

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ELIYAHU MIRLIS,

Plaintiff,

Case No.3:19-cv-00700

v.

EDGEWOOD ELM HOUSING, INC.,
F.O.H., INC., EDGEWOOD VILLAGE,
INC., EDGEWOOD CORNERS, INC.,
AND YEDIDEI HAGAN, INC.

Defendants.

**DECLARATION OF JOHN L. CESARONI IN SUPPORT
OF PLAINTIFF'S MOTION UNDER FED. R. CIV. P. 56(D) TO DENY DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT PENDING COMPLETION OF DISCOVERY**

I, John L. Cesaroni, being over the age of 18 years, do hereby depose and say as follows:

1. I am counsel to the plaintiff, Eliyahu Mirlis ("Plaintiff"), in the above-captioned action, and I am also counsel to Plaintiff in the actions captioned *Eliyahu Mirlis v. Daniel Greer et al.*, 3:16-cv-00678 (MPS) (the "Underlying Action") and *Eliyahu Mirlis v. Sarah Greer*, 3:18-cv-2082 (MPS) (the "S. Greer Action") as well as in the Connecticut state court foreclosure actions captioned *Eliyahu Mirlis v. Yeshiva of New Haven, Inc, fka The Gan, Inc, fka The Gan School, Tikvah High School and Yeshiva of New Haven, Inc.*, NNH-CV17-6072389-S, *Eliyahu Mirlis v. Yeshiva of New Haven, Inc.*, NNH-CV17-6072391-S, *Eliyahu Mirlis v. Yeshiva of New Haven, Inc.*, NNH-CV17-6072390-S, and *Eliyahu Mirlis v. Daniel Greer*, NNH-CV17-6072481-S (collectively, the "Foreclosure Actions"). Unless otherwise indicated, I make this declaration upon personal knowledge based upon my participation in this action and a review of the documents and other information obtained through discovery or otherwise in the Underlying Action, the S. Greer Action, and the Foreclosure Actions. I make this Declaration in compliance with Fed. R. Civ. P. 56(d).

2. As set forth in the Memorandum of Law in support of Plaintiff's Motion under Fed. R. Civ. P. 56(d), the above captioned action was commenced on May 8, 2019, discovery was thereafter stayed by order granting the defendants', Edgewood Elm Housing, Inc. ("Edgewood Elm"), F.O.H., Inc. ("FOH"), Edgewood Village, Inc. ("Edgewood Village"), Edgewood Corners, Inc. ("Edgewood Corners"), and Yedidei Hagan, Inc. ("YH" and collectively, "Defendants"), May 13, 2020, motion to stay discovery, and the parties most recently spent more than six months negotiating the parameters of a global mediation and mediating all of the disputes between Plaintiff, Defendants, and various other individuals and entities. While Plaintiff served interrogatories and requests for production on Defendants approximately one year ago, to which Defendants have not responded, no other discovery has been served or conducted in this case. Given that the mediation concluded only a few weeks ago, it is understandable, given the posture of this case, that discovery has not yet advanced. Indeed, this Court extended the timeline to submit a status report regarding this action three times to give the parties additional time to mediate.

3. Plaintiff alleges multiple fact intensive theories of veil piercing in this action. Plaintiff's claims for relief are predicated on D. Greer's total domination and control of the Defendants and the Yeshiva of New Haven, Inc. (the "Yeshiva") such that they were operated as a single enterprise (the "Enterprise") with no separate identities. Plaintiff contends that D. Greer used the Enterprise to hold and acquire assets in Defendants in order to incrementally pay money to himself, his wife, Sarah Greer ("S. Greer"), and the Yeshiva and to thwart the collection of the judgment against D. Greer and the Yeshiva issued in the Underlying Action.

4. As set forth in the Report of Rule 26(f) Planning Meeting (Doc. No. 17) (the "26(f) Report") filed by the parties before Defendants moved to dismiss and discovery was stayed,

discovery is necessary and essential as to multiple topics in this litigation in order for Plaintiff to be able to properly develop a record and prosecute this action, including:

- i. The financial information of Defendants and others;
- ii. The management and operations of the Defendants and others;
- iii. The relationships among Defendants and between Defendants and others;
- iv. The use of properties owned by Defendants to perpetrate the sexual abuse against the Plaintiff;
- v. D. Greer's involvement with the Yeshiva and Defendants as officer and/or director;
- vi. Property owned by Defendants;
- vii. Officers, directors, and employees of Defendants;
- viii. Transactions between Defendants and the Yeshiva;
- ix. Individuals who provide services to Defendants;
- x. Who hires, fires, and manages employees of Defendants;
- xi. Transfers made by Defendants; and
- xii. Debts owed to or by Defendants.

5. Defendants' motion for summary judgment (the "MSJ") has also put at issue, and discovery will therefore also be necessary as to, (i) the operations of Defendants and the Yeshiva from their formation to the present day; and (ii) financial information of Defendants from their formation until the present day, including books, records, tax documents, audited and unaudited financials, bank records, and records of transactions among them. Discovery of this information, as well as the topics listed above, is necessary to the prosecution of this action and to fully and properly respond to the arguments raised in the MSJ.

6. Plaintiff must be given time to conduct discovery to enable it to meet its burden of demonstrating that there are genuine issues of material fact in dispute and the Defendants are not entitled to judgment as a matter of law.

7. Specifically, I believe that such discovery will demonstrate, *inter alia*,

- i. D. Greer's complete domination and control of Defendants and the Yeshiva;
- ii. The lack of corporate separateness of Defendants and the Yeshiva;
- iii. The lack of corporate formalities;
- iv. The interrelated finances of Defendants;
- v. The use of Defendants by D. Greer and the Yeshiva to prevent the collection of the judgment in the Underlying Action and perpetrate abuse against Plaintiff;
- vi. The use of properties owned by one or more of the Defendants to perpetrate the sexual abuse against the Plaintiff; and
- vii. Defendants' and D. Greer's efforts to knowingly interfere and thwart the collection of the judgment in the Underlying Action.

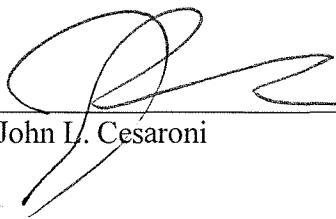
8. These facts will provide a sufficient basis to rebut the contrary claims of Defendants in their motion and establish that Defendants are not entitled to summary judgment. In addition, Plaintiff contemplates the need for expert testimony on some of the financial issues present in this case and likely for the opposition to the motion for summary judgment.

9. Plaintiff has acted with diligence throughout this case. Defendants did not respond to the initial discovery requests served on them over one year ago. Plaintiff, quite reasonably, in light of the Court's order issued after the August 2020 status conference with the parties, expected that the parties would discuss a scheduling order to establish deadlines for discovery if the mediation proved unsuccessful, but instead, Defendants moved for summary judgment.

10. There has been no discovery conducted in this action, no proposed scheduling order has been submitted (other than an initial one that is no longer in effect due largely to the mediation efforts), and no discovery deadlines have been set. Thus, the MSJ opens the door to unnecessary, premature and inappropriate disposition of issues in this case at this time, and Plaintiff should be afforded the opportunity to take discovery prior to responding to it.

Pursuant to 11 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4/20/21.



John L. Cesaroni