

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

Rudolph Giuliani,

Plaintiff,

v.

Joseph Robinette Biden, Jr., individually and as a private citizen; Biden for President, a presidential principal campaign committee; Biden Victory Fund, a nonqualified joint fundraising committee and joint fundraising representative; Biden Action Fund, a nonqualified joint fundraising committee and joint fundraising representative; Biden Baldwin Victory Fund, a nonqualified joint fundraising committee and joint fundraising representatives;

Defendants.

Civil Action No. 1:23-cv-00543-PB-AJ

**DEFENDANTS' NOTICE OF NON-OPPOSITION**

The Defendants moved to dismiss Plaintiff Rudolph Giuliani's First Amended Complaint ("FAC") on January 25, 2024. *See* Doc. 13. Under Local Rule 7.1(b), Giuliani's response to this motion would have been due on February 8, 2024, or 14 days after the motion to dismiss was filed. Giuliani has filed no response.

Instead of filing a response on the day it was due, Giuliani filed a "notice . . . of bankruptcy filing." Doc. 15. In that notice, Giuliani did not argue that the bankruptcy affected his obligation to respond to the motion by wholly staying the litigation (which it plainly does not). *See Haag v. United States*, 485 F.3d 1 (1st Cir. 2007) (noting that "[o]n its face, the automatic stay . . . applies only to actions 'against the debtor'"). Nor does he argue that the bankruptcy extended the time to respond under 11 U.S.C. § 108. That statute extends certain deadlines for debtors in pending

proceedings to “60 days after the order for relief,” that is, the voluntary petition for bankruptcy. 11 U.S.C. § 108(b) (2); *see also* 11 U.S.C. § 301(b) (providing that petition “constitutes an order for relief”). Giuliani filed his voluntary petition on December 21, 2023. Doc. 15. Even assuming any extension were permitted under this provision of the bankruptcy code, those 60 days expired on February 20, 2024.

Accordingly, Plaintiff has waived any objection to the Defendants’ motion to dismiss. *See* LR 7.1(b) (“The court shall deem waived any objection not filed in accordance with this rule.”).<sup>1</sup> As a result, Defendants respectfully request that this Court grant their motion (Doc. 13) and dismiss this case. *See, e.g., Lacaillade v. Loignon Champ-Carr, Inc.*, 2011 WL 4738557, at \*1 (D.N.H. Oct. 7, 2011) (granting motion to dismiss where the plaintiff failed to timely respond and the plaintiff’s claim failed as a matter of law); *see also NEPSK, Inc. v. Town of Houlton*, 283 F.3d 1, 7 (1st Cir. 2002) (“[I]t is within the district court’s discretion to dismiss an action based on a party’s unexcused failure to respond to a dispositive motion when such response is required by local rule, at least when the result does not clearly offend equity.”).

Even if the Court were to excuse this default, this Court should dismiss Giuliani’s FAC based on the procedural and substantive deficiencies identified in the Defendants’ motion.

For all these reasons, Defendants respectfully request that this court dismiss the FAC with prejudice and enter final judgment in their favor.

---

<sup>1</sup> Separately, on February 7, this Court also ordered Giuliani to file a “Diversity Disclosure Statement” within seven days. That deadline has expired, and Giuliani has not filed the statement, in violation of both the Court’s order and the federal rules.

Respectfully submitted,

Joseph Robinette Biden, Jr.  
Biden for President,  
Biden Victory Fund,  
Biden Action Fund,  
and  
Biden Baldwin Victory Fund

Dated: February 21, 2024

By Their Attorneys:  
SHAHEEN & GORDON, P.A.

By: /s/ William E. Christie  
William E. Christie #11255  
Shaheen & Gordon, P.A.  
107 Storrs Street  
P.O. Box 2703  
Concord, NH 03302  
(603) 225-7262  
wchristie@shaheengordon.com

and

David J. Burman DC #269779  
Nicholas Marquiss DC #1780636  
PERKINS COIE LLP  
700 13th Street, NW Suite 600  
Washington, D.C. 20005  
dburman@perkinscoie.com  
nmarquiss@perkinscoie.com

### **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing filed through the ECF System will be sent electronically to the registered participants as identified on the Notice of Electronic filing (NEF). I further certify that the foregoing has been conventionally served on Louis Diamond, Esquire, counsel for Plaintiff, by electronic mail as follows:

Louis Diamond, Esquire  
Biker451lou@hotmail.com

/s/ William E. Christie  
William E. Christie