Puana v. Kealoha Doc. 483

UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

CIV. NO. 16-00659 LEK-WRP

GERARD K. PUANA, RICKY L. HARTSELL, AS TRUSTEE OF THE FLORENCE M. PUANA TRUST;

Plaintiffs,

vs.

KATHERINE P. KEALOHA, LOUIS M. KEALOHA, MINH-HUNG NGUYEN, MINH-HUNG "BOBBY" NGUYEN; DANIEL SELLERS, NIALL SILVA, WALTER CALISTRO, DRU AKAGI, JOHN AND/OR JANE DOES 1-50, DEREK WAYNE HAHN,

Defendants.

ORDER ADOPTING THE MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDATION TO GRANT PLAINTIFFS' MOTION FOR DEAFULT JUDGMENT AGAINST LOUIS M. KEALOHA

On March 3, 2023, Plaintiffs Gerard K. Puana and Ricky L. Hartsell as Trustee of the Florence M. Puana Trust (collectively "Plaintiffs") filed a Motion for Default Judgment as to Defendant Louis M. Kealoha ("Default Judgment Motion").

[Dkt. no. 460.] On August 31, 2023, the magistrate judge issued the Findings and Recommendation to Grant Plaintiffs' Motion for Default Judgment Against Louis M. Kealoha ("F&R"). [Dkt. no. 477.] On September 5, 2023, Defendant Louis M. Kealoha ("Kealoha") filed a Motion to Set Aside Entry of Default and Default Judgment, dated July 31, 2023 ("Motion to Set Aside").

[Dkt. no. 478.] An entering order denying the Motion to Set Aside was issued on September 7, 2023 ("9/7 EO"). [Dkt. no. 480.] The 9/7 EO reiterated that any objections to the F&R were due within fourteen days after service of the F&R. [Id.]

On September 21, 2023, Kealoha filed a Declaration of Louis M. Kealoha ("Declaration") with the same Motion to Set Aside attached. [Dkt. no. 481.] In the Declaration, Kealoha attested that he sent the Motion to Set Aside on July 31, 2023, but received the envelope back on August 28, 2023 as undelivered. [Declaration at ¶¶ 2-3.] Kealoha also states there have been issues with the prison mail system that "have significantly impacted the time that [his] mail would be received by the court." [Id. at ¶ 5.]

Although Kealoha states the mail he has sent to this district court has been delayed, he has not established that the mail sent to him **from this district court** has been delayed. Therefore, this Court assumes that Kealoha received the F&R and the 9/7 EO in a timely manner and that he was aware of the deadline to file any objections.

No objections to the F&R have been filed. Therefore, it is HEREBY ORDERED that, pursuant to 28 U.S.C. \S 636(b)(1)(C) and Local Rule 74.1, the F&R is adopted as the opinion and order of this Court.

In light of the adoption of the F&R, Plaintiff's Default Judgment Motion is GRANTED.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, September 29, 2023.



/s/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States District Judge

GERARD K. PUANA, ET AL. VS. KATHERINE P. KEALOHA, ET AL; CV 16-00659 LEK-WRP; ORDER ADOPTING THE MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDATION TO GRANT PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT AGAINST LOUIS M. KEALOHA