UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LAKISHA VAUGHAN,	:		
	:		
Plaintiff,	:	Civil Action No.:	20-cv-2932 (RC)
	:		
v.	:	Re Document Nos.:	61, 62
	:		
CAPITAL CITY PROTECTIVE SERVICES II, LLC, *et al.*,	:		
	:		
Defendants.	:		

MEMORANDUM OPINION

GRANTING IN PART AND DENYING IN PART PLAINTIFF'S SECOND MOTION TO COMPEL DISCOVERY; DENYING DEFENDANT'S MOTION FOR PROTECTIVE ORDER; GRANTING IN PART PLAINTIFF'S MOTION FOR SANCTIONS

I. INTRODUCTION

Plaintiff Lakisha Vaughan, a former employee of Defendant Capital City Protective Services II, LLC ("CCPS II"), brought suit in this Court alleging discrimination based on sex and retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2 ("Title VII"), the District of Columbia Human Rights Act ("DCHRA"), and the Prince George's County Code, as authorized by Maryland Code § 20-1202. Am. Compl. ¶ 1, ECF No. 42. Plaintiff also alleges that Defendants engaged in fraudulent conveyance in violation of the Maryland Uniform Fraudulent Conveyance Act ("MUFCA"), Md. Code Ann., Com. Law §§ 15-201 to 15-214. *Id.* ¶ 2. Plaintiff has moved for an order compelling individual defendants Christopher and Armenta Bell ("Defendants"), part owners of CCPS and CCPS II (together, "Capital City"), to produce discovery related to Plaintiff's fraudulent conveyance claim under MUFCA as well as to the issue of punitive damages under the DCHRA. Pl.'s Second Mot. Compel Disc. ("Pl.'s Mot.") at

1–2, ECF No. 61. Shortly after, individual defendants Armenta and Christopher Bell filed a motion for a protective order. *See* Defs.' Mot. Protective Order ("Defs.' Mot."), ECF No. 62. While Plaintiff has argued that Defendants have not filed an opposition and the Court should therefore "treat the motion as conceded," Pl.'s Reply, ECF No. 64, the Court will nonetheless treat Defendants' motion as the opposition for the purposes of this decision. For the reasons discussed below, Plaintiff's motion to compel is granted in part and denied in part, Defendants' motion for a protective order is denied, and Plaintiff's motion for sanctions is granted in part.

II. BACKGROUND

Capital City is a for-profit business that provides security services in the District of Columbia. Am. Compl. ¶ 8. In April 2018, Capital City hired Vaughan to work as a D.C. Special Police Officer in the company's Shelter unit. *Id.* ¶ 11. In June 2018, about two months after Ms. Vaughan's initial hire, Ms. Vaughan sought transfer to the Housing unit as well as a shift change because she believed such changes would increase her hourly pay, lead to future promotions, and allow her to be home when her child returned from school. *Id.* ¶ 12. Ms. Vaughan notified Captain Ray Gordon, commander of the Housing unit, of both requests. *Id.*

Gordon informed Ms. Vaughan that Capital City "was granting her transfer request" and invited her to the company's Prince George's County headquarters in Maryland to sign the transfer and pay raise paperwork. *Id.* ¶ 13. Ms. Vaughan alleges that Gordon sexually assaulted her that evening. *Id.* ¶¶ 16–17. Ms. Vaughan "had done nothing to suggest to Captain Gordon that she was interested in a sexual relationship," and "had not consented to his conduct in any way." *Id.* ¶ 16. About a week later, Ms. Vaughan alleges that Gordon again sexually assaulted her in the back seat of his vehicle. *Id.* ¶ 22. Ms. Vaughan "felt she had no choice but to submit

to his unwelcome advances" and "feared that if she resisted, [Gordon] would take action that could cause her to lose her job." *Id.*

Ms. Vaughan experienced "persistent sexual harassment" from Gordon and his male colleagues over the next couple of months, including "[visits to] her work site" where they "leer[ed] at her in a sexual manner," texts with explicit images, and "suggest[ions] that she meet them at their homes." *Id.* ¶ 23. Ms. Vaughan ultimately reported the sexual harassment to Capital City management in September 2018. *Id.* ¶¶ 27–28. Capital City never followed up with Ms. Vaughan, did not fire Gordon, and did not take serious disciplinary actions against him or any of the other officers. *Id.* ¶¶ 30, 32. Ms. Vaughan also alleges that Capital City began a "retaliatory campaign" against her. *Id.* ¶ 33. On October 31, 2018, Ms. Vaughan was reassigned without explanation to another location that was considered one of the "least desirable assignments," partly because of "frequent and serious criminal activity." *Id.* ¶ 46. At this point, Ms. Vaughan felt she was unable to carry out her duties under these conditions and informed the company of her decision to leave, to which they did not protest. *Id.* ¶ 47.

A. Procedural Background

On October 13, 2020, Ms. Vaughan filed suit in this Court alleging discrimination based on sex and retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2, the District of Columbia Human Rights Act, and the Prince George's County Code, as authorized by Maryland Code § 20-1202. *See* Compl., ECF No. 1. On November 15, 2024, Ms. Vaughan amended her complaint and added an additional claim of fraudulent conveyance in violation of the Maryland Uniform Fraudulent Act, Md. Code Ann., Com. Law §§ 15-201 to 15-214. Am. Compl. ¶ 52–68, 75. Ms. Vaughan also added defendants Armenta and Christopher Bell to the amended complaint. *Id.* ¶ 9–10. Defendants Armenta and Christopher Bell are the

owners, Presidents, and CEOs of CCPS and CCPS II. *Id*. Ms. Vaughan alleges that Defendants "attempted to hide assets and become judgment proof in this case and other litigation, by fraudulently transferring their business and assets from Capital City Protective Services II, LLC to Capital City Protective Solutions, LLC." *Id*. ¶ 2.

On February 13, 2024, Ms. Vaughan served discovery requests on the newly added defendants. Pl.'s Mot at 2; *see also* Pl.'s Disc. Req. Ex. 1, ECF No. 61-1. The discovery requests "sought information and documents about financial payments from January 1, 2022 to either of the Bells from either of the CCP companies they had created, asked them to identify and describe the nature of any other 'business' they have owned since that time, and sought information about their bank accounts, real property and other assets each have held since that time, as well as tax filings." Pl.'s Mot. at 2–3. The discovery requests "also sought information about transactions and contact information relating to Harry Thompson, who was identified as a co-founder of CCP Solutions in previous discovery, and any written communications among the Bells regarding either (a) the discrimination and retaliation claims raised by Plaintiff in this case, or (b) the transactions claimed to be fraudulent under the MUFCA." *Id* at 3.

Defendants did not respond to Plaintiff's discovery requests. *Id*. On March 18, 2024, four days after responses were due, Plaintiff's counsel sent an email to Defendants' counsel following up about the discovery requests and notifying them that if they were to not respond by the end of the week, Plaintiff would inform the Court. *Id*.; *see also* Email Commc'n Ex. 2, ECF No. 61-2. Defendants once again did not reply, and Plaintiff's counsel sent a second email on March 26, 2024 requesting three dates and times for a proposed conference call with the Court. Pl.'s Mot. at 3–4; *see also* Email Commc'n Ex. 2. Defendants replied this time, "provid[ing] available dates but no objections or responses to the outstanding discovery." *Id*. at 4. A hearing

was scheduled for April 16, 2024. *Id*. One day before, Defendants filed a Motion to Dismiss the Amended Complaint pursuant to Rule 12(b)(6) and a Motion to Stay Discovery. *Id*.; *see* Defs.'s Mot. Dismiss, ECF. 54; Def.'s Mot. Stay Disc., ECF No. 55. The Court denied the Motion to Stay Discovery and ordered Defendants to provide the requested discovery by April 30, 2024, with a status conference scheduled on May 1, 2024 to ensure compliance. Pl.'s Mot. at 4. On April 30, 2024, Defendants objected to the discovery requests and "provid[ed] no responsive information to eight of eleven interrogatories, and . . . to nine of thirteen document requests on each individual Defendant." *Id*.; *see also* Defs.' Answers Ex. 3, ECF No. 61-3.

The parties appeared for the status conference on May 1, 2024, where the Court permitted Plaintiff to file a motion to compel discovery and for sanctions, and permitted the Defendants to file a motion for a protective order.

III. LEGAL STANDARDS

A. Motion to Compel

A party may serve an opposing party written interrogatories and requests to produce documents within the scope of Federal Rule of Civil Procedure 26(b). Fed. R. Civ. P. 33(a)(1)–(2), 34(a). "The Federal Rules of Civil Procedure encourage the exchange of information through broad discovery." *Ramirez v. U.S. Immigr. & Customs Enf't*, No. 18-cv-508, 2019 WL 11623990, at *1 (D.D.C. June 4, 2019) (quoting *In re England*, 375 F.3d 1169, 1177 (D.C. Cir. 2004)). Specifically, Rule 26(b) provides that "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case." Fed. R. Civ. P. 26(b)(1). "Relevance is 'construed broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on any party's

claim or defense.'" *Breiterman v. U.S. Capitol Police*, 324 F.R.D. 24, 30 (D.D.C. 2018) (quoting *United States ex rel. Shamesh v. CA, Inc.*, 314 F.R.D. 1, 8 (D.D.C. 2016)).

If a party fails to respond to a discovery request, the other party must in good faith confer or attempt to confer with the party failing to make discovery in an effort to obtain it without court action. Fed. R. Civ. P. 37(a)(1). Where a party seeks to compel a response to a discovery request, "[t]he party that brings the motion to compel 'bears the initial burden of explaining how the requested information is relevant.'" *Felder v. Wash. Metro. Area Transit Auth.*, 153 F. Supp. 3d 221, 224 (D.D.C. 2015) (quoting *Jewish War Veterans of the U.S., Inc. v. Gates*, 506 F. Supp. 2d 30, 42 (D.D.C. 2007)). "Once that showing has been made, 'the burden shifts to the non-moving party to explain why discovery should not be permitted.'" *English v. Wash. Metro. Area Transit Auth.*, 323 F.R.D. 1, 8 (D.D.C. 2017) (quoting *Felder*, 153 F. Supp. 3d at 224). The court may issue further just orders when a party fails to obey an order to provide or permit discovery. Fed. R. Civ. P. 37(b)(2)(A).

B. Protective Order

A movant requesting a protective order must demonstrate good cause; show that "annoyance, embarrassment, oppression, or undue burden or expense" would result absent the order; and certify that the movant has conferred in good faith with the non-movant to resolve the dispute without court interference. Fed. R. Civ. P. 26(c); *see Campbell v. U.S. Dept. of Justice*, 231 F. Supp. 2d 1, 13 (D.D.C. 2002). A district court has discretion to determine what constitutes good cause, but mere inconvenience or expense is insufficient. *See Campbell*, 231 F. Supp. 2d at 7 (citations omitted). Simply put, the district court must be able to "articulate specific facts" to justify its grant of a protective order. *Id*. (citing *EEOC v. Nat'l Children's Ctr., Inc.*, 98 F.3d 1406, 1411 (D.C. Cir. 1996)).

C. Sanctions

Rule 37(b)(2) of the Federal Rules of Civil Procedure allows a party to seek sanctions when another party "fails to obey an order to provide or permit discovery." Fed. R. Civ. P. 37(b)(2)(A). "A court has broad discretion to manage discovery, and '[t]his deference [] extends to the district court's imposition of discovery sanctions.'" *See Mokhtar v. Kerry*, No. 12-cv1734, 2014 WL 12792553, at *2 (D.D.C. Oct. 17, 2014) (citing *Flynn v. Dick Corp.*, 481 F.3d 824, 835 (D.C. Cir. 2007)). The D.C. Circuit has held that "[t]he central requirement of Rule 37 is that 'any sanction must be just.'" *Bonds v. Dist. Of Columbia*, 93 F.3d 801, 808 (D.C. Cir. 1996) (citing *Ins. Corp. v. Compagnie des Bauxites de Guinée*, 456 U.S. 694, 707 (1982)). When determining whether a sanction is just, a court may consider "the resulting prejudice to the other party, any prejudice to the judicial system, and the need to deter similar misconduct in the future." *Mokhtar*, 2014 WL 12792553, at *2; *see Shea v. Donohoe Constr. Co.,* 795 F.2d 1071, 1074 (D.C. Cir. 1986)).

IV. ANALYSIS

The Court will first address Plaintiff's motion to compel in conjunction with Defendants' objections to the discovery requests. The Court will then briefly address Defendants' motion for a protective order. Finally, the Court will address Plaintiff's request for sanctions.

A. Motion to Compel Discovery

In Plaintiff's motion to compel, Plaintiff seeks prompt and complete discovery relating to Defendants' personal finances and transactions between Defendants, including CCPS and CCPS II, as well as information concerning Harry Thompson, who was identified as a co-founder of CCPS in previous discovery. *See* Pl.'s Mot. at 2–3. Plaintiff asserts that any objections Defendants had to the requested discovery are waived due to their failure to timely assert such

objections. *Id*. at 5. Even if the objections were not waived, Plaintiff maintains that the requested discovery is relevant to her claims. *Id*. Plaintiff further claims that the few responses to interrogatories and requests for production she did receive from Defendants are deficient. *Id*. at 4 n.3. Defendants argue that the requested discovery was irrelevant, among other things, and seek a motion for a protective order. *See* Defs.' Mot.

1. Defendants' Objections are Waived for Failure to Timely File

Interrogatories and requests for production of documents must be answered or objected to "within 30 days after being served" to the responding party. Fed. R. Civ. P. 33(b)(2); Fed. R. Civ. P. 34(b)(2). Any objection to an interrogatory must be stated with specificity, Fed. R. Civ. P. 33(b)(4), and any objection to a request "must state whether any responsive materials are being withheld on the basis of that objection," Fed. R. Civ. P. 34(b)(2)(C). If the objection is not timely, the objection is waived unless the court, for good cause, excuses the failure. Fed. R. Civ. P. 33(b)(4); *see also Fonville v. District of Columbia*, 230 F.R.D. 38, 42 (D.D.C. 2005) ("Unlike Rule 33, Rule 34 does not contain an automatic waiver provision as a consequence of failing to file a timely objection, but there is not reason to interpret the two rules differently.").[1] Good cause "requires a greater showing than excusable neglect." *George v. Allen Martin Ventures, LLC*, No. 21-cv-2876, 2023 WL 2705776, at *6 (D.D.C. Mar. 30, 2023) (quoting *Starlight Int'l, Inc. v. Herlihy*, 181 F.R.D. 494, 497 (D. Kan. 1998)). When determining whether there is good cause, courts in this Circuit have considered the following factors: (1) "the length of the delay"; (2) "the reason for the delay"; (3) any "dilatory or bad faith action" on the part of the respondent;

[1] Courts have continuously held that "the failure to timely file an objection to a request for production of documents may be deemed a waiver." *Fonville*, 230 F.R.F. at 42 (citing *Coregis Ins. Co. v. Baratta & Fenerty, Ltd*., 187 F.R.D. 528, 530–31 (E.D. Pa. 1999); *Kansas–Nebraska Natural Gas Co., Inc. v. Marathon Oil Co*., 109 F.R.D. 12, 24–25 (D. Neb. 1983)).

(4) any "prejudice[]" on the part of the moving party; (5) whether the request was "properly framed and not excessively burdensome"; and (6) whether waiver would impose an excessively "harsh result" on the respondent. *Nasreen v. Capitol Petro. Grp., LLC*, 340 F.R.D. 489, 497–98 (D.D.C. 2022) (quoting *Caudle v. District of Columbia*, 263 F.R.D. 29, 33 (D.D.C. 2009)).

Here, Defendants failed to timely object to the requested discovery. On November 15, 2023, Plaintiff amended her complaint by leave of court and added Christopher Bell and Armenta Bell as individual defendants. Am. Compl.; *see also* Defs.' Mot. at 1. On February 13, 2024, Plaintiff served discovery requests on the newly added defendants, which included a set of interrogatories and requests for production of documents. Pl.'s Mot. at 2; *see also* Pl.'s Disc. Req. Ex. 1. Defendants had thirty days to serve their answers and objections. Fed. R. Civ. P. 33(b)(2); Fed. R. Civ. P. 34(b)(2). Defendants did not respond or serve any objections. *See* Pl.'s Mot. at 3. Four days after responses were due, on March 18, 2024, Plaintiff's counsel sent a follow-up email to Defendants stating that they had not received any response to their discovery requests due March 14, 2024, and thus "have waived any objections, and accordingly must respond in full to all of them." *Id*.; Email Commc'n Ex 2. Plaintiff's counsel further added that if they did not hear back from Defendants by the end of the week, Plaintiff would "move to the next step of contacting the Court." Pl.'s Mot. at 3; Email Commc'n Ex 2. Plaintiff's counsel notes that it is not their standard practice to raise the prospect of court intervention so quickly, but in light of Defendants' previous history of failing to timely respond in this case, they believed it was best to act promptly. Pl.'s Mot. at 3 n.1. Defendants, again, did not respond to Plaintiff's March 18 email. *Id*. at 3.

Plaintiff was left with no choice but to follow through on her email to Defendants and contact the Court. On March 26, 2024, Plaintiff's counsel sent another email to Defendants,

requesting three dates and times to propose a conference call with the Court, as well as notifying them of Plaintiff's intent to ask the Court for full responses to the discovery requests that were overdue and for sanctions. *Id*. at 3–4; Email Commc'n Ex 2. This time, Defendants provided available dates but no objections or responses to the outstanding discovery. *Id*. at 4. On April 16, 2024, a hearing was scheduled with the Court, where the Court ordered Defendants to provide the requested discovery by April 30, 2024. *Id*. A follow-up hearing was scheduled on May 1, 2024, to ensure compliance. *Id*. On April 30, 2024, Defendants objected entirely to the discovery requests and provided some information to three of eleven interrogatories and to four of thirteen document requests. *Id*.; *see also* Defs.' Answers Ex. 3.

As discussed above, Defendants missed the March 14 deadline to raise an objection, instead objecting on April 30, the deadline the Court set for Defendants to produce the already overdue requested discovery. Because Defendants did not raise an objection by the March 14 deadline, their "objection is waived unless the court, for good cause, excuses the failure." Fed. R. Civ. P. 33(b)(4). As Plaintiff rightly noted, Defendants did not provide *any* explanation or reason for the delay. *See* Pl.'s Mot. at 6. Plaintiff's counsel emailed Defendants twice, on March 18, 2024 and March 26, 2024, regarding the overdue discovery requests, and Defendants did not object nor did they provide responses to the requests. *See* Email Commc'n Ex. 2. Even if the Court were to conclude that Defendants' Motion to Dismiss and Motion to Stay Discovery filed on the eve of the April 16 hearing was the reason for the delay, the Court nonetheless finds that this reasoning does not satisfy the "good cause" standard to excuse Defendants' failure to timely object. *See Nasreen*, 340 F.R.D. at 497–98 (quoting *Caudle*, 263 F.R.D. at 33).

While the "length of the delay" of 32 days weighs in favor of considering the objection, the "reason for the delay" is not compelling. *Id.* at 498 (finding that a delay in responding to

discovery of over 120 days "clearly weigh[ed] in favor of waiver"). Defendants had the opportunity to file both motions by the March 14 deadline and instead ignored Plaintiff's communications attempts, waiting until the night before the April 16 hearing—a hearing scheduled for the sole purpose of discussing Defendant's lack of response to the discovery requests. Further, the Court cannot help but conclude that Defendants' actions were "dilatory or [in] bad faith" given their history in this case.[2]

Further, while the Court set a second deadline of April 30, 2024 for Defendants to respond to the overdue discovery requests, and at that point Defendants raised objections, they were nonetheless untimely and should have been raised by March 14, 2024. Because Defendants did not raise an objection by March 14, 2024, and because they did not provide any explanation or reason for that delay, their objections are waived. *See* Fed. R. Civ. P. 33(b)(4).

2. Defendants' Objections Lack Merit

Even if the Court were to consider the merits of Defendants' late objections, the Court would conclude that the objections lack merit for the reasons stated below.

Rule 26(b) permits discovery of "any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case . . . ." Fed R. Civ. P. 26(b)(1); *Ramirez v. U.S. Immigr. & Customs Enf't*, No. 18-cv-508, 2019 WL 11623990, at *1 (D.D.C. June 4, 2019) ("[T]he Federal Rules of Civil Procedure encourage the exchange of information through broad discovery.") (citation omitted). "Relevance is 'construed broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on any

[2] As Plaintiff noted, Defendants have previously failed to timely file or respond to other motions in this case. Examples include Defendants' failure to timely file their Answer, ECF No. 14, and failure to timely respond to Plaintiff's Motion for Default Judgment, ECF No. 13, Motions to Amend the Complaint and for Sanctions, ECF No. 39–41. *See* Pl.'s Mot. at 3 n.1.

party's claim or defense.'" *Breiterman*, 324 F.R.D. at 30 (quoting *United States ex rel. Shamesh*, 314 F.R.D. at 8). Where a party seeks to compel a response to a discovery request, "[t]he party that brings the motion to compel 'bears the initial burden of explaining how the requested information is relevant.'" *Felder*, 153 F. Supp. 3d at 224 (quoting *Jewish War Veterans*, 506 F. Supp. 2d at 42). "Once that showing has been made, 'the burden shifts to the non-moving party to explain why discovery should not be permitted.'" *English*, 323 F.R.D. at 8 (quoting *Felder*, 153 F. Supp. 3d at 224). Whether discovery is proportional is determined by weighing six factors: (1) the importance of the issues at stake in the action; (2) the amount in controversy; (3) the parties' relative access to relevant information; (4) the parties' resources; (5) the importance of the discovery in resolving the issues; and (6) whether the burden or expense of the proposed discovery outweighs its likely benefit. *Oxbow Carbon & Mins. LLC v. Union Pac. R.R. Co.,* 322 F.R.D. 1, 6 (D.D.C. 2017); Fed. R. Civ. P. 26(b)(1). "[N]o single factor is designed to outweigh the other factors in determining whether the discovery sought is proportional . . . ." *Oxbow*, 322 F.R.D. at 6 (citation omitted). To satisfy the burden of showing that a discovery request is not proportional, "the refusing party must make a specific, detailed showing." *Lamaute v. Power*, 339 F.R.D. 29, 35 (D.D.C. 2021).

Plaintiff argues that the requested discovery is relevant to her fraudulent conveyance claim under MUFCA and her retaliation claim pursuant to DCHRA. Pl.'s Mot. at 6, 9; *see also* Am. Compl. ¶¶ 72–75. Plaintiff supports this position with two arguments. First, Plaintiff claims that because she is considered a "creditor" and the claims in this case are "debts," as defined under the statute, discovery into the requested transactions are relevant to maintain a suit pursuant to MUFCA. Pl.'s Mot. at 6 (citing *Nat'l Mortg. Warehouse, LLC v. Trikeriotis*, 201 F. Supp. 2d 499, 502 (D. Md. 2002) ("To maintain a suit pursuant to MUFCA, the plaintiff needs to

allege that a creditor-debtor relationship exists and that the debtor has fraudulently transferred assets.")). Plaintiff further argues that "…because the law allows the Court broad remedial authority if a violation is proven… discovery into the bank accounts and other real and personal assets of the [Defendants] is appropriate so that Plaintiff can take meaningful steps to secure the relief contemplated by the Act." Pl.'s Mot. at 8. Moreover, Plaintiff argues that the requested discovery is likewise relevant to her retaliation claim "because punitive damages are an appropriate remedy for any malicious violation of the DCHRA," *id*., and in order to recover punitive damages based on Defendants' wealth, it is Plaintiff's burden to "establish the defendant's net wort at the time of the trial," *id*. at 10 (quoting *Chatman v. Lawlor*, 831 A.2d 395, 402 (D.C. 2003)). Therefore, discovery into the financial status of the individual Defendants is appropriate, Plaintiff claims. *Id*.

Defendants Armenta and Christopher Bell objected entirely to Plaintiff's set of interrogatories and request to produce documents on the basis that the discovery requests are "not relevant to the subject matter of this litigation… are overbroad, unduly burdensome, and/or require unreasonable efforts or expenses on behalf of the defendant[s]." Defs.' Answers Ex. 3, at 1. Defendants also individually objected to nine of eleven interrogatories and to nine of thirteen document requests on the grounds that they are "irrelevant, an annoyance, an embarrassment, oppression, and/or an undue burden or expense to the claims against Defendant[s]."[3] *Id*. at 1–5. Similarly, in opposing Plaintiff's motion to compel, Defendants filed a motion for a protective order, asserting that the interrogatories and request for production of documents are "oppressive, unduly burdensome, vexatious, and irrelevant" as the "questions the Plaintiff seeks answers to

[3] Defendants did provide some information in response to interrogatory No. 11, but still generally objected to it. *See id*.

have to do with the personal finances and property owned by the Defendants… and do not aid the trier-of fact in determining if the Defendants violated the District of Columbia Human Rights Act." Defs.' Mot. at 2.

"Under Rule 26(b), parties are entitled to discovery on any matter, not privileged, relating to [a] claim or defense." *United States v. Kellogg Brown & Root Servs., Inc.,* 284 F.R.D. 22, 33 (D.D.C. 2012). However, the Court may deny motions to compel if the discovery requested is irrelevant to the party's claims. *Id*. at 36. Therefore, the standard this Court uses is whether the request is "reasonably calculated to lead to the discovery of admissible evidence." *Id*. (quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 350–52 (1978)). Here, the Court finds that Plaintiff has met her burden in showing that the requested discovery related to Defendants' personal finances and property is relevant to her MUFCA and DCHRA claims. *See* Pl.'s Mot.; *see also*, Pl.'s Am. Compl. Further, Defendants have not made "a specific, detailed showing" of why the discovery requests are not proportional, and thus should not be permitted. *Lamaute*, 339 F.R.D. at 35.[4]

First, MUFCA "prohibits fraudulent conveyances of assets to avoid liability." *Doe v. Mercy High Sch., Inc.,* No. 23-cv-01184, 2024 WL 3103396, at *15 (D. Md. June 24, 2024) (quoting *Van Croft v. Louis*, No. PX-21-3084, 2023 WL 4421571, at *3 (D. Md. July 10, 2023)). "Conveyance," as defined under the Act, "includes every payment of money, assignment, release, transfer, lease, mortgage, or pledge or tangible or intangible property, and also the creation of any lien or incumbrance." Md. Code Ann., Com. Law, § 15-201(c). Therefore,

[4] Simply stating that requested discovery is "irrelevant, an annoyance, an embarrassment, oppression, and/or an undue burden or expense to the claims against Defendant[s]," Def.'s Mot., Pl.'s Disc. Req. Ex.1, without providing further information or evidence to the Court is not a "a specific, detailed showing" of why the discovery requests are not proportional, *Lamaute*, 339 F.R.D. at 35.

personal financial information relating to Defendants' "payment[s] of money," "tangible or intangible property" (i.e., bank accounts, investment accounts, personal property) and "any lien" are relevant to Plaintiff's MUFCA claim. *Id*.

Second, Plaintiff has brought suit against Defendants alleging discrimination based on sex and retaliation under the DCHRA. Am. Compl. at ¶¶ 69–74. DCHRA allows plaintiffs to bring private causes of action "for damages and such other remedies as may be appropriate." D.C. Code § 2-1403.16 (West 2015). Further, the D.C. Circuit has "explicitly h[e]ld that punitive damages are available in *all* discrimination cases under the DCHRA, 'subject only to the general principles governing any award of punitive damages.'" *Daka, Inc. v. Breiner*, 711 A.2d 86, 98 (D.C. Cir. 1998) (quoting *Arthur Young & Co., v. Sutherland*, 631 A.2d 354, 372 (D.D.C. 1993)). However, in keeping with its deterrence purpose, an award for punitive damages must be limited by the party's ability to pay so as not to "exceed the boundaries of punishment and lead to bankruptcy.'" *Daka, Inc. v. McCrae,* 839 A.2d 682, 694 (D.C. Cir. 2003) (quoting *Jonathan Woodner* Co. v. Breeden, 665 A.2d 929, 941 (D.C.C. 1995)). Therefore, it is Plaintiff's burden to "firmly establish the [Defendants'] net worth[s]—i.e., the amount by which its assets exceed its liabilities at the time of trial.'" *Id*. (cleaned up) (citation omitted)*; see also Bassi v. Patten*, 592 F. Supp. 2d 77, 85 (D.D.C. 2009) (admitting financial documents as exhibits "to demonstrate [Defendant's] current relative net worth and thus establish a factual basis for punitive damages"). Here, personal financial information relating to Defendants' net worth (i.e., payments, salaries, ownership interests, bank and investment accounts, property owned) are relevant to Plaintiff's retaliation claim against Defendants pursuant to the DCHRA.

3. Deficient Responses

Plaintiff suggests that with respect to the discovery requests that were answered, Defendants' responses were deficient. Pl.'s Mot. at 4 n.3. The Court addresses each claim in turn.

a. Interrogatories

"Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath." Fed. R. Civ. P. 33(b)(3). A party responds "fully" to an interrogatory when it "provide[s] true, explicit, responsive, complete, and candid answers." *Equal Rts. Ctr. v. Post Props., Inc*., 246 F.R.D. 29, 32 (D.D.C. 2007) (quoting *Hansel v. Shell Oil Corp*., 169 F.R.D. 303, 305 (E.D. Pa. 1996)). "The party moving to compel discovery has the burden of proving that the opposing party's answers were incomplete." *Id*. (citing *Daiflon, Inc., v. Allied Chem. Corp*., 534 F.2d 221, 227 (10th Cir. 1976)).

In her motion to compel, Plaintiff implies Defendants' responses to interrogatory Nos. 9, 10, and 11 are deficient. *See* Pl.'s Mot. at 4 n.3. Plaintiff contends that "even with respect to the requests that were answered with some substantive information, [Plaintiff is] highly skeptical that they have been answered in good faith and after a diligent search." *Id*. However, Plaintiff only addresses Defendants' response to interrogatory No. 9. *Id*. As the moving party, it is Plaintiff's burden to prove that Defendants' answers were incomplete, *Equal Rts. Ctr*., 246 F.R.D. at 32, so the Court focuses only on interrogatory No. 9.

In response to interrogatory No. 9, which asked Defendants to state, "if known, the current address, telephone number (cell and/or residential), and any email address of Harry Thompson," Defendants responded that they "do not know Mr. Thompson's current address" but provided his email address. Defs. Answers Ex. 3, at 4. Plaintiff claims Defendant Christopher

Bell's response is deficient because it is "highly unlikely" that he "does not know [Mr. Thompson's] current contact information," given that Mr. Thompson is Defendant's former executive assistant and sold controlling interests of the company to Defendants. Pl.'s Mot. at 4 n.3. Further, Defendant Armenta Bell previously testified that Mr. Thompson and Defendant Christopher Bell "both moved to Georgia at the same time, a state where CCP Solutions also provides armed security services." *Id*. (citing Deposition of Armenta Bell Ex. 4, pp. 31–33, 40, 52–53). Plaintiff also contends that Mr. Bell "carefully avoided answering the question . . . and only denied knowing his address." *Id*. While the Court is also deeply skeptical of Defendants' effort in responding, it cannot conclude, based on Plaintiff's reasoning, that Defendants' response to interrogatory No. 9 is untruthful. However, the Court does find that Defendants did not "fully" respond to interrogatory No. 9 by not providing Mr. Thompson's phone number, and thus did not provide a "complete" answer of Mr. Thompson's contact information. *See Equal Rts. Ctr.,* 246 F.R.D. at 32 (citation omitted). Therefore, the Court grants Plaintiff's motion to compel response as to interrogatory No. 9. To the extent further evidence is uncovered establishing that this response is untruthful, Plaintiff may move for sanctions.

b. Requests for Production

"For each item or category" requested, a party "must either state that inspection and related activities will be permitted as requested or . . . that it will produce copies of documents or of electronically stored information instead of permitting inspection," or else object. Fed. R Civ. P. 34(b)(2)(B)–(C). The responding party must conduct a "reasonable" search for the requested documents but may stop when the extent of the search constitutes an "undue burden" that "would be disproportionate to the needs of [the] case." *Prasad v. George Washington Univ.*, 323 F.R.D. 88, 90 (D.D.C. 2017). "To the extent that documents do not exist, they are not discoverable."

Davis v. Yellen, No. 08-cv-447, 2021 WL 2566763, at *20 (D.D.C. June 22, 2021). "The Court cannot compel [a party] to produce materials that it does not possess or information it does not have." *Steele v. United States*, No. 14-cv-1523, 2022 WL 2817835, at *5 (D.D.C. July 19, 2022) (citation omitted). However, the movant may present evidence "that the documents that have been produced permit a reasonable deduction that other documents may exist or did exist and have been destroyed." *Hubbard v. Potter*, 247 F.R.D. 27, 29 (D.D.C. 2008).

Plaintiff's motion obliquely suggests that Defendants' responses to requests Nos. 3, 4, 5, and 6 are deficient. Plaintiff generally objects that "even with respect to the requests that were answered with some substantive information, [Plaintiff is] highly skeptical that they have been answered in good faith and after a diligent search." Pl.'s Mot. at 4 n.3. With respect to requests Nos. 3 and 4, Plaintiff seeks written communication between Defendants that mention or pertain to Plaintiff, this case, facts in dispute, the decision to dissolve CCPS II, and/or the decision to operate security services in Maryland under CCPS. Pl.'s Disc. Req. Ex 1. Defendants responded that there are "no such documents in [their] custody, possession or control." Defs.' Answers Ex. 3. Although the Court cannot compel Defendants "to produce materials that it does not possess or information it does not have," *Steele*, 2022 WL 2817835, at *5 (citation omitted), the Court shares Plaintiff's skepticism that Defendants' search was adequate. The Court does not find it credible that zero documents exist concerning these important topics to Defendants' business operations. Accordingly, within two weeks of this opinion and order, Defendants shall file with the Court a declaration signed under oath by a declarant with first-hand knowledge, setting forth in detail the searches conducted to locate responsive documents (fully setting forth the who, what, where and when for each request for production of documents).

Requests Nos. 5 and 6 seek written communication between Defendants and Harry Thompson that mention or pertain to CCPS and CCPS II. Pl.'s Disc. Req. Ex 1. In response, Defendants produced documents that they claim were in "Defendant[s'] custody, possession, or control." Defs.' Answers Ex. 3. Plaintiff states that she is highly skeptical that requests were answered after a diligent search and in good faith, but points to no supporting evidence in regard to requests Nos. 5 and 6. *See* Pl.'s Mot. at 4 n.3. But, because of Defendants' poor track record in responding to discovery, Defendants shall also address these requests in the above-ordered declaration.

B. Motion for Protective Order

Defendants argue that Plaintiff's discovery requests are "oppressive, unduly burdensome, vexatious, and irrelevant to whether the Defendants violated the [DCHRA]." Defs.'s Mot. at 2. However, the Court does not find Defendants' reasoning persuasive. First, Defendants have not shown that oppression, annoyance, or undue burden would result absent a protective order. In fact, they provide no reasoning besides simply stating that the discovery requests "do not aid the trier-of fact in determining if the Defendants violated" the DCHRA. *Id*. Second, Defendants have failed to certify that they have "in good faith conferred or attempted to confer with [Plaintiff] in an effort to resolve the dispute without court action," as required by Rule 26(c). Fed. R. Civ. P. 26(c). Third, Defendants' argument that requested discovery is irrelevant to whether they violated the DCHRA is meritless for the reasons stated above. *See* supra Section IV.A.2. Therefore, Defendants have failed to demonstrate good cause for requesting a protective order and the motion is denied.

C. Sanctions under Rule 37

The Federal Rules of Civil Procedure allow a court to impose sanctions for a party's failure to cooperate during the course of discovery. *See generally* Fed. R. Civ. P. 37; *see also Davis v. D.C. Child & Family Servs. Agency*, 304 F.R.D. 51, 64 (D.D.C. 2014) (granting monetary sanctions against party that missed discovery deadlines and failed to provide appropriate responses to discovery requests); *3E Mobile, LLC v. Global Cellular, Inc.*, 222 F. Supp. 3d 50, 57 (D.D.C. 2016) (granting attorney's fees as monetary sanctions for late document production). Under Rule 37(a)(5), if the motion to compel "is granted in part and denied in part, the court may . . . after giving an opportunity to be heard, apportion the reasonable expenses for the motion." Fed. R. Civ. Proc. 37(a)(5)(C). Courts in this district have adopted the "lodestar method" for calculating attorneys' fees, in which "the court multiples a reasonable hourly rate by a reasonable number of hours expended." *Covad Comm. Co. v. Revonet, Inc.*, 267 F.R.D. 14, 29 (D.D.C. 2010) (citing *Tequila Centinela, S.A. de C.V. v. Bacardi & Co., Ltd.*, 248 F.R.D. 64, 68 (D.D.C. 2008)).

Plaintiff asks the Court for an award of fees of $5,768 "for the increased time and expense [Plaintiff] has incurred in pursuing this discovery." Pl.'s Mot. at 10. Plaintiff also asks the Court to hold Defendants and Defendants' counsel jointly and severally liable for the award. The Court addresses Plaintiff's attorneys' hourly rate and number of hours worked below.

1. Reasonable Rate

"An attorney's usual billing rate is presumptively the reasonable rate, provided that this rate is in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience and reputation." *Covad Comm. Co.*, 267 F.R.D. at 29 (quoting *Woodland v. Viacom Inc.*, 255 F.R.D. 278, 280–81 (D.D.C. 2008)). "[A]ttorneys' fees

matrices are one type of evidence that 'provide[ ] a useful starting point' in calculating the prevailing market rate.'" *Ventura v. L.A. Howard Constr. Co.,* 139 F. Supp. 3d 462, 463–64 (D.D.C. 2015) (citing *Eley v. District of Columbia*, 793 F.3d 97, 100 (D.C. Cir. 2015)).

Plaintiff's attorneys, Mr. Richard Salzman and Ms. Sharon Rogart, bill at a rate of $800 and $568 per hour, respectively. Pl.'s Mot. at 11. Both rates are within the "Laffey/Fitzpatrick Matrix." *Id*. Previously, the Court has awarded Plaintiff attorneys' fees for Defendants' failure to adhere to the discovery deadline. *See* Order on Mot. to Amend/Correct at 3, October 31, 2023, ECF No. 41. There, Mr. Salzman's rate was $800 per hour and Ms. Rogart's rate was $550 per hour. *See* Pl.'s Mot. for Leave to Amend Compl. and Sanctions at 36 n.16, ECF No. 39. Defendants had also failed to respond to Plaintiff's request for fees, and thus conceded that request. Here, while Ms. Rogart's hourly rate is slightly higher than her previous rate, a year has passed since the Court awarded Plaintiff attorneys' fees. The Court thus finds this difference reasonable. Further, the Court notes Defendants' lack of response to Plaintiff's request for fees here as well. Accordingly, the Court finds that Mr. Salzman's and Ms. Rogart's hourly rate of $800 and $568, respectively, are reasonable.

2. Reasonable Hours

"To determine the reasonableness of the number of hours expended on the litigation, the fee petitioner must submit evidence to the court that supports the hours worked." *Covad Comm. Co*., 267 F.R.D. at 29 (quoting *Woodland*, 255 F.R.D. at 281). Thus, the request for attorneys' fees "must be sufficiently detailed to allow the Court to determine, independently, that the hours claimed are justified." *Id*. (quoting *Woodland*, 255 F.R.D. at 282).

Plaintiff's counsel attests "that they have spent 6.5 hours on work attempting to secure Defendants' compliance with their obligations regarding the discovery at issue in this Motion."

Pl.'s Mot. at 11. Specifically, Mr. Salzman spent 4.5 hours preparing Plaintiff's motion to compel, plus two one-hour trips to court for hearings. *Id.* Ms. Rogart took one one-hour trip to court regarding the overdue discovery.[5] *Id.* The Court finds that 6.5 hours expended by Plaintiff's counsel is a reasonable amount in this case. The Court also reiterates Defendants' lack of response to Plaintiff's request for fees, and thus conceding this request, as additional support for the fee award.

Accordingly, the Court will award Plaintiff $4,968 in attorneys' fees, and Defendants and Defendants' counsel shall be jointly and severally liable for that award. *See Burton v. District of Columbia*, 153 F. Supp. 3d 13, 92 (D.D.C. 2015) (ordering litigants and counsel jointly and severally liable for sanctions stemming from "discovery lapses"); *Atkins v. Fischer*, 232 F.R.D. 116, 141 (D.D.C. 2005) (similar).

V. CONCLUSION

For the foregoing reasons, Plaintiff's Second Motion to Compel (ECF No. 61) is **GRANTED IN PART** and **DENIED IN PART**; Defendants' Motion for Protective Order (ECF No. 62) is **DENIED**; and Plaintiff's Motion for Sanctions (ECF No. 61) is **GRANTED IN PART.**

It is **ORDERED** that, within two weeks of this opinion and order, Defendants shall file a sworn declaration, by a declarant with first-hand knowledge, setting forth in detail the searches conducted to locate responsive documents to each request for production.

[5] Counsel attests that they worked a total of 6.5 hours on the motions at issue here; however, the breakdown of costs they listed totals 7.5 hours. The Court will base its award on Plaintiff's counsel "attest[ing] that they have spent 6.5 hours," Pl.'s Mot. at 11, not the 7.5 hours listed in Plaintiff's request for $5,768 in attorneys' fees, *id*. at 10.

It is **FURTHER ORDERED** that Plaintiff is awarded $4,968 in attorneys' fees, for which Defendants and Defendants' counsel shall be jointly and severally liable.

An order consistent with this Memorandum Opinion is separately and contemporaneously issued.

Dated: October 24, 2024

RUDOLPH CONTRERAS
United States District Judge