FILED
2023 FEB -1 PM 3:16
SARATOGA COUNTY
CLERK'S OFFICE
BALLSTON SPA, NY

PRESENT: HON. DIANNE N. FREESTONE
SUPREME COURT JUSTICE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SARATOGA

THERESA WILSON,

Plaintiff,

-against-

TULLY RINCKEY PLLC,

Defendant.

ORDER

Index No. 2019781

RJI No. 45-1-19-0505

THIS CAUSE, having come on for consideration by the Court on Notice of Motion of Defendant, Tully Rinckey PLLC, dated December 21, 2022, for an Order striking Plaintiff's Complaint and dismissing the action with prejudice, pursuant to CPLR §3126 and 22 NYCRR §202.20-e; and

WHEREAS, the return date of the Motion to Dismiss having set forth on the Notice of Motion as January 19, 2023, and said Notice of Motion having demanded, pursuant to CPLR §2214(b) service of any answering papers seven days prior to the return date; and

NOW, upon reading and filing the Notice of Motion of Defendant, Tully Rinckey, PLLC, dated December 21, 2022, Affirmation of Good Faith of Allen A. Shoikhetbrod, dated December 21, 2022, and Attorney Affirmation in Support of Motion to Dismiss of Allen A. Shoikhetbrod, dated December 21, 2022, with annexed Exhibits, which was duly served upon Plaintiff; and,

WHEREAS, Plaintiff's counsel has been warned that failure to disclose information which ought to have been disclosed in discovery could lead to sanctions, up to and including dismissal

of the compliant with prejudice. Moreover, Plaintiff's counsel has been warned that his repeated failures to adhere to the Court's scheduling deadlines can only be described as willful and contumacious. Plaintiff's counsel has been warned on multiple occasions that his indifference to the Court's Orders compelling discovery would lead to dismissal of the Complaint. Finally, Plaintiff's Counsel has not cooperated with the Court's Orders on the exchange of critical discovery and has failed to interject any opposition to the instant motion;

UPON, this Court having issued a Bench Decision on January 19, 2023, with appearances of Defendant, Tully Rinckey, PLLC, and with Plaintiff's nonappearance, at the Saratoga County Courthouse, 30 McMaster Street, Building 3, Ballston Spa, New York 12020; and

NOW, upon due deliberation having been had, it is hereby;

ORDERED, that the motion of Defendant, Tully Rinckey, PLLC, to strike Plaintiff's Complaint and dismiss the action with prejudice, dated December 21, 2022, is hereby, be and the same hereby is, in all respects, **GRANTED**, without opposition, and it is further

ORDERED, that the movant shall serve a copy of this Order on the Plaintiff's counsel by ordinary mail within twenty (20) days of entry of this Order.

This constitutes the Decision and Order of the Court.

The Clerk of the Court is directed to forward a copy of this Order to all parties. The signing of this order does not constitute entry or filing under CPLR §2220 and counsel is not relieved from the applicable provisions of that rule respecting filing and service.

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ENTERED

IT IS SO ORDERED,

Dated: January 27, 2023
Ballston Spa, New York

Dianne N. Freestone
DIANNE N. FREESTONE, J.S.C.

ENTERED
Craig A. Hayner
Saratoga County Clerk