

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

STATE OF HAWAII,)	CIVIL NO. 08-00481 HG-KSC
)	
Plaintiff,)	FINDINGS AND RECOMMENDATION TO
)	DISMISS CASE WITHOUT PREJUDICE
vs.)	
)	
GEORGE GARY PEABODY,)	
)	
Defendant.)	
)	

FINDINGS AND RECOMMENDATION TO
DISMISS CASE WITHOUT PREJUDICE

As an initial matter, the Court notes that the caption of this case is misleading. On October 24, 2008, George Gary Peabody filed a Notice of Removal with this Court. The Notice claims that a Hawaii state court improperly entered a default judgment against Peabody on September 22, 2008. Peabody apparently asks the district court to vacate this judgment. Thus, despite its name, this pleading does not request removal. Rather, it asks a federal court to review a state court judgment. Accordingly, Peabody is actually the plaintiff here, not the defendant. However, to avoid confusion, the Court will refer to the parties as they are cast in the docket.


On January 26, 2009, Defendant Peabody failed to appear at the Rule 16 Scheduling Conference, in violation of Rule 16.2(a) of the Local Rules of Practice of the United States District Court for the District of Hawaii ("Local Rules"). The Court ordered Defendant to appear on March 5, 2009, to show cause why the case should not be dismissed for failure to do the following: (1) file a Rule 16 Scheduling Conference Statement; (2) appear at the Rule 16 Scheduling Conference; and (3) file a Proof of Service of the Notice of Removal to the State of Hawaii.

Defendant failed to appear at the hearing on March 5, 2009. There being no appearance, communication, or objection by Defendant, the Court HEREBY FINDS and RECOMMENDS that the district court DISMISS the case WITHOUT PREJUDICE.

IT IS SO FOUND AND RECOMMENDED.

Dated: Honolulu, Hawaii, March 13, 2009.




Kevin S.C. Chang
United States Magistrate Judge

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