



King v. Union Leasing Incorporated et al

2018 | Cited 0 times | D. Arizona | March 8, 2018

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

James K King, Jr.,

Plaintiff, v. Union Leasing Incorporated, et al.,

Defendants.

No. CV-17-03281-PHX-DGC REPORT AND RECOMMENDATION

TO THE HONORABLE DAVID G. CAMPBELL, U.S. DISTRICT COURT JUDGE: On November 30, 2017, this case came was referred to this Court for the purpose of conducting a Settlement Conference (Doc. 35). On December 27, 2017, this Court issued an Order setting the Settlement Conference for February 26, 2018 (Doc. 39). The Order required that the parties appear with counsel, and that they submit Settlement Memorandums to the Court seven days in advance. On February 22, 2018, this Court issued an Order to Show Cause why the Court should not impose sanctions against Defendants Transtyle Incorporated, Sadeghi Holdings LLC, Mimi Sadeghi, Fred Sadeghi, and Faramarz Sadeghi, all represented by attorney Afshin Afsharimehr (the “Afsharimehr Defendant s”), for failing to comply with this Court’s Order that their Settlement Memorandum be submitted to the Court seven business days before the Settlement Conference. (Doc. 53.) The Court gave the Afsharimehr Defendants until February 23, 2018 to respond to the Order to Show Cause; although they did not respond to the Order, they submitted a Settlement Memorandum to

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the Court on February 23, 2018, and this Court took no action relating to their tardy submission. The Court held the scheduled Settlement Conference on February 26, 2018. The Afsharimehr Defendants and their counsel did not appear, and the Conference proceeded with Plaintiff and Defendants Saba’s Limo Inc. and Sabah S. Alnassary. (Doc. 55.) A settlement was not reached, quite possibly, in part, because the Afsharimehr Defendants did not appear. This Court issued another Order to Show Cause on February 26, 2018, giving Defendants a deadline of March 2, 2018 by 5:00 p.m. to show cause as to



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why the Court should not impose sanctions for failing to appear at the Settlement Conference. (Doc. 55.) The Afsharimehr Defendants did not timely respond, and have not responded as of the date of this Order. This Court will recommend that sanctions be imposed against the Afsharimehr Defendants for failure to appear at the Settlement Conference. The Court has the authority to do so pursuant to Fed. R. Civ. P. 16 (f), which permits sanctions in the form of fees and costs associated with a party or its attorney's failure to appear as directed at a pretrial conference, or otherwise fails to obey a scheduling or other pretrial order. See, *Official Airline Guides, Inc. v. Goss*, 6 F.3d 1385, 1396 (9 th

Cir. 1993) (Rule 16(f) sanctions imposed for failure of party to appear at settlement conference upheld); *G.Heileman Brewing Co., Inc. v. Joseph Oat Corp.*, 871 F.2d 648 (7 th

Cir. 1989) (sanction imposed by court upon party who failed to appear at settlement conference upheld as proper exercise of Rule 16 discretion). Additionally, LRCiv. 83.1(f) provides authority for the Court to award sanctions against a party or attorney who "violates, or fails to conform to" the Federal Rules of Civil Procedure. This Court will recommend that the Court impose sanctions against the Afsharimehr Defendants, jointly and severally with their attorney, for their failure to appear at the Settlement Conference, and that they be ordered to pay the fees and costs associated with Plaintiff and Defendants Saba's Limo Inc. and Sabah S. Alnassary's attendance at the Conference.

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IT IS THEREFORE RECOMMENDED that the Afsharimehr Defendants, jointly and severally with their attorney, be ordered to pay the fees and costs associated with Plaintiff and Defendants Saba's Limo Inc. and Sabah S. Alnassary's attendance at the February 26, 2018, Settlement Conference. This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment. The parties shall have fourteen days from the date of service of a copy of this recommendation within which to file specific written objections with the Court. See 28 U.S.C. § 636(b)(1); Rules 72, 6(a), 6(b), Federal Rules of Civil Procedure. Thereafter, the parties have fourteen days within which to file a response to the objections. Pursuant to Rule 7.2, Local Rules of Civil Procedure for the United States District Court for the District of Arizona, objections to the Report and Recommendation may not exceed seventeen (17) pages in length. Failure timely to file objections to the Magistrate Judge's Report and Recommendation may result in the acceptance of the Report and Recommendation by the district court without further review. See *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9 th

Cir. 2003). Failure timely to file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation. See Rule 72, Federal Rules of



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Civil Procedure. Dated this 8th day of March, 2018.

