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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

6 \* \* \*

7 ANAGLADYS GHIORSI,

8 Plaintiff,

9 v.

10 ACELERO LEARNING CLARK COUNTY,

11 Defendant.

Case No. 2:13-cv-00570-APG-PAL

**ORDER TO SHOW CAUSE**

12 This matter is before the court on Plaintiff's failure to respond to the Order to Show  
13 Cause (Dkt. #29), file a response to Defendant's Motion to Enforce Settlement Agreement (Dkt.  
14 #27) or file objections to a Report and Recommendation (Dkt. #30) entered May 5, 2015.

15 In an Order (Dkt. #29) entered April 8, 2015, I granted the motion of Plaintiff's counsel  
16 to withdraw. The motion represented that an irreconcilable conflict of interest had developed  
17 between the Plaintiff and her attorneys. Counsel represented that they had advised Ms. Ghiorso  
18 of a successful settlement which she authorized. The motion stated that Ms. Ghiorso "denies the  
19 settlement" and "marched out of the office" during the meeting to go over the settlement  
20 agreement. The motion to withdraw represented that counsel for Plaintiff and staff members  
21 had made numerous attempts to contact Ms. Ghiorso telephonically and in writing, and had  
22 notified Ms. Ghiorso both telephonically and in writing of the April 7, 2015, hearing on the  
23 motion to withdraw. However, Plaintiff did not respond to any attempts to communicate with  
24 her, and did not appear at the hearing.

25 During the hearing on the motion to withdraw, the court inquired of counsel for the  
26 Plaintiff whether the draft agreement attached as an exhibit to the motion to enforce settlement  
27 was the agreement that had been reached among counsel. Counsel for Plaintiff agreed that it  
28 was the form of agreement the parties had agreed to in reaching a settlement. Counsel for

1 Plaintiff also represented that the law firm had accomplished the initial objectives of the  
2 representation which involved non-monetary issues. However, after those objectives were  
3 obtained, Ms. Ghiorsi requested a financial component which counsel agreed to pursue on her  
4 behalf. Counsel for Plaintiff represented to the court and opposing counsel that Ms. Ghiorsi had  
5 authorized counsel to enter into settlement negotiations with the Defendant on terms that are  
6 memorialized in the settlement agreement reached which was attached as an exhibit to  
7 Defendant's motion to enforce the settlement. Counsel also represented that Ms. Ghiorsi's grant  
8 of authority was witnessed by another lawyer in the law firm. However, in reviewing the  
9 settlement agreement with Ms. Ghiorsi, she took the position that she had not authorized the  
10 settlement that counsel reached on her behalf.

11 Counsel for Plaintiff filed a Notice of Resolution (Dkt. #21) on February 19, 2015,  
12 advising the court that this case had been resolved and that the parties expected to submit  
13 dismissal paperwork for the court's approval within the next thirty days. The notice of  
14 resolution was filed the day before a response was due to the district judge's Order to Show  
15 Cause (Dkt. #20) why this case should not be dismissed. Judge Gordon's order to show cause  
16 related that on August 8, 2014, he had granted the parties' stipulation to set aside default in this  
17 case, but that the parties had not filed any papers since then and appeared to have abandoned the  
18 litigation. Judge Gordon therefore required the parties to show cause on or before February 20,  
19 2015, why this case should not be dismissed. The order directed the parties to submit a  
20 stipulation to dismiss if they had resolved the case. If not, the parties were required to file a  
21 status report by February 20, 2015. The order to show cause entered by Judge Gordon warned  
22 the parties that if they failed to comply, the case may be dismissed without further notice.

23 At the hearing on the motion to withdraw, the court granted the law firm's request to  
24 withdraw as counsel of record for the Plaintiff. The order gave Plaintiff until April 28, 2015, to  
25 file a response to the Motion to Enforce Settlement Agreement (Dkt. #27), and also gave  
26 Plaintiff until April 28, 2015, to show cause why this case should not be dismissed for failure to  
27 prosecute, failure to appear at the hearing on the motion to withdraw, and failure to keep in  
28 touch with her counsel of record. The clerk of the court was directed to serve Ms. Ghiorsi with  
a copy of the order and a copy of Defendant's Opposition to the Motion to Withdraw (Dkt. #26)

1 and the Motion to Enforce (Dkt. #27) at her last known address: 9552 W. Tropicana Ave., Las  
2 Vegas, Nevada 89147. The order warned Plaintiff that failure to comply with this order would  
3 result in a recommendation to the district judge that her complaint be dismissed for failure to  
4 prosecute, failure to attend the hearing on the motion to withdraw, and failure to communicate  
5 with her counsel of record.

6 The clerk of court served the court's Order (Dkt. #29) and Defendant's Opposition and  
7 Motion to Enforce (Dkt. ##26, 27) as directed on the Plaintiff at her last known address. The  
8 court's order and these documents were not returned. Therefore, when Plaintiff failed to  
9 comply with the Order (Dkt. #29) the court prepared a Report and Recommendation (Dkt. #30)  
10 outlining the procedural posture of this case finding that Plaintiff's failure to comply with the  
11 court's orders is an abusive litigation practice that had interfered with the court's ability to hear  
12 this case, delayed litigation, disrupted the court's timely management of its docket, wasted  
13 judicial resources and threatened the integrity of the court's orders and the orderly  
14 administration of justice. The report and recommendation also found that sanctions less drastic  
15 than dismissal were unavailable because Plaintiff had willfully refused to comply with multiple  
16 court orders and the Local Rules of Practice. The report and recommendation gave Plaintiff one  
17 **final** opportunity to comply with the court's orders and advised her that I would recommend  
18 that her complaint be dismissed if she still failed to file a response to the motion to enforce  
19 settlement and the court's order to show cause. The report and recommendation recommended  
20 that Plaintiff's complaint be dismissed unless she filed a response to the Order to Show Cause  
21 (Dkt. #29) and a response to the Motion to Enforce Settlement Agreement (Dkt. #27) no later  
22 than May 26, 2015.

23 The docket reflects that copies of the report and recommendation were distributed  
24 "pursuant to the NEF." The notice of electronic filing indicates that the notice was delivered by  
25 mail to the Plaintiff at 9552 W. Tropicana Ave., Las Vegas, Nevada 89147. The report and  
26 recommendation was returned by the U.S. Postal Service with the notation "Insufficient address.  
Unable to forward."

27 The motion to withdraw filed by counsel for Plaintiff (Dkt. #22) contained a suite  
28 number for the Plaintiff at her 9552 W. Tropicana address. The court's prior Order (Dkt. #29)

1 served at the same address without the suite number and was not returned by the U.S. Postal  
2 Service. However, in an abundance of caution, the court will give the Plaintiff an additional and  
3 **final** opportunity to comply with the court's orders before recommending dismissal.

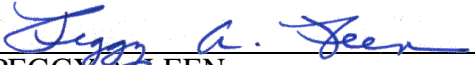
4 **IT IS ORDERED** that:

- 5 1. The Plaintiff shall have until **June 25, 2015**, to file a response to the Motion to  
6 Enforce Settlement Agreement (Dkt. #27).
- 7 2. The Plaintiff shall have until **June 25, 2015**, to show cause why this case should not  
8 be dismissed for failure to prosecute, failure to appear at the hearing on the motion to  
9 withdraw, and failure to keep in touch with her counsel of record.
- 10 3. The clerk of the court shall serve the Plaintiff with a copy of this order and a copy of  
11 Defendant's Opposition and Motion to Enforce (Dkt. ##26, 27) at her last known  
12 address, **and update the docket to reflect the suite number:**

13 Annagladys Ghiorso  
14 9552 W. Tropicana Ave.,  
Suite 1110  
Las Vegas, Nevada 89147  
15 (702) 873-0810

- 16 4. Failure to timely comply with this order will result in a recommendation to the  
17 district judge that Plaintiff's complaint be dismissed for her failure to prosecute,  
18 failure to attend the hearing on the motion to withdraw, failure to communicate with  
19 her counsel of record, and failure to comply with this court's order that she respond  
20 to the motion to enforce settlement agreement, and show cause for her failure to  
21 prosecute, failure to appear at the hearing on the motion to withdraw, and failure to  
22 keep in touch with her counsel of record as ordered.
- 23 5. The Report and Recommendation (Dkt. #30) which was returned by the USPS is  
24 **WITHDRAWN** to allow Plaintiff a final opportunity to comply with the court's  
25 orders.

26 DATED this 2nd day of June, 2015.

27   
28 PEGGY A. LEEN  
UNITED STATES MAGISTRATE JUDGE