IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EMMANUEL DUNAGAN, JESSICA MUSCARI, ROBERT J. INFUSINO, and STEPHANIE PORRECA, on behalf of themselves and a class of similarly situated persons, Plaintiffs, v. ILLINOIS INSTITUTE OF ART-SCHAUMBURG, LLC, ILLINOIS INSTITUTE OF ART, LLC, DREAM CENTER FOUNDATION, DREAM CENTER EDUCATIONAL HOLDINGS, LLC, BRENT RICHARDSON, in his individual capacity, CHRIS RICHARDSON, in his individual capacity; SHELLY MURPHY, in her individual capacity; and JOHN DOES 1–7, in their individual capacities, Defendants.	Case No. 1:19-cv-00809 Hon. Charles R. Norgle

ORDER

The motions to dismiss for lack of jurisdiction filed by Defendants Chris Richardson, Brent Richardson, and Shelly Murphy [147] [148] are denied. Plaintiffs' motion to compel further deposition testimony from Defendant Chris Richardson [111] is granted. Plaintiffs' motion for expenses and reasonable attorneys' fees pursuant to Federal Rule of Civil Procedure 4(d)(2) [134] is also granted. Defendant Dream Center Foundation's Motion for Reconsideration [139] is not yet fully briefed and remains under advisement. Parties shall submit a status report and proposed discovery plan by August 20, 2021.

MEMORANDUM OPINION

Former students of the Illinois Institute of Art ("Art Institute") brought this class action against the Art Institute and its owners, including Dream Center Educational Holdings, LLC ("Dream Center") because Defendants allegedly misled students about the school's accreditation

status for several months in 2018.[1] Plaintiffs later amended their complaint to name Brent Richardson, Chris Richardson, and Shelly Murphy as defendants ("Individual Defendants"), alleging that they were the executives at the Dream Center who decided to mislead the students and conceal the Art Institute's loss of accreditation. Dkt. 105. The parties engaged in jurisdictional discovery, and the Individual Defendants moved to dismiss, arguing that the Court lacks personal jurisdiction over them. That motion is before this Court, as well as Plaintiffs' motion to compel further deposition testimony from Defendant Chris Richardson and Plaintiffs' Motion for Expenses and Reasonable Attorneys' Fees Pursuant to Federal Rule of Civil Procedure 4(d)(2) from Defendant Shelly Murphy. For the reasons set forth below, the Court denies the motions to dismiss, grants Plaintiffs' motion to compel further deposition testimony, and grants Plaintiffs' motion for expenses under Rule 4(d)(2).

I. The Court has Personal Jurisdiction Over the Individual Defendants.

As mentioned above, the Court permitted Plaintiffs to engage in jurisdictional discovery on whether the Court has personal jurisdiction over the Individual Defendants. Dkt 133. That discovery included Plaintiffs' depositions of each of the Individual Defendants. After jurisdictional discovery concluded, the Individual Defendants filed short motions to dismiss arguing that "despite the Court permitting jurisdictional discovery on Defendants, Plaintiffs still failed to establish sufficient facts required by the Court in its April 19, 2021 Order ('Order') to exercise personal jurisdiction over [Individual Defendants]." Dkt. 147 at 1; Dkt. 148 at 1. With their motions to dismiss, each of the Individual Defendants filed affidavits claiming that (1) they are now and have been residents of Arizona, (3) they do not own property in Illinois, and (3) they

[1] For additional background, the Court previously issued an order with a more detailed summary of Plaintiffs' allegations on March 30, 2021. Dkt. 128.

do not "(a) advertise or solicit business in Illinois, (b) maintain business contracts in Illinois, (c) regularly and knowingly purchase products in Illinois to my knowledge, or (d) maintain any bank accounts in Illinois." Dkt. 147-2 at 2; Dkt. 148-1 at 2. Although the affidavits aver Arizona residence going back several decades, the averments concerning the Individual Defendants' business relationships and property interests are phrased in the present tense, attesting only to their current business relationships and property interests. None of the affidavits discuss the Individual Defendants' roles, responsibilities, or conduct with respect to the Art Institute's loss of accreditation in 2018. Further, none of the affidavits contradict Plaintiffs' factual claims in their responsive briefing on the motions.

Plaintiffs argue that the Individual Defendants, through their conduct as executives over the Illinois Art Institute, purposefully directed their activities at Illinois and caused harm to Illinois students. Plaintiffs cite a volume of sworn testimony from the depositions of the Individual Defendants supporting their argument.

A. Standard

"A federal court sitting in diversity has personal jurisdiction only where a court of the state in which it sits would have such jurisdiction." Citadel Grp. Ltd. v. Washington Regional Med. Ctr., 536 F.3d 757, 760 (7th Cir. 2008). "Illinois extends personal jurisdiction to the limits allowed by the United States Constitution, so the state and federal standards are congruent . . . ." Philos Technologies, Inc. v. Philos & D, Inc., 645 F.3d 851, 855 n.2 (7th Cir. 2011). Federal due process limits a court's exercise of personal jurisdiction to defendants that had sufficient "minimum contacts" with the forum state "'such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.'" Citadel Grp. Ltd. v. Washington Regional Med. Ctr., 536 F.3d 757, 761 (7th Cir. 2008) (quoting Int'l Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)

(internal quotation omitted)). "The contacts needed for this kind of jurisdiction often go by the name 'purposeful availment.'" Ford Motor Co. v. Montana Eighth Jud. Dist. Ct., 141 S. Ct. 1017, 1024, 209 L. Ed. 2d 225 (2021). "The defendant . . . must take 'some act by which it purposefully avails itself of the privilege of conducting activities within the forum State.'" Id. (cleaned up). "The contacts must be the defendant's own choice and not 'random, isolated, or fortuitous,'" but rather they "must show that the defendant deliberately reached out beyond its home—by, for example, exploiting a market in the forum State or entering a contractual relationship centered there." Id.

In suits alleging intentional torts, courts also consider the effect that the out-of-state defendant's conduct has within the forum state. In this context, the Seventh Circuit provides that personal jurisdiction exists where a defendant has engaged in "(1) intentional conduct (or 'intentional and allegedly tortious' conduct); (2) expressly aimed at the forum state; (3) with the defendant's knowledge that the effects would be felt—that is, the plaintiff would be injured—in the forum state." Tamburo v. Dworkin, 601 F.3d 693, 703 (7th Cir. 2010); see Tamburo v. Dworkin, 601 F.3d 693, 703 (7th Cir. 2010). "[P]laintiff 'is entitled to the resolution in its favor of all disputes concerning relevant facts presented in the record.'" Curry v. Revolution Lab'ys, LLC, 949 F.3d 385, 393 (7th Cir. 2020). The Court applies this standard to each of the Individual Defendants below.

A. Defendant Shelly Murphy had systematic contacts with Illinois sufficient to establish personal jurisdiction.

According to deposition testimony, Defendant Shelly Murphy was a C-suite executive "at the very top" of the Dream Center's "accreditation department." Dkt. 152 at 25, 102. Defendant Murphy was involved in the discussions concerning the change in accreditation status. Id. at 73.

Defendant Murphy was also responsible for the accreditation statements on the school's website. Id. at 102, 105.

Documents used during the depositions showed that Defendant Murphy and other Dream Center employees received an email from a fellow employee informing them that the "current website text and enrollment practices . . . [were] . . . an inaccurate representation of accreditation status" because the website represented that the schools were "accredited," when they were not. Dkt. 152 at 139. The email chain includes Defendant Murphy and indicates that Murphy would "get the website taken care of." Id. at 136. Other emails seem to indicate that Defendant Murphy instructed other employees not to correct the website. Id. at 76. Instead, Defendant Murphy seemingly coordinated with other Individual Defendants to update the school's websites to state that the school "remain[s] accredited as a candidate school seeking accreditation under new ownership and our new non-profit status," which Plaintiffs allege was a false and misleading representation. Id. at 147. Defendant Murphy confirmed that she did not disclose the change of accreditation status to the students until June 2018. Defendant Murphy was aware that the loss of accreditation affects students in many ways.

Defendant Murphy's conclusory declaration that she does not currently do business in Illinois does not negate any of the facts alleged in the complaint, elicited in the deposition testimony, or evinced by the documents demonstrating her involvement in the decision-making about what to communicate to students about the school's loss of accreditation. Further, although

Defendant Murphy failed to recall a number of key events in her deposition testimony,[2] that failure does not defeat Plaintiffs' independent demonstration of facts sufficient to establish personal jurisdiction over her.

Personal jurisdiction over Defendant Murphy has been established because the evidence proffered by Plaintiffs is sufficient to support a finding that (1) she intentionally participated in the decision-making process concerning what to represent to the school's students about its accreditation status—which Plaintiffs allege was tortious, (2) she expressly aimed her activities at Illinois through her conduct concerning an Illinois school with primarily Illinois students, and (3) she knew that the effects of her conduct would be felt in Illinois because the school's students are primarily located in Illinois. Other courts have found that where a defendant makes representations to individuals in the forum state that are allegedly fraudulent, those representations are sufficient to establish the minimum contacts necessary to exercise personal jurisdiction over the defendant. The Court does the same here in exercising jurisdiction over Defendant Murphy. Tamburo v. Dworkin, 601 F.3d 693, 703 (7th Cir. 2010).

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[2] A deponent should not guess or speculate when answering a question. However, a witness must truthfully represent their memories to the examiner and not feign forgetfulness to avoid answering. Defendant Murphy's deposition transcript is replete with representations that she does not remember even the most basic facts about the events alleged in the complaint. See, e.g., Dkt. 152 at 72 (deponent represents that she cannot recall what state the Illinois institute of Art operates in); id. at 73 (representing lack of memory about the change in accreditation status and the Higher Learning Commission's instruction to inform students about the change); id. at 74-75 (representing lack of memory about her understanding of the language posted on the website, except to rely on outside counsel for her understanding); id. at 80 (representing lack of memory about what advice outside counsel provided her).

All parties, and all attorneys, are admonished to uphold their obligation to truthfulness and candor in sworn testimony as this case progresses. Failure to do so has consequences. See, e.g., Bristol-Myers Squibb Co. v. Rhone-Poulenc Rorer, Inc., 2002 WL 1733681, at *3 (S.D.N.Y. July 26, 2002) (sanctions awarded in part because a deponent's "'I don't recall' answers . . . were unbelievable and demonstrate a willingness to give false testimony"); Signature Fin. LLC v. Shtayner, 2020 WL 6870817, at *4 (N.D. Ill. Nov. 23, 2020) (granting motion to compel against a deponent who gave "intentionally evasive testimony at his depositions by repeatedly responding 'I don't recall' to simple questions plainly within his ken."); Redwood v. Dobson, 476 F.3d 462, 471 (7th Cir. 2007) (censure warranted for "conduct unbecoming a member of the bar" in part because of his "feigned inability to remember" at a deposition); In Coman v. Coman, 9 V.I. 473, 486 (D.V.I. Mar. 29, 1973).

B. Defendant Brent Richardson had systematic contacts with Illinois sufficient to establish personal jurisdiction.

The Court also has personal jurisdiction over Defendant Brent Richardson. According to deposition testimony, Brent Richardson was the CEO at Dream Center and the co-chair of its board of directors, had invested in the 2017 purchase of the schools, was involved in the negotiations concerning the Dream Center's purchase of the schools, caused Dream Center to do business in Illinois while he was CEO, maintained other business contacts with Illinois through "Woz U," a company he had a financial stake in, signed the Art Institute Program Participation Agreement, and registered with the state of Illinois as a manager of the Art Institute. Dkt. 152 at 23-26, 28-30, 32, 39, 50. Importantly, he knew of the school's loss of accreditation, was involved in the discussions concerning the loss of accreditation, knew that the Higher Learning Commission required that the students be made aware of the loss of accreditation, and did not inform the students. Id. at 34-36, 38, 40. Brent Richardson met with the Higher Learning Commission in person in Illinois as well as telephonically. Id. at 35-36. He was aware that the loss of accreditation would have a negative impact on Illinois students, but did not disclose that loss of accreditation to them. Id. at 42-43.

Brent Richardson has numerous contacts with Illinois. The Court has personal jurisdiction over Brent Richardson because Plaintiffs have provided sufficient evidence supporting a finding that he (1) intentionally participated in the decision-making process concerning what to represent to the Art Institute's students about its accreditation status, which was allegedly tortious, (2) expressly aimed numerous activities at Illinois, especially through his conduct concerning representations about the accreditation status of an Illinois school to its primarily Illinois students, and (3) knew that the effects of his conduct would be felt in Illinois because the school's students are located primarily in Illinois. Tamburo v. Dworkin, 601 F.3d 693, 703 (7th Cir. 2010).

C. Defendant Chris Richardson had systematic contacts with Illinois sufficient to establish personal jurisdiction.

The Court also has personal jurisdiction over Chris Richardson. According to deposition testimony, Chris Richardson was also a high-level executive at the Dream Center and oversaw "all legal matters" at the Art Institute, including all accreditation issues with legal implications. Dkt. 152 at 25, 93-94. Chris Richardson reviewed the school's disclosures concerning its accreditation status. Id. at 94-95. He reviewed a letter from the Higher Learning Commission in 2018 about the school's loss of accreditation and had numerous meetings with the Dream Center's outside counsel about the issue. Id. at 99-101. Importantly, Chris Richardson was involved in the discussions concerning whether to publish the "we remain accredited" language. See id. at 103, 105-108, 113. He did not otherwise inform the students that the school had lost its accreditation. He knew that the loss of accreditation could have a significant negative impact on them, especially because "without accreditation, they're not able to access Federal funding." Id. at 110.

Like Shelly Murphy and Brent Richardson, the Court has personal jurisdiction over Chris Richardson because Plaintiffs have provided sufficient evidence to support a finding that he (1) intentionally participated in the decision-making process concerning what to represent to the Art Institute's students about its accreditation status—representations that were allegedly tortious, (2) expressly aimed numerous activities at Illinois, including decisions concerning what representations to make about the accreditation status of an Illinois school to its primarily Illinois students, and (3) knew that the effects of his conduct would be felt in Illinois because the school's students are located primarily in Illinois. Tamburo v. Dworkin, 601 F.3d 693, 703 (7th Cir. 2010).

D. The fiduciary shield doctrine does not immunize the Individual Defendants from personal jurisdiction.

In response to Plaintiffs' detailed brief outlining significant factual evidence supporting the exercise of personal jurisdiction over the Individual Defendants, the Individual Defendants jointly filed an anemic three-page reply brief arguing that, "Defendants' actions directed at Illinois were normal behaviors as the company's corporate officers—all insulated by the corporate shield. There is no behavior that can be considered fraudulent and intentional misconduct." Dkt. 152 at 1.

The corporate fiduciary shield doctrine does not protect corporate officers when they have allegedly engaged in intentional misconduct in the forum state. Calder v. Jones, 465 U.S. 783, 790 (1984); In re: RFC & ResCap Liquidating Tr. Litig., 2017 WL 1483374, at *10 (D. Minn. Apr. 25, 2017); Am. Vintage Gun & Pawn, Inc. v. Hogan Mfg., LLC, 2012 WL 2366690, at *3 (M.D. Fla. June 21, 2012); Doe v. Fry, 2011 WL 13298562, at *3 (M.D. Fla. May 12, 2011); Wolf Designs, Inc. v. OHR Co., 322 F. Supp. 2d 1065, 1072 (C.D. Cal. 2004); Ferris Mfg. v. Thai Care, Co., 2019 WL 8223064, at *5 (N.D. Tex. Jan. 23, 2019); S & M Representatives, Inc. v. Hrga, 1997 WL 328004, at *8 (N.D. Tex. June 10, 1997) ("If a corporate officer engages in tortious conduct in his corporate capacity in a forum, that conduct is sufficient to support a court's in personam jurisdiction over that officer in his individual capacity.")

Plaintiffs provide significant, uncontroverted evidence sufficient to support a finding that the Individual Defendants were involved in the decision-making process concerning what representations to make to the Art Institute's students concerning the school's loss of accreditation, and nothing in Defendants' declarations or briefing contradicts Plaintiff's factual assertions. Doe v. Fry, 2011 WL 13298562, at *3 (M.D. Fla. May 12, 2011) ("The district court must accept the facts alleged in the complaint as true, to the extent they are uncontroverted by the defendant's affidavits.") (quoting Madara v. Hall, 916 F.2d 1510, 1514 (11th Cir. 1990)). Plaintiffs allege that

the Individual Defendants' conduct amounts to a violation of Illinois Consumer Fraud and Deceptive Practices Act for intentional misrepresentations and omissions of material facts and fraudulent concealment, among other claims. Those claims require intentional misconduct. The fiduciary shield doctrine is thus inapplicable to the Individual Defendants.

Defendant's reply does not cite any legal authorities supporting its position on the application of the fiduciary shield doctrine or cite to any evidence controverting Plaintiffs' detailed summary of evidence supporting the exercise of personal jurisdiction. Because Plaintiffs' evidence is uncontroverted and the fiduciary shield doctrine is inapplicable, the motions to dismiss for lack of personal jurisdiction by the Individual Defendants are denied.

II. Plaintiffs' motion to compel further deposition testimony of Chris Richardson is granted.

Plaintiffs deposed Chris Richardson, who was an in-house attorney representing the Dream Center in 2017, before he became a party to this case. Dkt. 111 at 3. The Dream Center, itself and through its receiver, produced documents to Plaintiffs and to Congress pursuant to this lawsuit and a Congressional investigation into the same subject matter. Id. at 7, 8. Many of those documents relate to internal discussions at the Dream Center concerning the allegedly inaccurate information on the Art Institute's website concerning its accreditation status. Chris Richardson was an active participant in these discussions, and Plaintiffs sought to question him on the topic.

Chris Richardson, however, informed Plaintiffs' counsel before his first deposition that the Dream Center, as his former client, was asserting attorney-client privilege over those communications. Dkt. 123 at 2. Plaintiffs proceeded with the deposition anyway, which was unsurprisingly unproductive as Chris Richardson refused to testify on the basis of his client's assertion of attorney-client privilege. Id. Plaintiffs move to compel Chris Richardson's testimony, arguing that any privilege over the subject matter has been waived because the Dream Center

voluntarily produced privileged documents on that subject matter in this lawsuit and to Congress. Dkt. 111. In his response, Chris Richardson "takes no position herein as to whether the privilege has been waived, because it is not his argument to make." Dkt. 123 at 5. Chris Richardson attaches an email communication purportedly from the Dream Center's counsel instructing him to assert attorney-client privilege, without making any substantive argument as to its potential waiver. Dkt. 123-1 at 5. Dream Center, despite being a party to this litigation, did not file a brief defending its assertion of the privilege.

The attorney-client privilege applies to confidential communications between a client and a lawyer concerning legal advice, so long as the privilege is not waived. The party asserting the privilege bears the burden to establish that the elements of attorney-client privilege are met. Vill. of Rosemont v. Priceline.com Inc., 2010 WL 4876217, at *3 (N.D. Ill. Nov. 22, 2010). The Dream Center's indirect assertion of privilege and its failure to defend it before this Court alone justifies an order compelling the testimony because the Dream Center has failed to meet its burden.

Further, any assertion of attorney-client privilege here is meritless because the Dream Center waived the privilege over the relevant subject matter. "[A] party that voluntarily discloses part of a conversation covered by the attorney-client privilege waives the privilege as to the portion disclosed and to all other communications relating to the same subject matter." Appleton Papers, Inc. v. E.P.A., 702 F.3d 1018, 1024 (7th Cir. 2012); Chicago Tribune Co. v. U.S. Dep't of Health & Human Servs., 1997 WL 1137641, at * 4 (N.D. Ill. Mar. 28, 1997); Urban Outfitters v. DPIC Cos., 203 F.R.D. 376, 381 (N.D. Ill. 2001). Knowing disclosure to a third party, especially an adversary, waives the attorney-client privilege. United States v. Nobles, 422 U.S. 225, 239 (1975); Matichak v. Joliet Park Dist., 2016 WL 11706697, at *5 (N.D. Ill. Oct. 21, 2016); In re Air Crash Disaster, 133 F.R.D. 515, 518 (N.D. Ill. 1990).

The Dream Center knowingly disclosed privileged communications concerning Dream Center's decision-making process regarding what information to provide students (and what information to withhold) regarding the Art Institute's accreditation. The Dream Center took no steps to retrieve or otherwise mitigate the harm of its disclosures. That waives attorney-client privilege as to that subject matter. Thus, Chris Richardson's privilege objections made during the deposition are overruled. Plaintiffs may inquire and Chris Richardson must answer all questions relating to the Art Institute's accreditation status and the decisions and discussions about what to communicate to students concerning its loss of accreditation.

Plaintiffs request attorneys' fees from Chris Richardson for making them bring this motion to compel. Dkt. 111 at 4. However, it was Chris Richardson's client, and its meritless privilege objection, that necessitated the motion—not the conduct of Chris Richardson. Chris Richardson had an ethical obligation to abide by the privilege assertions of his client. The Court finds that compelling an attorney to pay the expenses for a motion his client necessitated makes "an award of expenses unjust" under Federal Rule of Civil Procedure 37(a)(5)(A)(iii). Thus, Plaintiffs' request for the expenses incurred in making their motion to compel is denied.

III. Plaintiffs' motion for reasonable expenses and attorneys' fees against Defendant Shelly Murphy under Federal Rule of Civil Procedure 4(d)(2) is granted.

Parties have "a duty to avoid unnecessary expenses of serving the summons." Fed. R. Civ. Pro. 4(d)(1). Federal Rule of Civil Procedure 4(d)(2) requires courts to award expenses against a party who fails to waive service of process without good cause, and to award reasonable attorneys' fees if a motion is required to compel that party to pay the expenses:

> (2) Failure to Waive. If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant: (A) the expenses later incurred in making service; and

> (B) the reasonable expenses, including attorney's fees, of any motion required to collect those service expenses.

Fed. R. Civ. Pro. 4(d)(2). Rule 4(d)(2) is not discretionary. It mandates an award of expenses and reasonable attorneys' fees for any motion to collect service expenses unless the defendant can show "good cause." Id. Plaintiffs provided Murphy with a waiver of service, which she failed to sign and return. Dkt. 134 at 4. Murphy makes two arguments in opposition to Plaintiffs' motion.

First, Murphy argues that because she objected to the Court's personal jurisdiction over her, Plaintiffs' motion was premature. Dkt. 137 at 1. But objections to a Court's jurisdiction do not exempt parties from waiving service under Rule 4(d)(2). See Fed. R. Civ. P. 4(d), advisory committee's note (1993 Amendments) ("It is not a good cause for failure to waive service that the claim is unjust or that the court lacks jurisdiction."); Hooda v. W.C.A. Servs. Corp., 2011 WL 6019932, at *3 (W.D.N.Y. Nov. 4, 2011) (collecting cases); Bozell Grp., Inc. v. Carpet Co-op of Am. Ass'n, Inc., 2000 WL 1523282, at *4 n.1 (S.D.N.Y. Oct. 11, 2000). Thus, the Court rejects Murphy's argument that her objection to personal jurisdiction has any bearing on the motion.

Second, Murphy argues that the $800 cost of effectuating service on her was too high. Dkt. 137 at 2. But even if that was true, it has nothing to do with whether Murphy had "good cause" to fail to waive service. And the cost was only that high because Murphy did not abide by her "duty to avoid unnecessary expenses of serving the summons." Fed. R. Civ. Pro. 4(d)(1). Murphy does not contest Plaintiffs' assertions that they attempted to serve a subpoena to her over ten times on multiple occasions when "Murphy's home has a video doorbell and, on multiple occasions, the lights were on at her home, a dog was barking inside, and multiple cars were in the driveway." Dkt. 138 at 3; dkt. 134 at 2. When "[c]ontact information was also left on the front door requesting to arrange a day and time for service of the subpoena," the "contact information was removed from the front door, but Defendant Murphy never contacted the process server to arrange for

service of the subpoena." Dkt. 138 at 3. Because of Murphy's evasion of service, Plaintiffs attempted to acquire a waiver pursuant to Rule 4(d). Dkt. 134 at 3. Murphy did not respond. As a result, Plaintiffs were forced to hire a private investigator to run background checks, confirm her address, run license plate numbers, and surveille her home for several hours over two days. Id. at 3-4. The private investigator was ultimately able to serve Murphy at the same address where she had previously evaded service. Id.

The $800 cost to accomplish service on Defendant Murphy is not unreasonable, and any above-average cost is of her own making. Courts routinely reject similar arguments when evasive defendants object to the cost of service. United States v. Nuttall, 713 F. Supp. 132, 138 (D. Del.), aff'd, 893 F.2d 1332 (3d Cir. 1989); Thompson v. Solo, 2004 WL 1385825, at *2 (N.D. Ill. June 21, 2004); Troxell v. Fedders of North Am., Inc., 160 F.3d 381, 383 (7th Cir. 1998); United States v. First Midwest Bank, 1995 U.S. Dist. LEXIS 10495, at *11 (N.D. Ill. July 21, 1995).

In Murphy's two-page opposition brief, she does not cite a single case or other legal authority or make any argument that there was "good cause" for her failure to waive service. See generally dkt. 137. Without any showing of good cause, the Court is bound by Rule 4(d)(2) to award Plaintiffs reasonable expenses and attorneys' fees incurred in bringing this motion. Plaintiffs' motion is granted, and Plaintiffs are ordered to file an affidavit demonstrating all reasonable expenses it incurred, including attorneys' fees, within 14 days of this order.

IT IS SO ORDERED.

ENTER:

CHARLES RONALD NORGLE, Judge
United States District Court

DATE: August 5, 2021