

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 \* \* \*

4 KENNETH DINKINS,

5 Plaintiff,

6 v.

7 GERALDINE SCHNIZEL,

8 Defendant.

Case No. 2:17-cv-01089-JAD-EJY

ORDER

9  
10 Before the Court is Kenneth Dinkins' Motion to Show Cause. ECF No. 152. No response  
11 to this Motion was filed.

12 **I. Background**

13 As stated in the Court's prior order (ECF No. 151), this matter arises from a real estate deal  
14 between Plaintiff and Defendant that soured ultimately resulting in a default judgment against the  
15 Defendant in the amount of \$43,000. ECF No. 148. Defendant failed to satisfy the judgment and,  
16 in an attempt to collect on the judgment, Plaintiff served Defendant with various discovery requests.  
17 ECF No. 150 at 2. Plaintiff then filed a Motion to Compel Post-Judgment Discovery Responses,  
18 which was granted February 5, 2021. ECF No. 151 at 3. Defendant failed to respond to Plaintiff's  
19 discovery as ordered by the Court and Plaintiff seeks an Order to Show Cause why Defendant should  
20 not be held in contempt for violating the Court's Order. ECF No. 152.

21 **II. Discussion**

22 Federal Rule of Civil Procedure 37 states that if a party fails to obey an order to provide or  
23 permit discovery, the court may treat "as contempt of court the failure to obey any order." FED. R.  
24 CIV. P. 37(b)(2)(A)(vii). Civil contempt is designed to compel a party's obedience to a specific and  
25 definite court order after that party failed to take all reasonable steps to comply. *GoVideo, Inc. v.*  
26 *Motion Picture Ass'n of Am.*, 10 F.3d 693, 695 (9th Cir. 1993). "A court has wide latitude in  
27 determining whether there has been contemptuous defiance of its order." *Gifford v. Heckler*, 741  
28 F.2d 263, 266 (9th Cir. 1984). The movant bears the burden of showing by clear and convincing

1 evidence that the nonmoving party violated a specific and definite order of the court. *Fed. Trade*  
2 *Comm'n v. Enforma Nat. Prods., Inc.*, 362 F.3d 1204, 1211 (9th Cir. 2004). If the moving party  
3 satisfies its burden of production, the burden then shifts to the nonmoving party to demonstrate why  
4 compliance could not be achieved. *Id.*

5 Here, Plaintiff has met his burden of demonstrating that Defendant violated a specific and  
6 definite order of the Court. Defendant did not respond to Plaintiff's Motion and, therefore, has  
7 offered no excuse for why compliance could not be achieved. As such, an Order to Show Cause  
8 why Defendant Geraldine Schinzel should not be held in contempt is properly issued. *Sprint Nextel*  
9 *Corporation v. Ace Wholesale, Inc.*, Case No. 2:14-cv-2119-RFB-VCF, 2016 WL 8376331, at \*2  
10 (D. Nev. Mar. 10, 2016) (internal citations omitted).

11 **III. Order**

12 Accordingly, IT IS HEREBY ORDERED that the Motion for an Order to Show Cause (ECF  
13 No. 152) is GRANTED.

14 IT IS FURTHER ORDERED that Geraldine Schnizel shall show cause why she should not  
15 be held in contempt of Court no later than **April 23, 2021**.

16 IT IS FURTHER ORDERED that Plaintiff **shall** ensure service of this Order on Geraldine  
17 Schnizel by immediately placing a copy of this Order in First Class U.S. Mail to Defendant at the  
18 address listed in the Court's CM/ECF system **within three (3) Court days of the date of this Order**.

19 Dated this 23rd day of March, 2021.

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21   
22 ELAYNA J. YOUCHAK  
23 UNITED STATES MAGISTRATE JUDGE  
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