



## Hayes v. City of Las Vegas et al

2024 | Cited 0 times | D. Nevada | March 12, 2024

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

\*\*\* JAMES H. HAYES,

Plaintiff, v. CITY OF LAS VEGAS, et al.,

Defendants.

Case No. 2:20-cv-002122-RFB-BNW

### ORDER

Presently before the Court is Defendant Joseph Lombardo's Motion to Quash Service (ECF No. 87). Plaintiff filed a response in opposition (ECF No. 88) to which Defendant replied (ECF No. 89). Also before the Court is Plaintiff's Motion for Entry of Clerk's Default (ECF No. 83). At the root of this motion was an error in docketing the return of summons, at ECF No. 53, which was filed on October 23, 2023. Due to a docketing error, the summons for Defendant Joseph Lombardo was inadvertently docketed as a "Summons Returned Executed." However, a plain reading of the Summons, ECF No. 53 at 10-12, shows that the summons was returned unexecuted. The docketing error was corrected on February 20, 2024. See ECF No. 53. However, before the error was corrected, Plaintiff filed a Motion for Entry of Clerk's Default (ECF No. 83) on January 24, 2024. Defendant then filed the present motion to quash. Because Defendant Lombardo was not served the summons and complaint in compliance with Federal Rule of Civil Procedure ("Rule") 4, the Court denies Plaintiff's motion for entry of clerk's default. In turn, because service was returned unexecuted and Plaintiff's motion for entry of clerk's default has been denied, the Court denies Defendant Lombardo's motion to quash service as moot. Finally, because a docketing error caused the confusion about execution of service on Lombardo, the Court grants Plaintiff an additional thirty days to serve the summons and complaint on Defendant Joseph Lombardo. See Rule 4(m). IT IS HEREBY ORDERED that Plaintiff's Motion for Entry of Clerk's Default (ECF No. 83) is DENIED;

IT IS FURTHER ORDERED that Defendant Joseph Lombardo's Motion to Quash Service (ECF No. 87) is DENIED as moot;



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IT IS FINALLY ORDERED that Plaintiff file proof of service of the summons and complaint on Defendant Joseph Lombardo no later than April 15, 2024.

DATED: March 12, 2024.

BRENDA WEKSLER

UNITED STATES MAGISTRATE JUDGE

