

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Case No. 7:23-cv-04832

People of the State of New York, by LETITIA JAMES,
Attorney General of the State of New York,

Plaintiff,

-against-

RED ROSE RESCUE, CHRISTOPHER MOSCINSKI,
MATTHEW CONNOLLY, WILLIAM GOODMAN, LAURA
GIES, JOHN HINSHAW, AND JOHN AND JANE DOES, the
last two named being fictitious names, the real names of such
persons being currently unknown but who are active in Red
Rose Rescue or act in concert with the above-named individuals
or organization to engage in, or who will engage in, the conduct
complained of herein,

Defendants.

-----X

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION FOR CONTEMPT**

LETITIA JAMES

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PRELIMINARY STATEMENT

On December 15th, 2023, following extensive briefing and oral argument, the Court granted a preliminary injunction against Defendants Red Rose Rescue, Christopher Moscinski, Matthew Connolly, William Goodman, Laura Gies, and John Hinshaw. Dkt. No. 62 (“Order”). The Order enjoins Defendants and their agents from knowingly being present within fifteen feet of the edge of any doorway and walkway entrances of any reproductive health facility, with the intent to interfere with patients, in the Southern or Eastern Districts of New York.

Plaintiff has recently learned that Defendant Red Rose Rescue twice violated the injunction within a month of issuance of the Order and then violated it twice more in the past two weeks. Specifically, on January 6th, 2024, a self-proclaimed member of the group, who had publicly commented about this lawsuit, knowingly and repeatedly came within fifteen feet of the doorway and walkway entrances to the Planned Parenthood in Manhattan in order to interfere with patients entering the clinic for over an hour. A week later, on January 13th, 2024, Defendant Red Rose Rescue again violated the injunction, when the same group member repeatedly interfered with patients within fifteen feet of the doorway and walkway entrances to the Planned Parenthood in Brooklyn for over an hour. Just this month, on August 10th, 2024, the same Red Rose Rescue member violated the Order for a third time, by interfering with patients at the entrance to the Planned Parenthood in Brooklyn, and a fourth time on August 15th, 2024, by interfering with patients at the entrance to the Planned Parenthood in Manhattan.

Based on these repeated violations, Plaintiff asks this Court to hold Defendant Red Rose Rescue in contempt and to award sanctions to deter Red Rose Rescue and any of its members or persons acting in concert with it from violating the Order again.

FACTUAL BACKGROUND

Bernadette Patel is an anti-abortion activist and self-proclaimed member of Defendant Red Rose Rescue. Ex. A, July 1, 2023 Article at 5. Her legal name is Brianna Mangat. Ex. B, Lyman Aff. at ¶ 9; Ex. C, Students for Life of America profile at 4 (identifying a photo of Patel as Mangat). Patel is fully aware of this litigation and this Court’s Order enjoining the organization; just last year, she stated that the New York State Attorney General’s lawsuit would not have any effect on her protest activity. Ex. D, July 27, 2023 Article at 10 (“Like Satan trying to tempt and lead all followers to Christ to sin, the state is persecuting us, hoping we will falter in our pro-life beliefs or stop doing our pro-life work. I certainly won’t, and neither will my friends.”); *see also* Ex. E, June 13, 2023 Article at 6 (“Letitia James is following the same script that dictatorships of [the] past have followed: Silence those that disagree with you by unjustly imprisoning them.”)

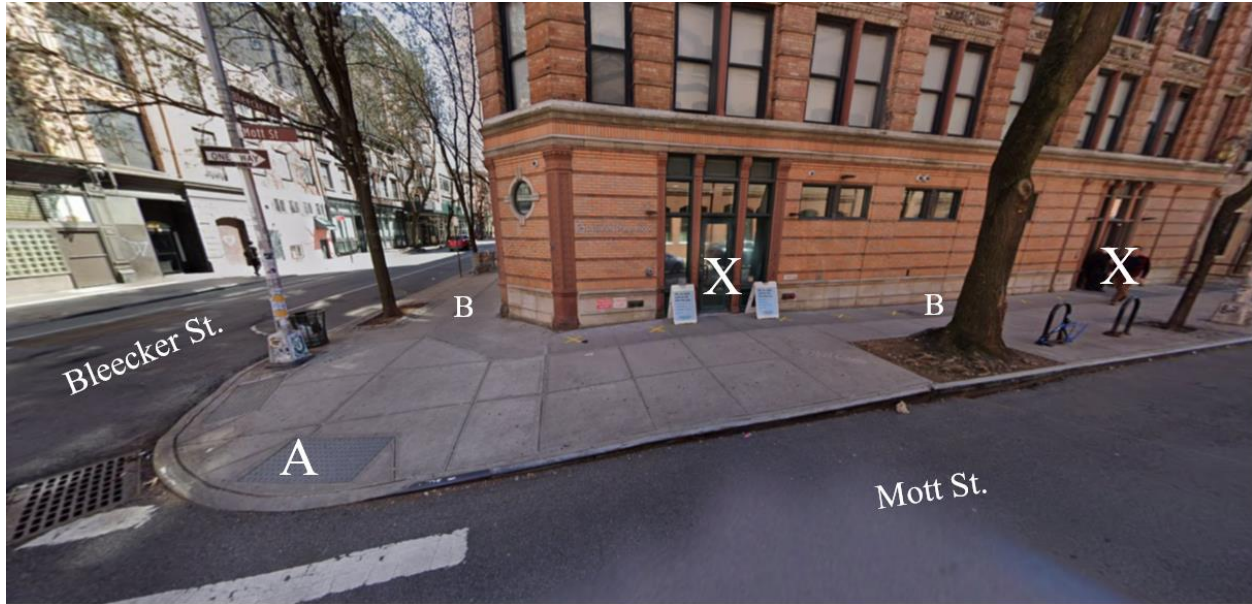
Patel’s extensive knowledge of this lawsuit and identification with Red Rose Rescue is well documented. She has publicly congratulated Defendants Gies and Moscinski for their invasions of the Manhasset clinic in 2021, posting a report about their sentencing in an online publication and on the Red Rose Rescue Facebook page, identifying them as “Red Rose Rescuers,” and inviting fellow members to “pray for the rescuers.” Ex. A, July 1, 2023 Article at 4. Patel has also referred to Monica Miller’s defamation lawsuit, which claimed that the New York State Attorney General’s comments about this case “cause[d] irreparable harm to Plaintiffs and others who associate with and support Red Rose Rescue,” as “our countersuit.” Ex. F, Defamation Complaint at ¶ 3; Ex. D, July 27, 2023 Article at 9.

Patel has taken an active role in Red Rose Rescue, reportedly confirming to a journalist that she runs the organization’s social media accounts. Ex. G, Dec. 9, 2023, X Post. She has also participated in Red Rose Rescues, including at least one of those at issue in this lawsuit. On April

23, 2022, Patel was one of ten members of Red Rose Rescue who invaded a reproductive health care facility in Michigan, alongside Defendants Moscinski and Gies. Dkt. 1 (“Complaint”) at ¶ 89. And on November 27, 2021, Patel joined in the Red Rose Rescue invasion of All Women’s Health and Medical Services in White Plains, though she did not remain inside the clinic to be arrested. In Exhibit H, admitted at the White Plains trespass trial as People’s Exhibit 8,¹ Patel can be seen holding a red rose and trespassing onto clinic property alongside Defendant Gies, then joining the other Red Rose Rescue members to occupy the vestibule. Ex. H at 48 (time stamped 09:29:58 a.m.). There, she conferred with Defendant Gies, then remained inside the vestibule, as a police officer blocked an interior door to ensure that she and other Red Rose Rescue members did not advance any further into the clinic. *Id.* at 48–50 (09:29:58–09:31:58). Once inside, Patel approached the interior door and conferred with the other trespassing Red Rose Rescue members, who whispered in her ear, then laughed, smiled, and gestured at the officer guarding the door. *Id.* at 49–50:30 (09:30:58–09:32:28). Patel then addressed the officer at length, gesturing at him with the red rose in her hand. *Id.* at 50–51:30 (09:31:58–09:33:28). She eventually left the vestibule, but she can be seen through the window about fifteen minutes later, following a patient approaching the clinic. *Id.* at 1:05 (09:46:58). Patel followed the patient all the way onto the clinic property and into the vestibule, stopping only at the entrance barred by the police officer. *Id.*

Since the Court entered the Order, this active Red Rose Rescue member has violated it at least four times, twice at the Planned Parenthood at 26 Bleecker Street in Manhattan and twice at the Planned Parenthood at 44 Court Street in Brooklyn.

¹ Exhibit H contains video footage from the same camera angle as that in Exhibit 1 to Plaintiff’s Motion for Summary Judgment, Dkt. No. 84-3.



26 Bleecker Street, Manhattan, NY

The Planned Parenthood Manhattan Health Center at 26 Bleecker Street is located on the corner of Bleecker Street and Mott Street. The clinic has two doorway entrances on Mott Street (noted in above photo as “X”): the main entrance on the left, surrounded by white placards, and the administrative entrance on the right, both accessible via the adjacent walkway² directly in front of the building (identified as B). The sidewalk encompasses the walkway and includes other elements of the pavement, including the trees and bicycle racks. On Mott Street, the sidewalk is approximately thirteen and a half feet wide. The distance from the main entrance to the curb cut (identified as A) is approximately fifteen feet. On Bleecker Street, the sidewalk is approximately 16 feet wide. Ex. B, Lyman Aff. at ¶ 14; Lyman Dec. Ex. 1.

On January 6th, 2024, three weeks after the Court issued its preliminary injunction, Patel knowingly and repeatedly interfered with patients within five feet of the walkway and doorway

² The walkway refers to the portion of the sidewalk hugging the building, which accommodates anyone of any ability, including their companion. *See, e.g.,* Miriam Webster Dictionary (“a passage for walking”); Black’s Law Dictionary, 2d Ed. (“A walk for foot passengers at the side of a street or road.”).

entrance of the Bleecker Street Center for over an hour in the morning. As captured on camera, Patel followed patients as they approached the doorway and entered the clinic, coming within feet of the doorway entrance. Ex. I, Jan. 6, 2024 Photograph. A fellow anti-abortion activist posted photos of Patel at the clinic that day, in which she stood in the middle of the walkway next to the building (identified as B in the diagram above), well within fifteen feet of the doorway, so that she could accost patients. Ex. J, Jan. 6, 2024 Instagram Post. At all times, Patel wore a pink vest resembling the vests of legitimate Planned Parenthood escorts, in order to confuse patients approaching the clinic as to whether she was there to assist or prevent them from entering. *Id.*

Recently, on August 15th, 2024, Patel again violated the Order at the Bleecker Street clinic when she interfered with patients within fifteen feet of the doorway and walkway entrances for approximately two hours in the morning. Ex. B, Lyman Aff. at ¶ 19. During that time, Patel repeatedly followed and crowded patients, trying to speak into their ears and give them pamphlets, as they attempted to avoid her and enter the building. *Id.* She positioned herself on the corner by the curb cut (identified as A, above) and then closely followed patients to within inches of the main doorway entrance, as volunteers opened the door to let them in. Ex. K, Aug. 15, 2024 Photograph; Ex. B, Lyman Aff. at ¶ 22.



44 Court Street, Brooklyn, NY

The Planned Parenthood Joan Malin Brooklyn Health Center is located at 44 Court Street and occupies the fourth floor of the building. There are three steps leading up from the sidewalk to the main entrance (noted in the above photo as “X”), bordered by two columns. The width of the sidewalk in front of the building (the distance from X to A, the outermost edge of the sidewalk) is approximately sixteen feet. Ex. B, Lyman Aff. at ¶ 25; Lyman Dec. Ex. 2.

On January 13th, 2024, Patel violated the Order when she knowingly and repeatedly interfered with patients within fifteen feet of the doorway and walkway entrances of the Court Street Center for over an hour. Ex. B, Lyman Aff. at ¶ 27. A fellow anti-abortion activist posted photos of Patel at the clinic that day, in which she crowded and followed a patient entering the facility while handing out literature. Ex. L, Jan. 13, 2024 Instagram Post. An anti-abortion publication identified her in pictures, standing within a foot of the doorway entrance, and described how she “sprang forward” to offer leaflets to patients as they approached the door. Ex. M, Jan. 17, 2024 Article at 3–4. Meanwhile, Health Center escorts used their bodies in an effort to shield the

patient from Patel. Ex. L. All the while, Patel is wearing a pink vest in imitation of the actual escorts. *Id.*

Finally, on August 10th, 2024, Patel again violated the Order at the Court Street clinic. Patel followed patients within fifteen feet of the doorway and walkway entrances for over an hour in the morning. Ex. B, Lyman Aff. at ¶ 30. Photographs and video depict Patel standing and kneeling mere feet from the clinic doorway, in order to confront patients entering the building. Ex. N, Aug. 10, 2024 Photograph; Ex. O, Aug. 10, 2024 Instagram Post; Ex. P, Aug. 10, 2024 Instagram Video. At one point, as seen in a photo captured by one anti-abortion photographer, Patel was kneeling and praying near the steps. Ex. O. Meanwhile, a group of anti-abortion protesters were praying close to the curb. Ex. P.

In all of these documented incidents, Patel, a Red Rose Rescue member, was well within fifteen feet of the doorway and walkway entrances of clinics in New York City for an extended period of time, in order to interfere with patients trying to access reproductive health services, in violation of this Court's Order.

ARGUMENT

As the Second Circuit has made clear, “[t]he contempt power serves to ‘protect the due orderly administration of justice and to maintain the authority and dignity of the court.’” *CBS Broadcasting Inc. v. FilmOn.com, Inc.*, 814 F.3d 91, 98 (2d Cir. 2016) (quoting *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764 (1980) (cleaned up)). The Court may make a finding of civil contempt upon finding that “(1) the order the party allegedly failed to comply with is clear and unambiguous, (2) the proof of noncompliance is clear and convincing, and (3) the party has not diligently attempted in a reasonable manner to comply.” *New York State Nat. Org. for Women v Terry*, 886 F.2d 1339, 1351 (2d Cir. 1989) (*citations omitted*). All three factors are met here.

1. The Order is Clear and Unambiguous

Federal Rule of Civil Procedure 65(d) requires that injunctive orders “state its terms specifically” and “describe in reasonable detail . . . the act or acts restrained or required.” As the Supreme Court has explained, the policy behind this rule is “to prevent uncertainty and confusion on the part of those faced with injunctive orders, and to avoid the possible founding of a contempt citation on a decree too vague to be understood.” *Schmidt v. Lessard*, 414 U.S. 473, 476 (1974); *see also Portland Feminist Women’s Health Center v. Advocates for Life, Inc.*, 859 F.2d 681, 685 (9th Cir. 1988). The Second Circuit has further clarified that “[a]n injunction is sufficiently clear and unambiguous if it leaves ‘no doubt in the minds of those to whom it was addressed . . . precisely what acts are forbidden.’” *CBS Broadcasting Inc. v. FilmOn.com, Inc.*, 814 F.3d at 98 (quoting *Drywall Tapers & Pointers v. Local 530*, 889 F.2d 389, 395 (2d Cir. 1989)). In the instant case, there can be no doubt about the terms of the Order.

The December 15th, 2023 Preliminary Injunction Order enjoins and restrains Defendants, including organizational Defendant Red Rose Rescue,

and all other persons, known or unknown, acting on their behalf or in concert with them, and receiving actual or constructive notice of this Order . . . from knowingly being present within fifteen feet of either edge of any doorway, walkway, or driveway entrance of any facility providing reproductive health care services . . . with the intent to injure, intimidate, or interfere with any person because that person is or has been obtaining or providing reproductive health services . . . in either the Southern or Eastern Districts of New York, which cover New York, Bronx, Westchester, Putnam, Rockland, Orange, Dutchess, Sullivan, Nassau, Suffolk, Kings, Queens and Richmond Counties.

Dkt. No. 62, Order. The language of the Order is clear as to which persons are enjoined, what type of conduct is prohibited, and what location is covered by the buffer zone. Defendant Red Rose Rescue and its self-proclaimed member Bernadette Patel had actual notice of the Order and willfully violated it.

First, as to whom is enjoined, the plain language of the Order includes Defendant Red Rose Rescue, an organization represented by counsel that has appeared in this action. While counsel has repeatedly asserted that Red Rose Rescue is not an organization and has no members, Dkt. No. 37, Opp. to PI at 11, 27; Dkt. No. 70, RRR Answer at ¶¶ 8, 72, 75, 76, 78, 81, 82, 85, 86, Defendants themselves have stated otherwise on their own website. Dkt. No. 26-2, PI Motion Ex. B (referring to “RRR members”). Indeed, Patel herself states that she is a “member of Red Rose Rescue” in numerous articles and publications. *See* Ex. D; Ex. A. She has reportedly told the press that she runs the organization’s social media accounts. Ex. G. And there is no reason to doubt her claims: she has participated in numerous invasions, as noted in the Complaint (Dkt. No. 1 at ¶ 89), including the invasion at All Women’s Health and Medical Services in White Plains on November 27, 2021. *See* Ex. H at 48 (09:29:58). An individual who self-identifies as a member of Red Rose Rescue, takes a leadership role in the organization, manages the organization’s public social media presence, speaks to the press as a representative of the organization, and participates in the namesake invasions of the group (while holding red roses, no less) is definitively covered by the Order.

Without question, anti-abortion organizations that coordinate unlawful protest activity are parties that can be subject to contempt. The Second Circuit has called arguments to the contrary “meritless,” writing,

[a]lthough not organized in corporate or partnership form, [Defendant organization] produces literature, possesses a mailing address, engages in correspondence, tacitly enrolls a membership, seeks donations in its name and regularly organizes protest demonstrations on a wide scale. Thus, it possesses adequate characteristics of a legal entity to be held in contempt.

New York State Nat. Org. for Women v. Terry, 886 F.2d 1339, 1352 (2d Cir. 1989). Here, as the Court well knows, the parties have already stipulated that Defendant Red Rose Rescue is a legal

entity capable of being sued and bound by an injunction, and Plaintiff has therefore taken no discovery on this issue.³ Dkt. No. 81. Yet even from its website, it is apparent that Red Rose Rescue possesses a mailing address, Ex. Q, Red Rose Rescue Website (providing email address to “stay connected”), engages in correspondence, *id.*, tacitly enrolls a membership, *id.* (soliciting volunteers to participate in invasions or hold leadership positions); Dkt. No. 26-2, PI Motion Ex. B (referring to “RRR members”), seeks donations in its name, Dkt. No. 26-1, PI Motion Ex. A (Red Rose Rescue webpage soliciting donations under the name “Red Rose Rescue”), and regularly organizes protests on a wide scale, Dkt. No. 26-3, PI Motion Ex. C (video in which self-proclaimed Red Rose Rescue Director Monica Miller states that there have been thirty Red Rose Rescues since September 2017).

Moreover, the inclusion of Red Rose Rescue as an enjoined defendant necessarily implicates the group’s agents. “An injunction issued against a corporation or association binds the agents of that organization to the extent they are acting on behalf of the organization.” *People of State of N.Y. by Vacco v. Operation Rescue Nat.*, 80 F.3d 64, 70-71 (2d Cir. 1996) (citation omitted). Said another way, “a command to a company is in ‘effect a command to those who are officially responsible for the conduct of its affairs.’” *CBS Broadcasting Inc. v. FilmOn.com, Inc.*, 814 F.3d at 100 (citing *NLRB v. Hopwood Retinning Co.*, 104 F.2d 302, 305 (2d Cir. 1939) (additional citations omitted)). The Order explicitly adopts these legal principles, stating that it applies not

³ Despite this stipulation, Defendants have subsequently tried to disavow liability for the group based on the actions of its members. *See* Dkt. No. 92, Defendants’ Opposition to Plaintiff’s Motion for Summary Judgment at 7 (denying that activity by protesters holding red roses and trespassing inside a clinic as part of a Red Rose Rescue “was authorized or directed by Red Rose Rescue *qua* organization”). Should Defendants pursue such arguments, Plaintiff withdraws its agreement at this stage to forgo fact discovery on Red Rose Rescue’s membership and leadership structure, as well as its instructions to and communications with its members and agents.

only the named Defendants, but “all other persons, known or unknown, acting on their behalf or in concert with them[.]” Dkt. No. 62, Order.

Bernadette Patel is an agent, member, and representative of Defendant Red Rose Rescue. As such, she is bound by the terms of the Order, and Defendant Red Rose Rescue may be held in contempt for her actions.

2. The Evidence of the Violations is Clear and Convincing

Submitted with the instant motion is photographic evidence showing Patel following and crowding patients within fifteen feet of the doorway and walkway entrances of reproductive health facilities in New York City. Because the evidence is determinative, the Court may make a finding of contempt without holding an evidentiary hearing. *See Su v. Berkshire Nursery & Supply Corp.*, 2024 WL 1636439 (S.D.N.Y. Apr. 16, 2024) (no hearing required on contempt motion where material facts not in dispute); *Grand v. Schwarz*, 2018 WL 1583314, at *3 (S.D.N.Y. Mar. 27, 2018) (same).

There is no question that Patel possessed the requisite intent as defined by the Order. Patel has identified herself as an anti-abortion advocate, Ex. D, and in her efforts to stop patients from accessing abortion care, she crowded and followed them all the way to the door of the clinics. She did so while donning a bright pink vest, in an effort to imitate Planned Parenthood volunteers who are present to assist patients into the clinics and thereby mislead patients into stopping to engage with her. *See* Ex. I. While other anti-abortion protesters stood at the edge of the sidewalk and prayed at the Brooklyn clinic, she took up a position directly in the walkway and within feet of the doorway entrance, so as to confront patients and try to prevent them from entering the clinic. Ex. P. Similarly, in Manhattan, she stood on the corner in order to crowd and follow approaching patients as they attempted to access the facility. Ex. J. She clearly entered the fifteen-foot area

surrounding the walkway and doorway entrances in order to interfere with patients because they are obtaining reproductive health services.

Finally, there is no question that Red Rose Rescue has actual notice of the Order, as it has been served in this lawsuit and represented by counsel throughout. For her part, Patel has made clear that she is closely following this case, as she authored articles about the instant litigation since its commencement, likening the Attorney General to “Satan,” stating that it would not have any effect on her actions, and praising the underlying acts of the named Defendants. Ex D; Ex. E.

3. Red Rose Rescue Has Not Reasonably Endeavored to Comply with The Order

In light of the multiple violations by an active member of the organization with full knowledge of the Order, both immediately after it was entered and again just days ago, Red Rose Rescue has not reasonably endeavored to comply with the Order. Patel herself has publicly stated that she will not comply with any order issued in this case. Ex. D (“Like Satan trying to tempt and lead all followers to Christ to sin, the state is persecuting us, hoping we will falter in our pro-life beliefs or stop doing our pro-life work. I certainly won’t, and neither will my friends.”). Further, as this Court is well aware, it is Red Rose Rescue’s stated mission not to comply with the law. Dkt. No. 26-1, PI Motion Ex. A. This Court has already rejected Defendants’ argument that an injunction against them is “pointless,” because certain Defendants “would almost certainly violate it.” Dkt. No. 55, PI Order at 45, FN 35. In doing so, the Court observed that “such an injunction would make available a panoply of relief mechanisms for contempt[.]” *Id.* Sadly, but inevitably, such relief mechanisms are needed now.

4. Sanctions are Warranted

Given Defendant Red Rose Rescue’s willful violation of the Order on at least four occasions, Plaintiff respectfully requests that the Court impose a \$500 fine on Defendant Red Rose

Rescue per violation, and grant attorneys' fees to Plaintiff for all costs reasonably associated with the contempt motion.

Sanctions for civil contempt have both a compensatory and coercive component. *CBS Broadcasting*, 814 F.3d at 101 (“Civil sanctions have two purposes: to coerce compliance with a court order and to compensate a plaintiff.”); *Weitzman v. Stein*, 98 F.3d 717, 719 (2d Cir. 1996) (“sanctions for civil contempt serve two purposes: to coerce future compliance and to remedy any harm past noncompliance caused the other party”). Traditional options for civil contempt sanctions can include coercive incarceration, coercive fines, compensatory fines, fees and expenses of litigation, or modification of the injunction. *United States v. Dinwiddie*, 885 F. Supp. 1299, 1304 (W.D. Mo. 1995) (citing *International Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821 (1994)).

“It is well settled in this Circuit that costs, including reasonable attorneys' fees, may be awarded to the party who prosecutes a contempt motion as an appropriate compensatory sanction for contumacious behavior.” *New York State Nat. Org. for Women v Terry*, 952 F. Supp. 1033, 1043 (S.D.N.Y. 1997) (reinstating non-compensatory sanctions on defendants and awarding plaintiffs attorneys' fees) (string citations omitted), *aff'd*, 159 F.3d 86 (2d Cir. 1998).

Indeed, upon a finding that the violation was willful, attorneys' fees are presumed reasonable and the Court “would need to articulate persuasive grounds for any denial of compensation[.]” *Weitzman*, 98 F.3d at 719. “A willful contempt is one where ‘contemnor had actual notice of the court’s order, was able to comply with it, did not seek to have it modified, and did not make a good faith effort to comply.’” *Terry*, 952 F. Supp at 1044 (finding willful contempt where non-party violators had actual knowledge of the Order) (citation omitted). “The burden of proving . . . that compliance [with the court’s order] is impossible rests with the contemnor. The

court is not required to credit the alleged contemnor's denials if it finds them to be incredible in context." *M. Harvey Rephen & Assoc., P.C. v. Chase Bank USA, N.A.*, 853 Fed. App'x 690, 693 (2d Cir. 2021) (internal quotations and citations omitted).

In assessing the appropriateness of sanctions intended to coerce compliance, the court may consider the following factors: (1) the character and magnitude of the harm threatened by continued contempt; (2) the probable effectiveness of the proposed sanction; and (3) the financial consequences of the sanction upon the contemnor and the consequent seriousness of the burden of the sanction upon them. *New York State Nat. Org. For Women v. Terry*, 697 F. Supp. 1324, 1332-33 (S.D.N.Y. 1988) (finding defendants in civil contempt for blocking access to an abortion clinic in violation of a court order and fining defendants \$25,000 per violation for a total of \$50,000 plus costs). These factors are only guides, and the Court has broad discretion to fashion a remedy that will bring about compliance. *Id.* at 1333; *see, e.g., United States v. McMillan*, 53 F. Supp. 2d 895, 908 (S.D. Miss. 1999) (finding defendant violated consent decree that prohibited him from using force or threats of force to interfere with or intimidate employees or patients of a reproductive health clinic, and ordering a fine of \$1,000); *United States v. Scott*, 3:95CV1216, 1998 WL 386483, at *6 (D. Conn. June 25, 1998) (imposing a \$300 fine); *United States v. Scott*, No. 3:95CV1216, 1998 WL 241755, at *2 (D. Conn. Mar. 16, 1998) (expanding buffer zone from fourteen to twenty-eight feet and expanding floating buffer zone from five to eight feet), *aff'd*, 187 F.3d 282 (2d Cir. 1999).

Given the persistent and ongoing nature of Defendant Red Rose Rescue's violation, sanctions are necessary to coerce future compliance with the Order. The character and magnitude of the harm caused by its member, who openly and repeatedly defied the Order for extended periods of time, both immediately after the entry of the Order and again just this month, cannot be

understated. Patel's ongoing interference with patients' access to reproductive health services in New York cannot be compensated by money damages and threatens to undermine the purpose of the Order and render its prohibitions meaningless. As to the probable effectiveness of the sanction, Defendant Red Rose Rescue has said, and indeed shown, that they do not feel bound by laws and Courts. Dkt. No. 26-1, PI Motion Ex. A; Ex. D, July 27, 2023 Article (Patel states, regarding this lawsuit, "I certainly won't [stop], and neither will my friends."). Clearly, coercive sanctions are necessary to ensure their compliance with the Order. Nor do the financial consequences of the proposed sanctions appear to pose an undue burden, as Plaintiff requests a modest financial penalty and also proposes that the fine be returned, if the group ultimately complies with the Order.

Therefore, Plaintiff respectfully requests that the Court order Defendant Red Rose Rescue to pay a fine of \$500 per violation, to be returned to them if they do not violate the injunction for one year following the filing of the order. *See, e.g., United States v. Scott*, No. 3:95CV1216, 1997 WL 889513, at *2 (D. Conn. Aug. 1, 1997) (ordering a coercive fine of \$200 to be returned if no violations for 90 days); *compare New York State Nat. Org. for Women v. Terry*, 886 F.2d at 1351 (affirming award of \$25,000 fine per contemptuous event). This modest sum is intended not to punish Defendant but to ensure that they abide by the Court's Order. Plaintiffs also seek reasonable attorneys' fees to compensate for the resources it has spent to address Defendant's willful violations to date.

CONCLUSION

Plaintiff respectfully requests that the Court make a finding of contempt against Defendant Red Rose Rescue and institute sanctions commensurate with the contemptuous conduct.

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