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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CLAYTON A. LEWIS, et al.,

Plaintiff(s),

v.

CAESARS ENTERTAINMENT
CORPORATION, et al.,

Defendant(s).

Case No.: 2:16-cv-02787-JAD-NJK

Order To Show Cause

15 Defendant Bingli Yang and her attorney (Aaron Aquino) violated the Court's order to
16 submit a settlement conference statement by 3:00 p.m. on October 24, 2018. See Docket No. 76
17 at 6. The Court hereby **ORDERS** Defendant Yang and Mr. Aquino to appear personally for a
18 show cause hearing at 2:00 p.m. on November 9, 2018, in Courtroom 3A. Defendant Yang and
19 Mr. Aquino shall be prepared to explain why their most recent violation of a Court order should
20 not result in (1) entry of default judgment, (2) initiation of contempt proceedings, (3) an award of
21 attorney's fees to Plaintiffs,¹ (4) Court fines of up to \$10,000 each, and (5) referral of Mr. Aquino
22 to the Nevada State Bar for potential disciplinary proceedings. **FAILURE TO APPEAR AS
23 ORDERED WILL RESULT IN THE IMPOSITION OF SEVERE SANCTIONS.**

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¹ The Court previously awarded only partial attorney's fees given that the settlement conference was rescheduled such that some of the time previously spent would not be wasted. See Docket No. 76 at 4 n.3. The Court is vacating the continued settlement conference in light of the additional violation now at issue. Defendant Yang and Mr. Aquino must also be prepared to explain why they should not pay the attorney's fees incurred by Plaintiffs for their counsel appearing for this show cause hearing and for preparing the filings being ordered below. Plaintiffs' counsel shall be prepared at the show cause hearing to explain what additional time has been expended for those activities.

1 The Court further **ORDERS** as follows:

- 2 • The rescheduled settlement conference is hereby vacated.
- 3 • Plaintiffs shall be prepared at the hearing set herein to prove-up their compensatory
4 damages in the event default judgment is recommended.²
- 5 • To the extent they continue to seek punitive damages in the event default judgment is
6 recommended, Plaintiffs shall file a brief explaining the basis for such damages by
7 November 5, 2018,³ and shall be prepared to provide testimony to the same at the
8 hearing set herein.
- 9 • To the extent they continue to seek attorney's fees for the entire case in the event default
10 judgment is recommended, Plaintiffs shall file a brief explaining the basis for such an
11 award by November 5, 2018.⁴

12 IT IS SO ORDERED.

13 Dated: October 26, 2018

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16 Nancy J. Koppe
17 United States Magistrate Judge

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19 _____
20 ² The Court is already in receipt of various documents Plaintiffs have filed to prove up their
21 damages. Docket Nos. 65-66, 74-75. To the extent Plaintiffs seek compensatory damages for lost
opportunities for promotion, see, e.g., Docket No. 74 at ¶ 6, they must be prepared to explain how
they have quantified those damages and their basis for doing so.

22 ³ “Punitive damages are never awarded as of right.” See *Jones v. Zimmer*, 2015 U.S. Dist.
23 Lexis 177093, at *8 (D. Nev. Nov. 30, 2015), adopted, 2016 U.S. Dist. Lexis 36990, at *3 (D.
24 Nev. Mar. 22, 2016). Instead, the movant must establish that the defaulting party’s conduct was
sufficiently egregious to meet the applicable standard for awarding punitive damages. See *id.*
25 “Generally speaking, punitive damages cannot be awarded simply on the basis of pleadings and
instead can only be awarded based on an evidentiary showing.” *Id.* Under Nevada law, tort claims
26 can provide a basis for an award of punitive damages “where it is proven by clear and convincing
evidence that the defendant has been guilty of oppression, fraud or malice, express or implied.”
N.R.S. 42.005(1).

27 ⁴ Under the American Rule, parties generally do not recover their attorney’s fees for
28 prevailing in litigation absent some statutory provision allowing an award of fees. E.g., *Alyeska
Pipeline Serv. Co. v. Wilderness Society*, 421 U.S. 240, 247 (1975).