

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RUBY FREEMAN, *et al.*,

Plaintiffs,

v.

RUDOLPH W. GIULIANI,

Defendant.

Civil Action No. 21-3354 (BAH)

Judge Beryl A. Howell

ORDER

Upon consideration of plaintiffs Ruby Freeman and Wandrea' ArShaye Moss's Motion for Discovery Sanctions, ECF No. 81, the related legal memoranda in support and in opposition, the exhibits and declarations attached thereto, the parties' Updated Joint Status Report, ECF No. 89, and the entire record herein, for the reasons set forth in the accompanying Memorandum Opinion, it is hereby

ORDERED that plaintiffs' Motion for Discovery Sanctions, ECF No. 81, in the form of default judgment and an award for attorneys' fees and costs associated with filing the motion, is **GRANTED**; it is further

ORDERED that default judgment will be entered against defendant Rudolph W. Giuliani on his liability for plaintiffs' defamation, intentional infliction of emotional distress, civil conspiracy, and punitive damage claims, pursuant to Federal Rules of Civil Procedure 37(e)(2)(C) and 37(b)(2)(A)(vi); it is further

ORDERED that, by September 20, 2023, the parties shall confer and submit a proposed schedule governing future proceedings in this matter, including three proposed dates for trial on

damages, *see* FED. R. CIV. P. 55(b)(2)(B), in the period from November 2023 to February 2024, and with associated proposed dates for any pretrial motions and a pretrial conference; it is further

ORDERED that, by September 8, 2023, plaintiffs shall submit their costs and attorneys' fees incurred in preparing and filing the Motion for Discovery Sanctions, ECF No. 81, with any objection by defendant Rudolph W. Giuliani due by September 15, 2023, and reply by plaintiffs by September 20, 2023; it is further

ORDERED that, by September 20, 2023, in order to facilitate preparation for a trial on any damages owed to plaintiffs, defendant Rudolph W. Giuliani is directed:

- a. To produce complete responses to plaintiffs' Requests for Production ("RFP") Numbers 40 and 41, which he was previously ordered to produce by June 30, 2023, *see* Minute Order (June 22, 2023);
- b. To ensure that Giuliani Communications LLC and Giuliani Partners LLC (collectively, the "Giuliani Businesses") produce complete responses to plaintiffs' requests for financial documents and viewership metrics, including RFP Numbers 19 and 35, seeking records sufficient to show how his podcast, called *Common Sense*, generates revenue, including through advertising agreements and distribution contracts, and records sufficient to summarize viewer and listener metrics for Giuliani's statements on social media and *Common Sense* from the date of original publication through the present, including reach, count, page visits, posts, shares, time spent, impressions, and listener numbers, and the number of online views and/or impressions of any statements Giuliani made about plaintiffs, as described in the Amended Complaint ¶¶ 57-101, ECF No. 22, as well as

designate one or more corporate representatives to sit for depositions on those businesses' behalf;

- c. To reimburse plaintiffs' attorneys' fees and costs associated with their successful first motion to compel discovery, *see* Pls.' Mot. Compel, ECF No. 44, in the amount totaling \$89,172.50, with interest on that amount to accrue from July 25, 2023, which is when this reimbursement payment was originally due, *see* Minute Order (July 13, 2023); and
- d. To ensure that the Giuliani Businesses reimburse plaintiffs' attorneys fees associated with their successful motion to compel discovery from those Businesses, *see* Pls.' Revised Mot. Compel Giuliani Partners & Giuliani Communications ("Pls.' Giuliani Businesses Motion"), ECF No. 70, in the amount totaling \$43,684, with interest on that amount to accrue from September 20, 2023 against defendant Rudolph W. Giuliani personally if his Businesses fail to timely comply; it is further

ORDERED that, as a sanction for defendant's failure timely to reimburse plaintiffs' \$89,172.50 in attorneys' fees by July 25, 2023, the jury will be instructed that they must, when determining an appropriate sum of punitive damages, infer that he is intentionally trying to hide relevant discovery about his financial assets for the purpose of artificially deflating his net worth, unless he produces fulsome responses to plaintiffs' RFP Numbers 40 and 41 by September 20, 2023, in which case, the mandatory instruction may be converted to a permissive one.

SO ORDERED.

Date: August 30, 2023

BERYL A. HOWELL
United States District Judge