

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

JAMES WILLIAMS,

Plaintiff,

v.

Case No: 5:15-cv-282-Oc-32PRL

TCGC, LLC and WALTER VIVEIROS

Defendants.

ORDER

In this case brought pursuant to the Fair Labor Standards Act, final judgment was entered on August 3, 2016, in favor of Plaintiff James Williams and against Defendants TCGC, LLC and Walter Viveiros, in the amount of \$7,680.00. (Doc. 16). Meanwhile, Plaintiff has made discovery efforts in an attempt to collect the judgment. On October 26, 2016, the Court granted Plaintiff's motion to compel, and ordered Defendants Walter Viveiros and TCGC, LLC, through its corporate representative, to appear at a properly noticed deposition within 15 days. Defendants failed to comply with that Order, and Plaintiff now moves for sanctions.

Plaintiff contends that Defendants' failure to comply with the Court's orders is a "flagrant, willful and sanctionable offense that must not be handled lightly." (Doc. 19). Indeed, Plaintiff requests that Defendant be found in contempt, and requests that the individual Defendant, Walter Vivieros, be taken into custody of the United States Marshal until Defendants purge themselves of the contempt orders, and satisfy the judgment.

Meanwhile, the Court notes that Defendants have failed to make any appearance at any stage in this case, including at present, although they were served in June and August 2015,

respectively. (Docs. 6 & 12). The Court also notes that the Re-Notice of Taking Deposition (Doc. 19-1) that is the basis of Plaintiff's motion for sanctions was sent via certified mail to the Defendant TCGC, LLC, attention Walter Viveiros, at 11082 Frigate Bird Ave, Weeki Wachee, Florida, 34613, and that the document reflects that it was returned to sender as "unclaimed" and "unable to forward." Notably, this is not an address at which either Defendant was served previously. Although the Court is not unsympathetic to the challenges involved in collecting on a judgment, at this stage, the undersigned is disinclined to recommend sanctions based upon a notice that, in all likelihood, was not received.

Accordingly, upon due consideration, Plaintiff's motion for contempt and sanctions (Doc. 19) is **DENIED** without prejudice.

DONE and **ORDERED** in Ocala, Florida on January 6, 2017.



PHILIP R. LAMMENS
United States Magistrate Judge

Copies furnished to:

Counsel of Record
Unrepresented Parties