

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SIMON V. KINSELLA

Plaintiff,

v.

BUREAU OF OCEAN ENERGY MANAGEMENT
and in their official capacities, Director ELIZABETH
KLEIN,¹ Environment Branch for Renewable
Energy (“OREP”) Chief MICHELLE MORIN,
OREP Program Manager JAMES F. BENNETT,
OREP Environmental Studies Chief MARY
BOATMAN, Economist EMMA CHAIKEN,
Economist MARK JENSEN, Biologist BRIAN
HOOKER, and JENNIFER DRAHER; and DEB
HAALAND, Secretary of the Interior, U.S.
Department of the Interior; LAURA DANIELS-
DAVIS, in her official capacity as Principal Deputy
Assistant Secretary, Land and Mineral Management;
and MICHAEL S. REGAN, Administrator, U.S.
Environmental Protection Agency;

Defendants,

and

SOUTH FORK WIND, LLC,

Defendant-Intervenor.

Case No. 2:23-cv-02915-FB-ST

**REQUEST FOR CERTIFICATE OF
DEFAULT**

**FILED
in the Clerk's Office
U.S. District Court,
EDNY, Brooklyn
Jul 11, 2023, 3:42 PM
Pro Se Office via
Box.com**

TO: BRENNAN B. MAHONEY
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Please enter the default of Defendants and Defendant-Intervenor in the caption (above)
pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and Local Civil Rule 55.1 for
failure to plead or otherwise defend this action as fully appears from the court file herein and

¹ U.S. Bureau of Ocean Energy Management (“BOEM”) Director was Amanda Lefton when filing the complaint on July 20, 2022, but Ms. Lefton resigned effective January 19, 2023.

from the attached affidavit of Simon V. Kinsella, Plaintiff *pro se*.

Defendants are in violation of an order of the U.S. District Court for the District of Columbia issued by District Judge Jia M. Cobb in civil case no. 22-02147 on September 13, 2022 (*see* Exhibit C, MINUTE ORDER, at 4), and Defendant-Intervenor is in violation of an order issued on November 7, 2022 (*see* Exhibit D). The Court ordered Defendants and Defendant-Intervenor to file their “responsive pleading to the Complaint in this lawsuit ... *thirty days after* ... the case is transferred and a new docket number and judge is assigned [emphasis added]” (*see* Exhibit C, MINUTE ORDER, at 4).

On May 17, 2023, the Court of Appeals for the D.C. Circuit in case no. 22-5317 (Doc. 1999608) transferred the case to the Eastern District of New York by “ORDER[ING] that the petition for writ of mandamus be denied. The district court did not abuse its discretion in transferring petitioner’s case to the Eastern District of New York.” *See* Exhibit E. According to Local Rule 41(3) for the Court of Appeals for the D.C. Circuit, “[n]o mandate will issue in connection with an order granting or denying a writ of mandamus ... but the order or judgment ... will become effective automatically 21 days after issuance”. Therefore, the transfer order of May 17 became effective (21 days later) on June 7, 2023. Defendants and Defendant-Intervenor were ordered to file their responsive pleading to the complaint *thirty days after* the case was transferred, which is by July 7, 2023.²

Accordingly, Plaintiff respectfully requests that this court enter the default of Defendants and Defendant-Intervenor.

² New judges were assigned to the case (Senior District Judge Frederic Block and Magistrate Judge Steven Tiscione) on April 25, 2023.

Further, Plaintiff respectfully requests that Defendants and Defendant-Intervenor be held in contempt of court for violating Federal District Judge Jia M. Cobb's orders of September 13 and November 7, 2022, by not filing answers to the First Amended Complaint. If Defendants or Defendant-Intervenor do not answer the First Amended Complaint within the next fourteen days (from the date of this Request for Default), Plaintiff will apply for sanctions against Defendants and Defendant-Intervenor.

Plaintiff reserves his right to apply for entry of judgment pursuant to Rule 55(b) of the Federal Rules of Civil Procedure unless Defendants and Defendant-Intervenor answer Plaintiff's First Amended Complaint within the next fourteen days.

Respectfully submitted this 11th day of July 2023,


Simon V. Kinsella
Plaintiff *pro se*
PO Box 792
Wainscott, NY 11975
Si@oswSouthFork.info
Tel: (631) 903-9154