

**IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI**

STANGE LAW FIRM, PC,)
)
Plaintiff,)
)
vs.)
)
CHELSEA MERTA and LOTUS)
LAW AND LEGAL SERVICES)
LLC, d/b/a LOTUS LAW, LLC,)
)
Defendants)

Cause No. 18SL-CC00540
Division 14

FILED
DIV. JUL 10 2019 14
JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

ORDER AND JUDGMENT OF CONTEMPT

Before the court is the motion of plaintiff Stange Law Firm, PC (SLF) for an order to show cause why the defendant Chelsea Merta and Lotus Law, LLC, (defendants) as well as their attorney Eric Kayira, show cause why they should not be held in contempt of court as alleged in their motion filed June 6, 2019. The court adopts and incorporates the attached motion as if fully set forth and incorporates the factual allegations of same by reference, Ex. 1. Further, the court has previously entered its order and judgment of contempt as against defendants Chelsea Merta and Lotus Law, LLC, on January 9, 2019; a copy of same is attached hereto and incorporated herein, as Ex. 2. The Court finds that no party raised any claim or objection that Respondent lacked appropriate notice of the grounds alleged or relief sought. Motion for contempt was set for hearing on July 9, 2019. Plaintiff appeared by counsel Jeffrey Schultz and Lucas Pendry. Defendants did not appear personally, but appeared by counsel Eric Kayira. The court notes that the defendant Chelsea Merta has never appeared in court, in person, since the inception of this litigation. Argument was

heard; evidence was adduced and the court took the matter under submission. The Court takes judicial notice of its file, its orders, judgments and previous pleadings.

Being fully advised in the premises, the court finds as follows:

1. The court entered its Consent Order as against the defendants, on or about February 16, 2018, wherein the defendant Chelsea Merta individually and defendant Lotus Law LLC agreed that they would “immediately and no later than 5 pm on February 20, 2018, return to counsel for plaintiff Stange Law Firm LLC any and all SLF-related files, documents and/or information in defendants’ possession or control” and “defendants are enjoined from accessing, viewing and/or using the documents, files and information referenced in paragraphs 1 and 2 of this order (the SLF electronic client files, documents, pleadings, letters etc.), until further order of the court or agreement of the parties.”
2. On January 9, 2019, the court entered a Judgment and Order of Contempt against defendants Chelsea Merta and Lotus Law LLC, finding that defendants had intentionally and willfully failed to comply with the court’s temporary restraining order (TRO) of February 16, 2018. The court notes that this is almost **one year later** from the entry of the original order, which defendant Chelsea Merta had consented to.
3. On February 25, 2019, SLF filed its second motion asking this court to hold each defendant in contempt of court (Second Contempt Motion), again based on each defendant’s failure to comply with orders in the original January 9, 2019, Judgment of Contempt and the terms of the consent TRO from February 16, 2018.

4. The Second Contempt Motion was scheduled to be heard no less than five (5) times: March 4, 2019; March 25, 2019; May 1, 2019; and June 6, 2019. It was finally heard and evidence adduced on July 9, 2019.
5. The court adduced evidence on November 28, 2018; on January 8, 2019; and on July 9, 2019. The court heard overwhelming and undisputed evidence from computer forensic examiner Vadon Willis and Jillian Wood, Managing Partner for SLF, that the defendant Chelsea Merta accessed a number of electronic current client and proprietary firm files from SLF, including files and privileged information (including banking information, Statements of Property, Income and Expenses) for clients that she did not represent and never had represented. Also included on the electronic media were SLF client credit card numbers, case summaries, fee agreements, client trust account checks with SLF banking numbers and confidential client communications. As of the hearing on January 8, 2019, over 22,800 electronic items were responsive to the forensic examiner's search analysis (when Ms. Merta finally produced **some** of the items she was ordered to produce, on 2/19/18 and 2/21/18).
6. On July 9, 2019, the court heard undisputed evidence that another computer forensic examination was conducted again by Mr. Vadon Willis, now testifying before this court for the third time (again, at plaintiff's expense), regarding 2 MacBook pro laptops, 2 iPhones, an iPad, a USB external hard drive, a g-mail e-mail account and a new "box" cloud storage account. He received devices and hardware from the defendant Chelsea Merta and her assistant in late April, 2019 (3 months **after** Ms. Merta was subject to the court's Order and Judgment of Contempt issued January 9, 2019). Mr. Willis found repeated entries from Ms. Merta's MacBook's browser and

that of her assistant, with interactions between those laptops and a cloud account and repository account; someone was doing data transfers on these two laptops between the devices and the cloud accounts and/or the cloud box accounts. Mr. Willis was able to measure the number of these types of data transfers. Without dispute, Mr. Willis testified that the number of these types of data transfers greatly increased after February 25, 2019 (the date the Second Motion for Contempt was filed).¹ Despite Ms. Merta having been previously ordered to provide all current account and e-mail credentials, Mr. Willis discovered a google drive account that he had never known about, without valid credentials, and a box account where the password had been changed (again, in violation of previous court orders). Thus, he was unable to access the cloud account or the box account to inspect contents. The court finds credible the inference that Ms. Merta and her legal assistant were transferring documents to the box account and the cloud account for the purpose of hiding them in advance of another motion for contempt, especially as she did not fully comply with the court's January 9, 2019, orders finding her in contempt.

7. Also on July 9, 2019, Ms. Julian Wood again testified (for the third time) without contradiction that Ms. Merta and her assistant remained in possession of SLF confidential and privileged client materials and proprietary firm materials without the consent of SLF. In addition, the evidence showed that Ms. Merta was in possession of information regarding real estate owned personally by Mr. Stange and his wife.

¹ Mr. Willis found approximately 2785 interactions in the previous 15 months; after February 25, 2019, for a period of 14 days, Mr. Willis found 5246 interactions – roughly **double** the amount of data transfer interactions which had occurred over the previous 15 months.

8. The court finds that plaintiff SLF has incurred legal fees in the approximate amount of \$107,000.00 as of yesterday, much of which are occasioned by the need for repeated forensic examinations and multiple contempt motions being filed, set and re-scheduled due to defendant Chelsea Merta's lack of cooperation and willingness to follow court orders, even ones which she consented to.
9. The Court's Judgments and Orders remain in full force and effect, as no stay has been sought or granted, and may be enforced by plaintiff through appropriate legal process. *Riley v. Riley*, 847 S.W. 2d 86 (Mo. App. WD 1992).
10. The court has previously held the defendant Chelsea Merta in contempt, by order of January 9, 2019, and yet Ms. Merta has not followed court orders. "An indirect contempt arises from an act outside the court that tends to degrade or make impotent the authority of the court or to impede or embarrass the administration of justice. *Curtis*, 374 S.W.2d at 568." *State ex rel. Chassaing v. Mummert*, 887 S.W.2d 573, 578 (Mo. 1994). The court finds that defendant Chelsea Merta's behaviors and actions are willfully and intentionally committed, are contemptuous, insolent and directly tending to impair the respect and authority due to any court, including this one.
11. Defendant Chelsea Merta did not establish by a preponderance of the evidence that she was unable to comply with this Court's Orders and Judgments. In fact, Ms. Merta adduced no evidence on this point, especially since she has only appeared through counsel during the pendency of this litigation. Nor did defendant Ms. Merta establish that she has a valid excuse for not complying with this Court's Orders and Judgments; nor did Ms. Merta establish that she should not otherwise be held in

contempt for violating this Court's Orders and Judgments, especially in regard to the aspects of the court orders which required her to perform certain actions (as opposed to pay certain dollar sums as fees or costs).

12. The court finds that the fact that Ms. Merta filed for relief under Chapter 13 of the bankruptcy code on March 3, 2019,² currently pending in the United States Bankruptcy Court, ED, (No. 19-412114-659), does not provide defendant Ms. Merta with any excuse for non-compliance for any time period **other than** March 3 to April 22, 2019. The US Bankruptcy Court found, *inter alia*, by order filed April 22, 2019, that it did not have jurisdiction over the claims in the lawsuit and ordered this matter returned to this court for further proceedings. The court notes that Ms. Merta again sought the protection of the bankruptcy court by filing another notice of removal on June 5, 2019, at 10:14 pm (the night before the June 6, 2019, hearing on plaintiff's second motion for contempt). The court accepts the uncontested representation of both counsel for plaintiff and counsel for defendant Ms. Merta, made on the record yesterday, that the bankruptcy court again ordered that this dispute be returned to this court for further proceedings and a formal written order of remand will be forthcoming shortly.

13. Defendant Chelsea Merta is in flagrant and blatant contempt of this Court's Judgments and Orders for her willful and contumacious refusal to comply with the Judgments of this Court as set forth more specifically above.

² Three months after she was found to be in contempt of court for violating the original consent TRO of February 16, 2018.

14. The court reserves ruling on the plaintiff's motion for fees, costs and to compel discovery responses – the court's ruling on those other pending matters will follow separately.

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED that defendant Chelsea Merta is in contempt of this court's Order and Judgment dated January 9, 2019, and the Consent TRO dated February 18, 2018.

This court sanctions defendant Chelsea Merta as follows:

Defendant Chelsea Merta is sentenced to imprisonment in the St. Louis County Department of Justice Services for a period of forty-eight (48) hours. St. Louis County Department of Justice Services shall not release Respondent without the personal approval of Judge Kerr, in advance, unless otherwise ordered by the Court.

A status conference regarding this matter will be held on **August 6, 2019, at 11:00 am.** All parties must appear in person and with counsel; SLF may appear by corporate representative.

SO ORDERED:



Kristine Allen Kerr
Circuit Judge, Division 14

Clerk's Certificate of Service appears on the following page.