

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**

CYNTHIA KAPPENMAN COHEN,

Plaintiff,

vs.

CLARK COUNTY SCHOOL DISTRICT,
et al.,

Defendants.

CASE NO. 11-CV-1619-MLH-RJJ
ORDER:

**(1) REFERRING MOTION TO
ISSUE ORDER REGARDING
FAILURE TO APPEAR TO
MAGISTRATE JUDGE; AND**

**(2) GRANTING MAGISTRATE
JUDGE AN EXTENSION OF
TIME TO RULE ON
PLAINTIFF’S MOTION FOR
DECISION**

On August 27, 2012, Defendants filed a “motion to issue order to show cause why Plaintiff should not be sanctioned regarding failure to appear.” (Doc. No. 63.) As discussed below, the Court refers Defendants’ motion to Magistrate Judge Johnston for resolution and grants Magistrate Judge Johnston an extension of time to rule on Plaintiff’s motion for decision (Doc. No. 23).

Background

On April 18, 2012, Plaintiff Cynthia Kappenman Cohen, proceeding pro se, filed a “motion for decision.” (Doc. No. 23.) On June 7, 2012, the Court issued an order on Plaintiff’s motion and concluded that there is no basis for recusal of the district judge assigned to this case. (Doc. No. 40.) The Court referred Plaintiff’s motion to Magistrate Judge

1 Johnston for a decision on his recusal within thirty days.¹ (Id. at 5.) On June 28, 2012, the
2 Magistrate Judge scheduled a hearing for July 9, 2012 regarding Plaintiff’s motion for
3 decision. (Doc. No. 50.)

4 Between May 4, 2012 and June 22, 2012, Plaintiff filed four motions to file subpoenas.
5 (Doc. Nos. 32, 41, 44 & 48.) On June 28, 2012, Defendants filed a motion to quash Plaintiff’s
6 subpoenas. (Doc. No. 49). On June 28, 2012, the Magistrate Judge issued an order to
7 simultaneously hear Plaintiff’s motions to file subpoenas and Defendants’ motion to quash
8 subpoenas with Plaintiff’s motion for decision at the hearing scheduled for July 9, 2012. (See
9 Doc. Nos. 50-51.)

10 Plaintiff failed to appear before the Court on July 9, 2012. (Doc. No. 55.) Therefore,
11 the Court rescheduled the hearing for August 22, 2012 at 9:00 a.m. (Id.) On August 20, 2012,
12 Plaintiff filed a motion to continue the August 22nd hearing, requesting permission to “provide
13 the court with three (3) alternative dates and times that do not conflict with her required
14 contractual school schedule.” (Doc. No. 57 at 3.) The Court granted-in-part Plaintiff’s motion
15 and continued the August 22nd hearing from 9:00 a.m. until 4:00 p.m. (Doc. No. 59.) On
16 August 22, 2012, Plaintiff filed a second motion to continue the August 22nd hearing, again
17 requesting permission to “provide the court with three (3) alternative dates and times that do
18 not conflict with her required contractual school schedule.” (Doc. No. 60 at 3.) Plaintiff failed
19 to appear in Court for the August 22nd hearing.

20 **Defendants’ Motion To Issue Order To Show Cause**

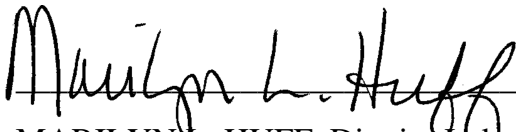
21 On August 27, 2012, Defendants filed a motion requesting the Court to issue an order
22 for Plaintiff to show cause why she should not be sanctioned for her failure to appear before
23 the Court on July 9, 2012 and August 22, 2012. (Doc. No. 63.) The Court refers Defendants’

24
25 ¹ If a judicial colleague of an assigned judge is a named defendant in a case, the
26 assigned judge need not automatically recuse from the case; instead, whether the assigned
27 judge may oversee the case depends upon the unique facts and circumstances of the case. See
28 Code of Judicial Conduct for United States Judges Canon 3(C)(1); see also “Committee on
Codes of Conduct Advisory Opinion No. 103,” Guide to Judicial Policy, Vol. 2B, Ch. 2., p.
103-2 (“If . . . an assigned judge’s judicial colleagues – but not the assigned judge – is named
as a defendant in a civil action, the assigned judge need not automatically recuse from the
case.”).

1 motion to Magistrate Judge Johnston for resolution. In addition, the Court grants Magistrate
2 Judge Johnston an extension of time to rule on Plaintiff's motion for decision based on
3 Plaintiff's failure to appear before the Court at the scheduled hearings.

4 **IT IS SO ORDERED.**

5 DATED: August 28, 2012

6 
7 MARILYN L. HUFF, District Judge
8 UNITED STATES DISTRICT COURT
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28