conducting tours, donation, gratuity, or something else, describe the date when such compensation was paid, who paid it, who received it initially and, if different ultimately, why it was paid, and whether or not you initially or ultimately received it or any part of it.

RESPONSE NO. 5: I received cash admission fees for conducting tours of the items held by the Kukutana Museum. I am not aware of any compensation received by the New Chicago CDC.

Defendant's response is evasive and nonresponsive. Defendant is ordered to supplement her response with more detailed information.

Defendant is ordered to fully respond to Interrogatory No. 5 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff's request for default judgment in AP 20-00133 (in addition to any other potential sanctions).

INTERROGATORY NO. 6: Describe in detail each and every receipt, check, bank statement, book, record, or other document that reflects or evidences each fee, charge, commission, or other compensation that you, Museum, Foundation, New Chicago CDC, or Kukutana Museum received in connection with any exhibition of Museum Items from January 1, 2013, through the present.

RESPONSE NO. 6: I have no such documents. Entrance fees I received were paid in cash and I have no knowledge of additional fees, if any, received by the CDC.

Defendant's response is evasive and nonresponsive. Defendant is ordered to supplement her response with more detailed information.

Defendant is ordered to fully respond to Interrogatory No. 6 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff's request for default judgment in AP 20-00133 (in addition to any other potential sanctions).

INTERROGATORY NO. 10: Identify any and all documents that evidence or relate to the document styled “The African American International Museum Foundation Bequest/Donation” or the personal property that you contend was bequeathed or donated pursuant to it.

RESPONSE NO. 10: The Bequest/Donation speaks for itself. There are no additional documents.

Defendant’s response is evasive and nonresponsive. Defendant is ordered to supplement her response with more detailed information.

Defendant is ordered to fully respond to Interrogatory No. 10 by August 31, 2021. Any further delay in fully responding to discovery will likely result in more punitive sanctions including barring Defendant from using or offering into evidence any documents, records or other information that she did not provide to Plaintiff on or before August 31, 2021. Furthermore, the Court will further consider Plaintiff’s request for default judgment in AP 20-00133 (in addition to any other potential sanctions).

- d. ***Monetary Sanction.*** Plaintiff is entitled to recover at least some portion of the expenses, including reasonable attorney fees, that he was forced to incur in obtaining this order. *See* FED. R. CIV. P. 37(b)(2)(C). Plaintiff may file a request for those fees and expenses on or before August 27, 2021. A failure to file the request by that date will constitute a waiver by Plaintiff of any claim for fees and expenses. Defendant may file a response itemizing any objections to Plaintiff’s request within ***seven (7) days*** after Plaintiff files the request. The Court will then consider the filings and determine the appropriate monetary sanction. At this time, the Court will assess the monetary sanction against Defendant, not her attorney.

Plaintiff requests additional sanctions, including the Court entering a default judgment against Defendant. Default is a sanction of last resort. *See Bank One of Cleveland, N.A. v. Abbe*, 916 F.2d 1067, 1073 (6th Cir. 1990). The Court concludes that the sanctions described above are sufficient to punish Defendant’s conduct and remedy the resulting harm to Plaintiff and will give the Defendant one last opportunity to comply with the Court’s orders and pending discovery.

### ***Conclusion***

Plaintiff’s motion for sanctions against Defendant (Case No. 20-22880, DE 109; AP 20-0131, DE 61; AP 20-0133, DE 63) is **granted**. Defendant is hereby sanctioned as described in this Order. The amount of the monetary sanction, if any, will be established by separate order as provided herein.

IT IS SO ORDERED.

COPIES TO:

Plaintiff  
Plaintiff's Attorney  
Defendant  
Defendant's Attorney  
Chapter 7 Trustee  
U.S. Trustee