

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: ELETSON HOLDINGS INC, : Chapter 11
 : Case No. 23-10322 (JPM)
Debtor/Judgment Creditor.¹ :
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**ELETSON HOLDINGS INC.’S REPLY MEMORANDUM OF LAW IN FURTHER
SUPPORT OF MOTION TO COMPEL THE ENTITY JUDGMENT DEBTORS’
DEPOSITIONS IN AID OF JUDGMENT ENFORCEMENT**

¹ Prior to November 19, 2024, the Debtors in these cases were: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. On March 5, 2025, the Court entered a final decree and order closing the chapter 11 cases of Eletson Finance (US) LLC and Agathonissos Finance LLC. Commencing on March 5, 2025, all motions, notices, and other pleadings relating to any of the Debtors shall be filed in the chapter 11 case of Eletson Holdings Inc. The Debtor’s mailing address is c/o Herbert Smith Freehills Kramer (US) LLP, 1177 Avenue of the Americas, New York, New York 10036.



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Holdings respectfully submits this reply memorandum of law in further support of its motion to compel the depositions of the Entity Judgment Debtors in aid of judgment enforcement (the “Motion,” Dkt. No. 1910).

PRELIMINARY STATEMENT

In the Entity Judgment Debtors’ opposition to the Motion (the “Opposition” or “Opp.”), they primarily argue that they are not “parties” to “any underlying action,” and thus Holdings should have served *nonparty* deposition subpoenas on them pursuant to Fed. R. Civ. P. 45 (“Rule 45”), instead of *party* deposition notices pursuant to Fed. R. Civ. P. 30 (made applicable by Fed. R. Bankr. P. 7030 and 9014). The Entity Judgment Debtors are wrong and their position is yet another chapter in their calculated course of defiance of this Court’s orders and obstruction of Holdings’ right to enforce the lawfully-entered judgments against them (Dkt. Nos. 1836, 1862, the “Judgments”).

The Entity Judgment Debtors are parties to both the instant post-judgment discovery proceedings and the underlying contempt proceedings related thereto, which are considered “contested matters” under Fed. R. Bankr. P. 9014. As the Court is aware, the post-judgment discovery at issue arises from contempt proceedings in which the Court sanctioned the Entity Judgment Debtors for, *inter alia*, repeated violations of the court-approved and confirmed chapter 11 plan of reorganization. The sanctions then were reduced to the Judgments that are the subject of the instant post-judgment discovery proceedings. As such, the Entity Judgment Debtors plainly are parties in this context and Holdings’ issuance of deposition notices under Fed. R. Civ. P. 30 was entirely proper. Tellingly, *none* of the cases the Entity Judgment Debtors cite support the notion that an entity against whom a judgment has been entered is considered a third party subject to Rule 45 in the context of their own post-judgment discovery.

Moreover, and significantly, the Entity Judgment Debtors actively engaged in the underlying contempt proceedings, including by opposing the motions that resulted in the sanctions and contempt findings against them and participating in hearings related thereto. Having extensively participated in the contested matters before this Court that led to the Judgments, and having fully and voluntarily availed themselves of this Court’s jurisdiction, the Entity Judgment Debtors cannot now conveniently challenge their party status or this Court’s jurisdiction post-hoc to escape the consequences of the lawfully-entered Judgments.

The Entity Judgment Debtors are far from foreign strangers to these proceedings and they cannot now conveniently choose to become strangers to evade the routine and appropriate post-judgment discovery against them. Indeed, their attempt to relitigate party status in the Opposition cannot be squared with their past conduct before this Court, and their continued defiance of this Court should not be countenanced. Given that the Entity Judgment Debtors *are* parties here, all of their arguments in the Opposition—which primarily rely on the false premise that the Entity Judgment Debtors are not parties and thus misapply Rule 45—fall apart.² Notably, the Entity Judgment Debtors do not contest that, as stated in the Motion, the deposition notices comply with Fed. R. Civ. P. 37 and 69 as well as with Fed. R. Civ. P. 30(b)’s notice and specificity requirements. Nor do they contest that Holdings is entitled to the information it seeks through properly noticed depositions, information that is essential to its collection efforts.

²The Opposition separately argues on behalf of Elafonissos Shipping Corporation (“Elafonissos”), one of the Entity Judgment Debtors, that the Court lacks personal jurisdiction over Elafonissos. The Court has already explicitly and directly rejected this exact argument several times, including most recently in the Court’s order denying Rolnick Kramer Sadighi LLP (“RKS”) and the Entity Judgment Debtors’ motion to quash an information subpoena served on connection with the appeal, including with respect to the instant post-judgment discovery proceedings. This Court has determined it has jurisdiction over Elafonissos and Elafonissos—having “voluntarily appeared before the Court and consented to its jurisdiction” (*id.*)—cannot use its appeal as a pretext for non-compliance with unstayed orders and judgments.

Accordingly, the Court should grant the Motion and compel the Entity Judgment Debtors to sit for their depositions.

RELEVANT BACKGROUND

On November 25, 2024, Holdings moved for an order imposing sanctions on various entities and individuals, including Holdings' former shareholders, which includes the Entity Judgment Debtors (Dkt. No. 1268, the "First Sanctions Motion"), for violations of the court-approved and confirmed chapter 11 plan of reorganization. Dkt. No. 1132, Ex. 1 (the "Plan"); Dkt. No. 1212 (the "Confirmation Opinion"); Dkt. No. 1223 (the "Confirmation Order"). Each of the Entity Judgment Debtors named in the First Sanctions Motion filed an opposition and appeared through counsel at multiple hearings before this Court on the First Sanctions Motion. *See, e.g.*, Dkt. Nos. 1291; 1344. On January 29, 2025, the Court granted the First Sanctions Motion in an order confirming and consummating the Plan without prejudice to Holdings to later seek monetary sanctions. Dkt. No. 1402 (the "Consummation Order").

On February 6, 2025, Holdings filed a second sanctions motion seeking monetary sanctions against the parties named in the Consummation Order, which included the Entity Judgment Debtors. Dkt. No. 1416 (the "Second Sanctions Motion"). On February 17, 2025, the Entity Judgment Debtors filed an opposition to the Second Sanctions Motion and then appeared at subsequent hearings before this Court. Dkt. Nos. 1444; 1468. On February 27, 2025, the Court granted the Second Sanctions Motion and imposed monetary sanctions. Dkt. No. 1495 (the "February Sanctions Order").

On February 19 and April 16, 2025, Holdings filed two other motions seeking sanctions and findings of contempt against various entities, which included the Entity Judgment Debtors, for further failures to comply with the Plan, the Confirmation Order, and Consummation Order. Dkt. No. 1459 (the "Third Sanctions Motion"); Dkt. No. 1602 (the "Fourth Sanctions Motion"). Several

of the Entity Judgment Debtors filed oppositions. *See* Dkt. No. 1506; 1642. On March 13 and July 8, 2025, the Court granted the Third and Fourth Sanctions Motions, respectively, and in both instances issued findings of contempt and imposed further monetary sanctions. Dkt. No. 1537 (the “March Sanctions Order”); Dkt. No. 1716 (the “July Sanctions Order”).

On September 24, 2025—pursuant to a fee application from Holdings (Dkt. No. 1729), which the Entity Judgment Debtors opposed (Dkt. No. 1755)—the Court issued an order approving fees the Entity Judgment Debtors, among other violating parties, owed to Holdings. Dkt. No. 1840 (the “Fee Order”).

On September 22 and October 21, 2025, the Court entered the Judgments against the Entity Judgment Debtors in favor of Holdings arising out of the February, March, and July Sanctions Orders and the Fee Order. Dkt Nos. 1836, 1862. The Judgments ordered the judgment debtors to pay Holdings amounts ranging from \$150,000 to \$1,931,548.12.

Upon entry of the Judgments, Holdings served post-judgment discovery to obtain information about the nature and location of the judgment debtors’ assets, including possible post-judgment asset transfers or asset dissipation, and identify assets to satisfy the Judgments. On October 24, 2025, Holdings served the Rule 30(b)(6) deposition notices that are the subject of the Motion on each Entity Judgment Debtor pursuant to Fed. R. Civ. P. 30, made applicable by Fed. R. Bankr. P. 7030 and 9014.

Despite a good faith effort to meet and confer with counsel for the Entity Judgment Debtors, *none* of the Entity Judgment Debtors appeared for their properly noticed depositions or justify their refusal. *See* Dkt. No. 1910 at 1-2. Thus, on December 8, after receiving permission from the Court (Dkt. No. 1897), Holdings filed the Motion (Dkt. No. 1910). On December 22, 2025, the Entity Judgment Debtors filed the Opposition. Dkt. No. 1925.

ARGUMENT

I. **RULE 45’S FRAMEWORK FOR THIRD PARTIES DOES NOT APPLY**

The Entity Judgment Debtors’ primary argument in the Opposition is that the deposition notices should have been issued under Rule 45. Opp. at 5-9, 10-13. In making this argument, the Entity Judgment Debtors claim that they are third parties here, but they are wrong. The Entity Judgment Debtors are not third parties providing information in aid of judgment enforcement against some other judgment debtors—*they are themselves the judgment debtors*.³ Holdings’ treatment of the Entity Judgment Debtors as parties in this context is entirely proper and the Entity Judgment Debtors’ attempt to hide behind a contrived third-party theory—a theory that is unsupported by law and contradicts both the record and their own prior litigation conduct—is nothing more than another post-hoc excuse designed to further delay and frustrate rightful enforcement of the Judgments and evade their obligations as named judgment debtors.⁴

The Entity Judgment Debtors’ contention that Rule 45 applies because they are not parties to “any underlying action” is incorrect. Although the Entity Judgment Debtors were not parties to the original chapter 11 bankruptcy proceeding, the Entity Judgment Debtors are parties to certain ancillary disputes related thereto, which are “contested matters” under Fed. R. Bankr. P. 9014. *See* Fed. R. Bankr. P. 9014 (“[W]henever there is an actual dispute, other than an adversary proceeding, before the bankruptcy court, the litigation to resolve that dispute is a contested matter”).

³Third parties in this context are entities such as the banks and law firms, which Holdings served proper subpoenas upon. The Entity Judgment Debtors simply cannot be third parties to their own contempt proceedings and subsequent post-judgment discovery related thereto.

⁴The Entity Judgment Debtors continue their jurisdictional shell game, whereby they attempt to influence proceedings before U.S. Courts while simultaneously distancing themselves from the Court’s sanctions and contempt powers. Such conduct is improper, particularly given the apparent lack of genuine separateness between the various entities owned and/or controlled by the Debtor’s former principals.

In particular, as the Court is aware and as outlined above, the post-judgment discovery at issue arises from contempt proceedings in which the Court sanctioned the Entity Judgment Debtors for, *inter alia*, repeated failures to comply with their unambiguous obligations under the Plan, Confirmation Order, and Consummation Order. *See* pages 3-4, *supra* (listing the various sanctions, contempt, and fee motions filed against the Entity Judgment Debtors that were opposed, argued, and granted). The sanctions issued against the Entity Judgment Debtors then were converted into the Judgments (Dkt. Nos. 1836, 1862) to which the instant post-judgment discovery relates. As discussed above, the Entity Judgment Debtors actively engaged in these contempt proceedings, including opposing the motions that resulted in the sanctions and contempt findings against them. *See* pages 3-4, *supra*.

Thus, the Entity Judgment Debtors were parties to the underlying contempt proceedings that resulted in the sanctions and Judgments against them and they are parties to the instant post-judgment discovery arising therefrom.⁵ *See Markus v. Rozhkov*, 615 B.R. 679, 702-03 (S.D.N.Y. 2020) (finding that a contempt proceeding constitutes a contested matter; that “by the time the Bankruptcy Court entertained the [] motion for sanctions, a contested matter had developed”; and that chapter 15 debtor’s lawyer became a party to the contested matter that developed out of the chapter 15 proceeding when a sanctions motion was filed against the lawyer)⁶; *see also*

⁵As *named* judgment debtors with monetary judgments entered against them, the geographically “foreign” nature of the Entity Judgment Debtors, or their role in the original chapter 11 proceeding, are immaterial to their party status in the post-judgment discovery context.

⁶*Markus v. Rozhkov* distinguishes between party discovery under Fed. R. Civ. P. 26 and nonparty discovery under Rule 45, emphasizing that the court holds litigants to the procedural consequences of the discovery mechanism they elect to use. In *Markus*, the entity seeking discovery served a Rule 45 document subpoena on the debtor. 615 B.R. at 704. Subsequently, the entity filed a sanctions motion against the debtor’s lawyer for the failure to provide documents responsive to the subpoena. Of note here, the court found that the contempt proceeding, arising out of the sanctions motion, constituted a contested matter to which the debtor’s lawyer was a party. *Id.* at 702. However, the court found the debtor himself was not a party to the contested matter because entity seeking discovery “chose[] to serve a Rule 45 subpoena” on the debtor and

Magnaleasing, Inc. v. Staten Island Mall, 76 F.R.D. 559, 560-61, n.1 (S.D.N.Y. 1977) (granting Fed. R. Civ. P. 37 motion to compel Fed. R. Civ. P. 34 discovery served on judgment debtor and then distinguishing judgment debtor from another individual who was “neither a defendant *nor a judgment debtor*” and thus was considered a “non-party” in the post-judgment discovery context) (emphasis added).

Accordingly, Holdings’ issuance of deposition notices under Fed. R. Civ. P. 30 was entirely proper and all of the Entity Judgment Debtors’ arguments in the Opposition that rely on the false premise that Rule 45 applies necessarily fail.⁷

The cases cited in the Opposition in support of Rule 45’s application are inapposite and fail to support the Entity Judgment Debtors’ use of the rule here. In fact, *none* of the cases they cite support the notion that an entity against whom a judgment has been entered is considered a third party subject to Rule 45 in the context of post-judgment discovery proceedings.

For example, the Entity Judgment Debtors rely on *Putnam at Tinton Falls, LLC v. Annunziata*, 2021 WL 5919418 (S.D.N.Y. Dec. 15, 2021) to argue that they should be subpoenaed under Rule 45 for post-judgment discovery. Opp. at 5. However, *Putnam* is inapplicable because

“not having treated [the debtor] as a party upon whom a discovery request must be served under [Fed. R. Civ. P.] 26, the [entity seeking the discovery] must live with the consequences.” *Id.* at 704.

⁷ The Entity Judgment Debtors spill much ink countering an argument that Holdings does not even make. According to the Opposition, Holdings “*may*” try to argue and would be “wrong” to argue that the Entity Judgment Debtors are “‘parties in interest’ under 11 U.S. Code § 1109 and thus ‘parties’ under Rule 30.” See Opp. at 7-9 (emphasis added). However, this is a complete red herring; Holdings makes no such argument.

Similarly, the cases cited in the Opposition for the proposition that former owners and shareholders are not automatically parties are irrelevant. See Opp. at 6-7. Holdings does not make this argument. Additionally, only one such case cited even concerns post-judgment discovery, *Cent. States, Se. & Sw. Areas Pens. Fund v. J.W. Cartage Co.*, and there the decision actually makes clear that the non-party former shareholder that was subject of a Rule 45 subpoena was *not the judgment debtor*. 1994 WL 416978, at *3 (N.D. Ill. Aug. 8, 1994) (noting that the plaintiffs are entitled to examine the former shareholder as to his *relationship with the judgment debtor*) (emphasis added).

there the judgment creditor sought discovery from a true “non-party,” *i.e.*, an attorney with knowledge of a trust that the judgment debtor was a beneficiary of, not from the judgment debtor himself. *See id.* at *1-2. Numerous other cases cited in the Opposition do not even concern post-judgment discovery in aid of execution and instead concern service of Rule 45 subpoenas on entities and individuals that obviously are non-parties to the proceedings in question. *See, e.g.*, *Opp.* at 5-6 (citing *Chevron Corp. v. Salazar*, 275 F.R.D. 422, 424-25 (S.D.N.Y. 2011) (requiring Rule 45 subpoena to depose “nonparty witnesses” during the pre-trial discovery phase of an action seeking declaratory relief against a foreign judgment), *In re Eaton*, 359 B.R. 661, 662-64 (Bankr. N.D. Ohio 2007) (Rule 45 subpoena required to depose wife of defendant during initial discovery phase of an action to determine discharge ability of a debt owed by defendant), *Sec. & Exch. Comm’n v. Laura*, 2020 WL 5097239, at *1, 3 (E.D.N.Y. Aug. 30, 2020) (Rule 45 subpoena was appropriate mechanism for defendants to depose non-party witness with alleged knowledge of defendants’ conduct in connection with pre-trial discovery of defendants’ alleged violations of the Securities Exchange Act of 1934), and *Forefront Machining Techs., Inc. v. SARIX SA*, 2021 WL 3615725, at *1, 8-9 (S.D. Ohio Aug. 16, 2021) (denying motion to compel deposition of non-party former employees of a non-party entity in contract dispute where defendants failed to serve Rule 45 deposition subpoena). Indeed, the Entity Judgment Debtors’ misplaced reliance on Rule 45 cases involving true non-parties is not only distinguishable, but is affirmatively misleading in the post-judgment context.

II. THE DEPOSITION NOTICES ARE PROPER UNDER APPLICABLE RULES

Significantly, the Entity Judgment Debtors do not contest that the deposition notices comply with Fed. R. Civ. P. 37 and 69 as well as with Fed. R. Civ. P. 30(b)’s notice and specificity requirements. Nor do they contest that Holdings is entitled to the information it seeks through its

properly noticed depositions, information that is essential to its collection efforts. Indeed, as explained in the Motion, the deposition notices served upon the Entity Judgment Debtors for the purpose of obtaining information about the nature and location of Entity Judgment Debtors' assets are plainly proper under Fed. R. Civ. P. 69, are essential to the enforcement and execution of the Judgments, and plainly comply with Fed. R. Civ. P. 30 and 37's requirements.

The Entity Judgment Debtors raise one argument countering Holdings' compliance with one subpart of Fed. R. Civ. P. 30, but this argument fails. Specifically, the Entity Judgment Debtors argue that Holdings must seek leave from the Court to take these depositions under Fed. R. Civ. P. 30(a)(2)(A)(i) because Holdings seeks to take more than ten depositions in connection with its post-judgment discovery efforts. *See* Opp. at 9-10. They are wrong.

As an initial matter, Fed. R. Civ. P. 69, which governs post-judgment discovery, does not impose a limit on depositions; it only requires that discovery "be calculated to assist in collecting the judgment." *EM Ltd. v. Republic of Argentina*, 695 F.3d 201, 207 (2d Cir. 2012), *aff'd*, 573 U.S. 134 (2014). In fact, "[u]nder [Fed. R. Civ. P.] 69(a), a judgment creditor is entitled to a **wide range** of discovery concerning the assets and liabilities of a judgment debtor." *Republic of Guatemala v. IC Power Asia Dev. Ltd.*, 2023 WL 3294277, at *2 (S.D.N.Y. May 5, 2023) (quoting *Banco Cent. De Paraguay v. Paraguay Humanitarian Found., Inc.*, 2006 WL 3456521, at *8 (S.D.N.Y. Nov. 30, 2006)) (emphasis added). The rule permits judgment creditors "wide latitude in using the discovery devices provided by the Federal Rules in post-judgment proceedings...and depositions are proper tools under the Rules." *Gibbons v. Smith*, 2010 WL 582354, at *3 (S.D.N.Y. Feb. 11, 2010). This includes discovery into, *inter alia*, a judgment debtors' assets and liabilities, as well as possible post-judgment asset transfer or dissipation. *See e.g., Magnaleasing, Inc.*, 76 F.R.D. at 561-62 (explaining that Fed. R. Civ. P. 69 "authorizes discovery by a judgment creditor

for the purpose of discovering any concealed or fraudulently transferred assets” and finding discovery into settlement that may have involved improper asset transfer appropriate to facilitate potential location of judgment debtor’s assets).

It is undisputed that these depositions are directed at obtaining information in aid of judgment enforcement. Nor do the Entity Judgment Debtors dispute that deposing the Entity Judgment Debtors is a focused and tailored effort to collect on the Judgments. The Entity Judgment Debtors’ argument that Holdings must seek the leave of the Court is baseless. Fed. R. Civ. P. 69 allows full and broad post-judgment discovery calculated to aid in the enforcement of the judgment, and Holdings’ deposition notices fall within that scope. Fed. R. Civ. P 69.

Even if Fed. R. Civ. P. 30(a)(2)(A)(i)’s ten-deposition limit were to apply here—which it does not—Holdings has not exceeded it and the Entity Judgment Debtors have misapplied the rule’s application to the instant context. Here, there are fourteen separate judgment debtors, each owing their own monetary sum to Holdings under the Judgments. Thus, each judgment debtor is the subject of its own contested matter. As such, if Fed. R. Civ. P. 30(a)(2)(A)(i) were to apply in this context, Holdings would be entitled to ten depositions for *each* of the fourteen contested matters, a limit Holdings surely has not exceeded. In fact, Holdings has not yet taken a single post-judgment deposition that it noticed because the Entity Judgment Debtors (and the other judgment debtors not subject to the Motion) all failed to appear for their noticed depositions. *Oakley v. MSG Networks, Inc.*, 2024 WL 5056111, at *2 (S.D.N.Y. Dec. 10, 2024) (finding request for leave premature when the deposition limit has not been exhausted). Notably, *none* of the cases the Entity Judgment Debtors cite to support the application of Fed. R. Civ. P. 30(a)(2)(A)(i) here even concern post-judgment discovery.

Moreover, under Fed. R. Civ. P. 30(a)(2)(A)(i), “the court must grant leave [to take more than ten depositions] to the extent consistent with [Fed. R. Civ. P.] 26(b)(1) and (2).” Fed. R. Civ. P. 30(a)(2). These subsections of Fed. R. Civ. P. 26 instruct a court to consider factors such as whether the discovery sought is unreasonably cumulative or overly burdensome, and whether the proposed discovery is “relevant...and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, [and] the importance of the discovery in resolving the issues[.]” Fed. R. Civ. P. 26(b)(1) and (2). In this way, the Entity Judgment Debtors reliance on *Oakley v. MSG Networks, Inc.* falls short. 2024 WL 5056111, at *2. There, the case was “ limited to a single instance of assault and battery on an isolated evening in 2017, [so the court found that] allowing [the plaintiff] to depose more than ten individuals would be disproportional to the needs of this case.” *Id.* at *2 (cleaned up). Here, however, as noted above, there are fourteen separate judgment debtors, each owing their own monetary sum to Holdings under the Judgments.

Thus, Holdings is entitled to depose—at a minimum—each judgment debtor in order to obtain information about the specific assets and liabilities that could be relevant to satisfying the judgment that each judgment debtor owes to Holdings, including but not limited to information about the nature and location of the judgment debtors’ assets and possible post-judgment asset transfer or dissipation.

Accordingly, even if Fed. R. Civ. P. 30(a)(2)(A)(i)’s ten-deposition limit were to apply, the limit would not be exceeded here and, in any case, the requirements of Fed. R. Civ. P. 26(b)(1) and (2) that would allow the limit to be exceeded plainly would be satisfied under the instant circumstances.

CONCLUSION

For the foregoing reasons, Holdings' respectfully requests that the Court grant the Motion and enter an order compelling the Entity Judgment Debtors to appear for post-judgment depositions at the offices of Goulston & Storrs, P.C. located at 730 Third Avenue, New York, NY 10017 within fourteen (14) days after entry of an order directing the Entity Judgment Debtors to appear for depositions and such other relief as the Court deems necessary.

Dated: January 5, 2026

/s/ Nathaniel R.B. Koslof

Jennifer B. Furey (admitted pro hac vice)
Nathaniel R.B. Koslof (admitted pro hac vice)
GOULSTON & STORRS PC
One Post Office Square, 28th Floor
Boston, MA 02109
jfurey@goulstonstorrs.com
nkoslof@goulstonstorrs.com
Tel: (617) 574-3575

Jaelyn Grodin
Rae Berger
GOULSTON & STORRS PC
730 Third Avenue, 12th Floor
New York, NY 10017
jgrodin@goulstonstorrs.com
rberger@goulstonstorrs.com
Tel: (212) 878-5065

Counsel for Eletson Holdings Inc.