

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3
4 Leo Winer, et al.,
5 Plaintiffs

6 v.

7 Steven A. Strickland., et al.,
8 Defendants

2:13-cv-00231-JAD-CWH

**Order Denying Without Prejudice Motion
for Default Judgment**

[ECF No. 59]

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10 The Leo Winer Trust and the Michael J. Pepitone Trust jointly move for default judgment
11 against Paul Strickland. At a status conference held the day the motion was filed, plaintiffs'
12 counsel advised the court that they would be filing an errata to the motion to request separate
13 judgments for each plaintiff. No errata has been filed, and the motion has several other
14 deficiencies. I therefore deny the motion without prejudice and give plaintiffs until April 10,
15 2017, to file a renewed motion for default judgment curing these deficiencies and requesting
16 separate judgments for each plaintiff.

17 Though plaintiffs analyze the *Eitel* factors in their motion, they do so in a conclusory
18 fashion. For example, obtaining a default judgment requires plaintiffs to prove that they have
19 stated a claim on which they may recover. Plaintiffs' complaint contains 18 claims for relief, but
20 plaintiffs make no attempt to articulate which of these are sufficiently plead or why. They also
21 do not identify which claims entitle them to which relief. In their renewed motion, plaintiffs
22 must identify which claim or claims supports each request for relief and explain why these claims
23 are sufficiently plead and entitle plaintiffs to that relief.

24 Plaintiffs also do not cite to the complaint or offer evidence to substantiate their default-
25 judgment arguments. They cite exhibits that plaintiffs presumably intended to attach to the
26 motion, but the motion has no exhibits. In their renewed motion, plaintiffs must cite facts in the
27 complaint—which have been deemed admitted by virtue of Strickland's default—or other
28 evidence to support their factual assertions. As to their proof of damages, plaintiffs cross-

1 reference exhibits attached to other motions. Plaintiffs must attach the exhibits on which they
2 rely to their renewed motion because I will not cross-reference exhibits attached to other filings.¹

3 Finally, plaintiffs' request for attorney's fees does not comply with Local Rule 54-14
4 because it is not supported by an attorney affidavit or a reasonable itemization and description of
5 the work performed, nor does it address any of the factors listed under L.R. 54-14(3). Plaintiffs
6 must consult Local Rule 54-14 if they choose to reurge this request.²

7 Because this is plaintiffs' first motion for default judgment, I will allow them a chance to
8 cure these deficiencies. Plaintiffs have until April 10, 2017, to file a renewed motion for default
9 judgment and rule-compliant request for attorney's fees. If a renewed motion is not filed by this
10 deadline, I will close this case without further notice. Accordingly,

11 IT IS HEREBY ORDERED that the motion for default judgment [ECF No. 59] is
12 DENIED without prejudice to the filing of a renewed motion by April 10, 2017.

13 DATED: March 30, 2017.

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15 Jennifer A. Dorsey
16 United States District Judge

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22 ¹ Plaintiffs' lawyers also attempt to improperly authenticate an e-mail to one of the deceased
23 plaintiffs by stating in the motion that the referenced e-mail is a "true and correct copy" of the e-
24 mail. Plaintiffs' lawyers do not sufficiently establish that they have the necessary personal
knowledge to authenticate this document.

25 ² Plaintiffs argue their entitlement to attorney's fees and request that the court order Strickland to
26 pay plaintiffs' costs "in the amount of supported by a subsequently filed Supplement including a
27 Memorandum of Costs, and an Affidavit supporting the fees requested." No supplement was
28 filed, and I will not rule on plaintiffs' request for fees without the necessary documentation and
briefing. *See, e.g.*, Local Rule 54-14.