

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

THE BOARD OF TRUSTEES, in their capacities )  
as Trustees of the NATIONAL ROOFING )  
INDUSTRY PENSION FUND, et al., )

Plaintiffs, )

vs. )

LAMAR VAN NOORDA, et al., )

Defendants. )

Case No. 2:16-cv-00170-JAD-CWH

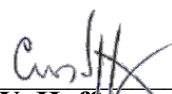
**ORDER**

Presently before the court is Plaintiffs’ Motion to Hold Edwyn Mendez in Contempt for Failure to Obey Subpoena (ECF No. 41), filed on April 28, 2017.

The motion includes a certificate of service stating that it was served “[b]y electronic service, pursuant to Rule 5-4 of the Local Rules of Civil Practice of the United States District of Nevada . . . .”<sup>1</sup> (Mot. (ECF No. 41) at 9.) Mr. Mendez is not a party in this case, and therefore would not have received electronic service of the motion through the court’s electronic filing system. The certificate of service does not state whether Mr. Mendez was served with the motion in another manner. Due process requires that Mr. Mendez receive notice and an opportunity to be heard before the court considers imposing contempt sanctions. *See Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 827 (1994); *U.S. v. Ayres*, 166 F.3d 991, 995-96 (9th Cir. 1999). The court therefore will require Plaintiffs to serve their motion for contempt (ECF No. 41) on Mr. Mendez and to file proof of that service by May 30, 2017.

IT IS SO ORDERED.

DATED: May 23, 2017

  
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C.W. Hoffman, Jr.  
United States Magistrate Judge

<sup>1</sup> The court understands Plaintiffs to be referring to Local Rule of Civil Practice 5-1, which deals with proof of service, given that there is not a local rule numbered 5-4.