

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

HARSCO CORPORATION, d/b/a )  
HARSCO INDUSTRIAL AIR-X-CHANGERS, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
KENNETH MUI and CHART COOLER )  
SERVICE COMPANY, INC., )  
 )  
Defendants. )

Case No. 15-CV-449-JED-FHM

**OPINION AND ORDER**

Plaintiff's *Motion for Contempt Citation*, [Dkt. 7], which was filed in state court before the case was removed, is before the court for decision. The motion has been fully briefed.

Plaintiff claims Defendant Mui failed to comply with an order of the state court that required Defendant Mui to produce four specified external storage devices. Defendant Mui responded that he produced one of the devices but does not have the other three devices. Plaintiff seeks an evidentiary hearing before the court where Defendant Mui would be required to prove why he has not produced the other three devices.

The undersigned is not persuaded that contempt proceedings, including an evidentiary hearing, is the best way to proceed at this point. Instead, Plaintiff should utilize the discovery process to develop a factual record and seek relief under Fed.R.Civ.P. 37 if warranted.

Plaintiff's *Motion for Contempt Citation*, [Dkt. 7], is DENIED without prejudice.

SO ORDERED this 6th day of October, 2015.

  
FRANK H. McCARTHY  
UNITED STATES MAGISTRATE JUDGE