

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \* \* \*

KYLE JAMES PENNINGTON, et al.,	)	
	)	
Plaintiffs,	)	2:08-cv-01046-LRH-PAL
	)	
v.	)	<u>ORDER</u>
	)	
SUNRISE SERVICE & TRANSPORT, et al.,	)	
	)	
Defendants.	)	

---

Before the court is the Report and Recommendation of United States Magistrate Judge Peggy A. Leen (Doc. #25<sup>1</sup>) entered on July 30, 2009. Also before the court is Executor Mary Riggs' ("Riggs") Renunciation of Special Administrator (Doc. #26) and defendants' Motion to Dismiss for Want of Prosecution and/or in Accordance with Magistrate's Recommendations (Doc. #27).

**Report and Recommendation**

On July 7, 2009, the court issued an order to show cause (Doc. #24) as to why plaintiffs failed to comply the court's May 21, 2009 order directing plaintiffs to either retain counsel or file a notice with the court that they would be appearing *pro se* (Doc. #23). After plaintiffs failed to respond, the magistrate judge issued the present report and recommendation that plaintiffs' complaint be dismissed for failure to prosecute. Doc. #25. Upon review of the report and recommendation in accordance with the requirements of 28 U.S.C. § 636 and applicable case law, and there being no

---

<sup>1</sup> Refers to the court's docket number.

1 objections filed, the court affirms and adopts the report and recommendation in its entirety.

2 **Renunciation of Special Administration**

3           Executor Mary Riggs is the appointed special administrator for the Estate of Christopher  
4 Pennington. Riggs has requested leave to renounce her appointment due to the withdrawal of plaintiffs'  
5 attorney of record and the combined lack of communication with the surviving heirs of the estate and  
6 their failure to comply with the court's orders. *See* Doc. #26. Good cause appearing, Rigg's request to  
7 renounce her special appointment is granted.

8 **Motion to Dismiss**

9           Defendants have moved to dismiss plaintiffs' complaint for failure to prosecute in  
10 accordance with the magistrate judge's report and recommendation. (Doc. #27). Plaintiffs were ordered  
11 on multiple occasions to either retain new counsel or file a notice with the court that they would  
12 proceeding *pro se*. *See* Doc. ##23, 24. Despite ample opportunities, plaintiffs have failed to comply  
13 with any of the court's prior orders. Furthermore, the plaintiffs have shown an unwillingness to  
14 participate in the litigation. Accordingly, the court finds that plaintiffs' complaint should be dismissed  
15 for failure to prosecute.

16 \

17 \

18 \

19 \

20 \

21 \

22 \

23 \

24 \

25 \

26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

IT IS THEREFORE ORDERED that the magistrate judge's report and recommendation (Doc. #25) is AFFIRMED and ADOPTED in its entirety.

IT IS FURTHER ORDERED that Mary Rigg's renunciation of special administration (Doc. #26) is GRANTED.

IT IS FURTHER ORDERED that defendants' motion to dismiss for lack of prosecution (Doc. #27) is GRANTED. The complaint is DISMISSED without PREJUDICE.

IT IS FURTHER ORDERED that the clerk of court shall enter judgment accordingly.

IT IS SO ORDERED.

DATED this 29th day of October, 2009.



---

LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE