

# Schenck Price

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October 12, 2022

**VIA E-FILING AND E-MAIL**

Hon. Louis S. Sceusi, J.S.C.  
Morris County Superior Court  
Washington & Court Streets  
P.O. Box 910, 2<sup>nd</sup> Floor  
Morristown, New Jersey 07963

**RE: Lauren Kanarek v. Sweet Grass Farm, LLC, et al.  
Docket No.: MRS-L-2250-19**

Dear Judge Sceusi:

As you are aware, this firm represents Defendant, Sweet Grass Farm LLC (“SGF” or “Defendant”) with regard to the above-captioned matter.

My office is in receipt of the correspondence from your chambers advising that Your Honor received an email communication from Jonathan Kanarek. Upon receipt, I immediately forwarded your communication to all other counsel as directed.

We write to advise Your Honor that, unfortunately, Mr. Kanarek’s email does nothing to advance resolution of the pending motions before the Court and SGF respectfully renews its request for oral argument and/or a decision on the motions.

There are myriad problems with Mr. Kanarek’s email. Setting aside the fact that Mr. Kanarek’s email is an improper attempt at *ex parte* communication<sup>1</sup>, and setting aside the baseless character attacks on the undersigned counsel and Mr. Deininger, the fact of the matter is that Mr. Kanarek’s email does not settle the issues before the Court. In fact, the email does not even address the issues before the Court.

First, SGF’s pending motion is for Mr. Kanarek to produce documents. It has nothing to do with his appearance for deposition. Notable by its absence is any admission or concession by Mr. Kanarek in his email that he is willing to comply with the subpoena he was served with. While SGF is pleased to hear that Mr. Kanarek is willing to appear for a deposition when SGF inevitably serves him with a subpoena *ad testificandum*, that is not currently the issue before the Court. As of the date of this writing, Mr. Kanarek has had almost three (3) months to produce the documents

<sup>1</sup> As a former attorney he should know better.

and recordings sought by SGF. To date, he has not contacted my office about the subpoena. He ignored the subpoena, and he ignored the current motion to compel/for contempt. Mr. Kanarek's email states that upon receipt of the subpoena, he contacted his daughter's attorneys (Nagel Rice). That does not satisfy his obligations. As of the date of this letter, despite SGF inquiring on numerous occasions, Nagel Rice has never indicated that it represents Jonathan Kanarek. It has not submitted an entry of appearance for Mr. Kanarek, nor did it ever respond to the pending motion on Mr. Kanarek's behalf. The only papers filed on these motions were filed on behalf of Plaintiff. Mr. Kanarek forwarding the subpoenas to Nagel Rice is a non-event in terms of these motions and his obligations to comply with the subpoena.

Even if Mr. Kanarek were willing to produce the documents requested (a claim that Mr. Kanarek has not made and SGF would not believe even if he did), he could not do so at this time because of Plaintiff's pending motion to quash. Unless and until Plaintiff withdraws her Motion to Quash the subpoena, the parties still require the Court to decide the pending motions. The undersigned counsel wrote to Plaintiff's counsel yesterday with respect to its position on this issue but has not yet received a response from Plaintiff's counsel.

For all of the reasons set forth above, SGF respectfully requests that the Court either set these issues down for oral argument, or alternatively, simply deny Plaintiff's Motion to Quash and enter an Order compelling Jonathan Kanarek to produce the documents called for in the subpoena by a date certain.<sup>2</sup> That is the only way that SGF can ensure compliance with its subpoena.

Finally, as pressing as the issues discussed above (if not more so), SGF still has a motion pending to compel Plaintiff's deposition live and in-person. This motion was originally returnable on September 9, 2022 and is still without a ruling. Plaintiff did not appear for her deposition that was noticed for October 10, 2022, and this issue is also at an impasse until the Court rules. SGF requests that the Court also set this motion down for oral argument or alternatively, simply enter an Order as submitted by SGF compelling Plaintiff to appear at SGF's counsel's office for deposition.

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<sup>2</sup> SGF still believes that Mr. Kanarek should be cited for contempt but leaves that to the Court's discretion. At this time, SGF just wants the documents requested so that the case can move forward.

We thank the Court for its attention to these matters.

Respectfully submitted,

SCHENCK PRICE SMITH & KING LLP

*/s/ Mark K. Silver*

Mark K. Silver

MKS/

cc: All Counsel of Record (via e-filing)