

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
JAMES A. DILULLO,  
Defendant.

Case No. 2:07-CV-0321-KJD-PAL

**ORDER**

On October 1, 2007, Magistrate Judge Peggy A. Leen issued a Report of Finding and Recommendation (#32) that default judgment be entered in favor of Plaintiff unless Defendant James A. Dilullo filed a Certificate of Interested Parties complying with LR 7.1-1 on or before October 16, 2007.

Upon reviewing this matter, the Court finds that on June 28, 2007, the Court issued an Order (#24) requiring Defendant to file a Certificate of Interested Parties in compliance with LR 7.1-1 on or before July 13, 2007. On August 3, 2007, the Court issued an Order to Show Cause (#25) requiring Dilullo to show cause, in writing, no later than August 15, 2007, why sanctions should not be imposed for his failure to file the Certificate as to Interested Parties and comply with the Court's Order (#24). On August 27, 2007, the Court entered an Order (#31) requiring Defendant to file a Certificate as to Interested Parties as required by LR 7.1-1 no later than 4:00 p.m., September 5, 2007. To date, Dilullo has not filed a Certificate as to Interested Parties nor complied with the Court's orders.

In making her Report of Findings and Recommendation for default judgment, Magistrate Judge Leen found:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Dilullo's willful failure to file the Certificate as to Interested Parties and comply with the court's orders, is an abusive litigation practice that has prevented the court from evaluating possible recusal, interfered with the court's ability to hear this case, delayed litigation, disrupted the court's timely management of its docket, wasted judicial resources, and threatened the integrity of the court's orders and the orderly administration of justice. Sanctions less drastic than dismissal are unavailable because Dilullo has wilfully refused to comply with multiple court orders and the Local Rules of Practice, and the court cannot hear this case absent a Certificate as to Interested Parties.

(Report of Findings and Recommendation p. 2-3.)

Moreover, on August 10, 2007, Plaintiff filed a Motion for Summary Judgment (#26). On August 10, 2007, the Court issued a Klinge Order (#30) that notified the Plaintiff of the necessity of responding to Defendant's dispositive motion, and identified what Plaintiff must do to adequately oppose Defendant's Motion. Despite the Court's warnings Plaintiff has failed to file points and authorities in opposition to Defendant's Motion as allowed by Local Rule 7-2. LR 7-2(d) allows the Court to consider failure to file points and authorities in opposition as consent to the granting of the motion if the motion is found to have merit. The Court has considered the Motion and finds it to have merit.

Therefore, in accordance with Local Rule 7-2(d), together with the reasons listed by Magistrate Judge Leen, the Court hereby accepts the Report of Findings and Recommendation (#32). Furthermore, the Court also orders that Plaintiff's Motion for Summary Judgment (#15) is granted.

IT IS SO ORDERED.

DATED this 23rd day of October 2007.



---

Kent J. Dawson  
United States District Judge