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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

4WALL LAS VEGAS, INC.,

Plaintiff,

No. 2:12-cv-2746-KJN

vs.

MARK TRIEBWASSER, dba STAGE 1,
INC., et al.,

Defendants.

ORDER AND ORDER TO SHOW CAUSE

_____ /

On June 13, 2013, the court conducted a status conference in this matter.¹

Because all parties expressed an interest in potential alternative dispute resolution prior to a hearing on plaintiff's motion for an order of contempt and motion for leave to amend its complaint, the court ordered the parties to submit a joint statement regarding various issues related to such alternative dispute resolution within seven (7) days. (ECF No. 54.)

On June 20, 2013, plaintiff and the counterdefendants filed a statement indicating that the parties were unable to agree as to alternative dispute resolution, but that plaintiff and counterdefendants remained interested in a settlement conference before the undersigned, with a

¹ All parties consented to the jurisdiction of a United States magistrate judge pursuant to 28 U.S.C. § 636(c) (ECF Nos. 8, 25, 26), and the action was referred to the undersigned for all further proceedings and entry of final judgment. (ECF No. 27.)

1 waiver of any disqualification by virtue of the undersigned also acting as the assigned trial judge.
2 (ECF No. 55.) Defendants did not join in the statement filed by plaintiff and counterdefendants,
3 nor did they file their own statement in response to the court's order. According to the statement
4 filed by plaintiff and counterdefendants, defendant's counsel had represented to plaintiff's
5 counsel earlier that day that defendants' counsel was to withdraw from the case effective June 20,
6 2013. (ECF No. 55.)²

7 That same day, the court issued a minute order directing defendants' counsel or
8 defendants themselves to file, no later than Monday June 24, 2013, by 12:00 p.m., a statement
9 indicating whether they agree to an early settlement conference with the undersigned,
10 simultaneously agreeing to waive any disqualification by virtue of the undersigned also acting as
11 the assigned trial judge. The court advised defendants that in the absence of such a filed
12 statement, the hearing and briefing on the pending motions would proceed as noticed and
13 according to the Local Rules. (ECF No. 56.) Neither defendants' counsel nor defendants
14 themselves filed any response to that minute order.

15 Accordingly, IT IS HEREBY ORDERED that:

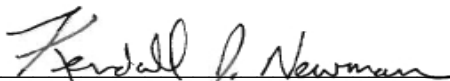
- 16 1. No early settlement conference in this matter will be scheduled at this time.
- 17 2. The July 11, 2013 hearing on plaintiff's motion for contempt and motion for
18 leave to amend the operative complaint (ECF Nos. 45, 50) is confirmed. In accordance with the
19 Local Rules, any opposition to the motions shall be filed no later than June 27, 2013, with any
20 reply due by July 4, 2013. *Failure to file a timely opposition to the motions may result in the*
21 *imposition of any appropriate sanctions and/or may be deemed as a statement of non-opposition*
22 *to the pending motions.*
- 23 3. Within seven (7) days of this order, defendants' counsel shall show cause why
24 monetary sanctions should not be imposed for his failure to participate in the drafting/filing of a

25
26 ² Regardless of any such statement, defendants' counsel remains as counsel of record for
defendants until he is permitted to withdraw by court order upon a properly noticed motion.

1 joint statement regarding alternative dispute resolution in accordance with the court's June 13,
2 2013 minute order, and his failure to respond to the court's subsequent June 20, 2013 minute
3 order. Even assuming that no agreement on alternative dispute resolution could be reached,
4 defendants' counsel's response should focus on the reasons why he did not report this to the
5 court, but instead entirely failed to respond to the court's orders.

6 IT IS SO ORDERED.

7 DATED: June 24, 2013

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12 KENDALL J. NEWMAN
13 UNITED STATES MAGISTRATE JUDGE

14 KJN/wvr
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