

1 Stanislav Arbit
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3 Mesa, AZ 85206
4 Phone: 480-818-4418
5 Email: stan@securepower.io
6 Plaintiff

7
8 UNITED STATES DISTRICT COURT
9 DISTRICT OF ARIZONA
10 PHOENIX DIVISION
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12
13 **Stanislav Arbit**) CASE NO.:CV23-00533-PHX-SPL
14 Plaintiff,)
15) NOTICE OF MOTION FOR AND MOTION
16 vs.) FOR RECONSIDERATION OF ORDER TO
17 **SCHNEIDER ELECTRIC**) EXTEND TIME TO FILE AN ANSWER
18) [L.R.CIV.P. 7.2 (G) & F.R.CIV.P. RULE 60 (B)]
19 SE, a foreign entity,)
20 Defendant.)
21) MEMORANDUM OF POINTS AND
22) AUTHORITIES
23)
24) DECLARATION OF STANISLAV ARBIT
25)
26) *[Proposed Order Filed Separately]*
27) Complaint Filed: 03/29/23
28) Judge Steven P Logan

1 **TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

2 Defendant’s motion (Dkt. 16/17) was filed in bad faith and Plaintiff humbly requests
3
4 the court reconsider granting additional time to file an answer (Dkt. 20). The grounds for this
5 motion are as follows:

- 6 1. On July 20, 2023, Defendant made the first request to Plaintiff for an extension to
7 file an answer;
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9 2. On July 21, 2023, Plaintiff denied the request for an extension to file an answer,
10 twice;
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12 3. On 07/24/2023, Defendant filed a Motion for Extension of Time to File an Answer
13 (Dkt. 16) — this motion was not brought in good faith and with reasonable cause;
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15 4. Motion was granted (Dkt. 20) without a response from Plaintiff because the
16 deadline to file an answer was imminent.

17 This motion will be further based upon this notice, the attached Memorandum of
18 Points and Authorities, the Declaration of Stanislav Arbit filed herewith; upon the records and
19 files in this action; and upon such further evidence and argument as may be presented prior to
20 or at the time of hearing on the motion.
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1 (1) Form and Content of Motion. The Court will ordinarily deny a motion for
2 reconsideration of an Order absent a showing of manifest error or a showing of
3 new facts or legal authority that could not have been brought to its attention
4 earlier with reasonable diligence. Any such motion shall point out with
5 specificity the matters that the movant believes were overlooked or
6 misapprehended by the Court, any new matters being brought to the Court's
7 attention for the first time and the reasons they were not presented earlier, and
8 any specific modifications being sought in the Court's Order. No motion for
9 reconsideration of an Order may repeat any oral or written argument made by
10 the movant in support of or in opposition to the motion that resulted in the
11 Order. Failure to comply with this subsection may be grounds for denial of the
12 motion.

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18 (2) Procedure. No response to a motion for reconsideration and no reply to the
19 response may be filed unless ordered by the Court, but no motion for
20 reconsideration may be granted unless the Court provides an opportunity for
21 response. Absent good cause shown, any motion for reconsideration shall be
22 filed no later than fourteen (14) days after the date of the filing of the Order that
23 is the subject of the motion.
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27 As is prescribed in Section (g) (1), this motion for reconsideration is based on new
28 facts that could not have been brought to the court's attention prior to the order (Dkt. 20)

1 granting the defendant’s motion (Dkt. 16) because the motion was granted two days after it
2 was filed — which was not enough time for the plaintiff to file a response.
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4 Plaintiff made a reasonable effort to accommodate Defendant’s urgent Motion to
5 Dismiss meeting request. EXHIBIT “1”, filed herein, shows the interaction in its entirety as
6 opposed to Exhibit “A” (Dkt. 17), in Defendant’s Declaration re: MOTION for Extension of
7 Time to File Answer, which shows an edited conversation. The edited conversation removes
8 an email sent on Saturday, Jul 22, 2023, at 2:57 PM by the plaintiff. When this email is taken
9 into account, Defendant’s last email becomes nonsensical. With time running out and Plaintiff
10 denying Defendant an extension of time to file an answer, the defendant’s representative, Mr.
11 Strand, chose to misrepresent the facts and manufacture good cause for his motion (Dkt.
12 16/17).
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17 III.

18 FEDERAL RULES OF CIVIL PROCEDURE RULE 60 (B) AUTHORIZES RELIEF FROM
19
20 ORDERS

21 Federal rules of civil procedure Rule 60 provides as follows:

22 **(b) Grounds for Relief from a Final Judgment, Order, or Proceeding.** On
23 motion and just terms, the court may relieve a party or its legal representative
24 from a final judgment, order, or proceeding for the following reasons:
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26 (1) mistake, inadvertence, surprise, or excusable neglect;
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- 1 (2) newly discovered evidence that, with reasonable diligence, could not have
2 been discovered in time to move for a new trial under Rule 59(b);
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4 (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or
5 misconduct by an opposing party;
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7 (4) the judgment is void;
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9 (5) the judgment has been satisfied, released, or discharged; it is based on an
10 earlier judgment that has been reversed or vacated; or applying it
11 prospectively is no longer equitable; or
12
13 (6) any other reason that justifies relief.

14 Mr. Strand, the defendant's lead attorney, committed fraud when he filed the motion
15 (Dkt. 16) and the signed declaration (Dkt. 17). Under F.R.CIV.P. RULE 60 (B) (3), fraud is
16 grounds for relief from an order — in this case, the order (Dkt. 20) granting Defendant's
17 motion (Dkt. 16) for Extension of Time to File Answer.
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20 Docket Document #17 contains Mr. Strand's signed declaration. In Paragraph 5 of said
21 document, John L. Strand declares that the "Attached as Exhibit A is a true and correct copy
22 of the emails I have had with Mr. Arbit at stanarbit@gmail.com." This statement is false. Mr.
23 Strand removed an email thread from the conversation. This constitutes fraud and is grounds
24 for reconsideration of the motion. When the entire conversation is considered, it becomes
25 apparent that the Defendant does not have good cause to ask for an extension of time to
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1 answer the complaint. Exhibit “1”, attached herein, reflects the true and correct copy of the
2 emails Mr. Strand is referring to.
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4 Title 18 of U.S. Code § 1621 allows for a fine and up to five years of imprisonment for
5 any declaration or statement made under penalty of perjury. Perjury carries a harsh penalty
6 because the justice system generally relies on honesty, even when it’s inconvenient to a
7 Lawyer’s client. In this motion, the plaintiff argues that the fraud was committed with the
8 intention of winning a motion.
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11 IV.

12 FEDERAL RULES OF CIVIL PROCEDURE RULE 12 (A) GENERALLY AUTHORIZES

13 21 DAYS TO ANSWER

14 Rule 12 provides as follows:
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16 **(a) Time to Serve a Responsive Pleading.**

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18 (1) *In General.* Unless another time is specified by this rule or a federal statute, the
19 time for serving a responsive pleading is as follows:
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21 (A) A defendant must serve an answer:

22 (i) within 21 days after being served with the summons and complaint;

23
24 or

25 (ii) if it has timely waived service under Rule 4(d), within 60 days after
26 the request for a waiver was sent, or within 90 days after it was sent to the
27 defendant outside any judicial district of the United States.
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1 (B) A party must serve an answer to a counterclaim or crossclaim within 21
2 days after being served with the pleading that states the counterclaim or
3 crossclaim.
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5 (C) A party must serve a reply to an answer within 21 days after being served
6 with an order to reply, unless the order specifies a different time.
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8 Defendant's failure to retain counsel in a timely fashion is not good cause to grant an
9 extension. Defendant's lawyers having scheduling conflicts and late responses to meeting
10 time negotiations is also not good cause for time extensions. And in this case, while a party
11 generally has 21 days to answer after being served with a summons, this defendant has
12 had about five months to prepare for this suit. Furthermore, the defendant was given an
13 opportunity to waive service of summons and receive additional time to file an answer but
14 declined to return a service waiver — even though Rule 4 of the Federal Rules of Civil
15 Procedure requires certain defendants to cooperate in saving unnecessary expenses of
16 serving a summons and complaint. A defendant who is located in the United States and who
17 fails to return a signed waiver of service requested by a plaintiff located in the United States
18 will be required to pay the expenses of service, unless the defendant shows good cause for
19 the failure.
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23 "Good cause" does not include a belief that the lawsuit is groundless, or that it has
24 been brought in an improper venue, or that the court has no jurisdiction over this matter or
25 over the defendant or the defendant's property.
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V.

CONCLUSION

For all of the foregoing reasons, it is respectfully requested that the Court issue an order rescinding the extension order (Dkt. 20).

Respectfully submitted,

Dated 08/04/23

By: Stanislav Arbit

Plaintiff

/Stanislav Arbit/