

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  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

TAE-SI KIM and JIN-SUNG HONG,

Plaintiffs,

v.

ADAM B. KEARNEY, *et al.*,

Defendants.

Case No. 2:09-cv-02008-RFB-GWF

**ORDER TO SHOW CAUSE**

**I. INTRODUCTION**

This case is before the Court on Plaintiffs Tae-Si Kim and Jin-Sung Hong's (collectively, "Plaintiffs") Motion for Order to Show Cause filed on September 10, 2014. ECF No. 404. In their motion, Plaintiffs request that this Court issue an Order to Show Cause why Defendant Adam Kearney should not be held in contempt for his failure to appear for a judgment debtor examination.

On September 30, 2014, the Honorable George Foley, Jr., United States Magistrate Judge, issued an Order certifying to the undersigned that Defendant Kearney was ordered to produce documents and appear for a judgment debtor examination and that Kearney failed to do so. Order to Show Cause, ECF No. 405. Kearney was ordered to appear before this Court on October 16, 2014 to show cause why he should not be held in civil contempt of court for failing to comply with the Court's Order. *Id.* The Court also ordered Plaintiffs' counsel to serve a copy of that Order on Kearney and to provide proof of service to the Court. *Id.* Kearney did not appear at the October 16 hearing, nor did Plaintiffs' counsel provide proof to the Court that it had served Kearney with the Order or with its underlying motion.

...

1 At the hearing, the Court noted its concern for ensuring that Plaintiffs intended to fully  
2 litigate the matter before invoking its contempt power. To that effect, the Court ordered Plaintiff  
3 Kim to serve Kearney with Plaintiffs' Motion for Order to Show Cause and with the Court's  
4 Order to Show Cause, by mail and by personal service, and to file proof of service (or, if  
5 personal service could not be accomplished, an explanation of what attempts had been made to  
6 do so) with the Court by October 23, 2014. Minutes of Proceedings, ECF No. 408. To date,  
7 Plaintiffs have not filed any proof of service with the Court. The Court shall therefore dismiss  
8 Plaintiffs' motion for failure to file any notification regarding service as required.


9 In addition, the recent Stipulation filed by the parties reflects a lack of clarity as to  
10 whether this case should be dismissed entirely. ECF No. 416. While the Stipulation purported to  
11 dismiss only Defendants Edward C. Reed, Barbara R. Reed, and Barbie, Ltd. d/b/a Re/Max  
12 Extreme, the Proposed Order stated that this action should be dismissed with prejudice in its  
13 entirety. Id. Given this lack of clarity and the fact that it does not appear that any active  
14 Defendants remain in this case, the Court shall require an explanation from Plaintiffs why this  
15 case should not be dismissed in its entirety.

16 Accordingly,

17 **IT IS ORDERED** that Plaintiffs' Motion for Order to Show Cause for Contempt of  
18 Court Order for Adam Kearney's Failure to Appear for Judgment Debtor Examination (ECF No.  
19 404) is DENIED.

20 **IT IS FURTHER ORDERED** that Plaintiffs Tae-Si Kim and Jin-Sung Hong shall show  
21 cause, in writing, **no later than August 14, 2015**, why this case should not be dismissed with  
22 prejudice in its entirety in accordance with the Proposed Order included in the parties'  
23 Stipulation filed on June 16, 2015.

24  
25 DATED: August 6, 2015.

26   
27 **RICHARD F. BOULWARE, II**  
28 **United States District Judge**