United States District Court Southern District of Texas

United States of America,	§	
	§	
Plaintiff	§	
	§	
vs.	§	Civil Action H-06-3788
	§	(CDCS No. 1999A91878)
Winford Aker,	§	
	§	
Defendant	§	

USA's Motion to Show Cause and to Compel Attendance at Oral Post-Judgment Deposition

To the Honorable Lynn N. Hughes:

United States of America ("USA") complaining of Winford Aker, shows the Court as follows:

1. On April 17, 2008, the court signed its judgment for USA against Winford Aker. The judgment has become final, no appeal having been perfected. The judgment remains unpaid.

2. To enforce the judgment, USA served a Notice of Intention to Take Deposition and Subpoena Duces Tecum upon Winford Aker. The notice along with the subpoena, were sent to Winford Aker by certified mail, return receipt requested ("CM-RRR"). Either a signed green card was returned, or the CM-RRR envelope was returned marked unclaimed or refused. The Notice was sent to the last known addresses of Winford Aker at least five days or more before the day the deposition was scheduled. The deposition was set for Thursday, May 24, 2012.

3. The deponent never appeared for the deposition. The failure of Winford Aker to appear at the designated place and time, in violation of the Federal Rules of Civil Procedure, entitles USA to: (i) recover its reasonable expenses incurred in obtaining this order, including reasonable attorney's fees and (ii) request a show cause hearing as to why the Winford Aker should not be held in contempt.

Accordingly, USA requests the Court to:

(1) Schedule a show cause hearing as to why Winford Aker should not be held in contempt of court;

(2) Order Winford Aker to attend an oral deposition and produce, at that time or before, the documents set forth in subpoena duces tecum previously served;

(3) Assess against Winford Aker all costs of court incurred in obtaining the order compelling Winford Aker to attend oral deposition and all costs associated with the show cause hearing; and,

(4) Assess against Winford Aker the sum of at least $300.00 in reasonable attorney's fees incurred in obtaining the order to compel Winford Aker's attendance at oral deposition and the production of documents set forth in the subpoena duces tecum, or the order adjudging Winford Aker in contempt.

Respectfully submitted,

CERSONSKY, ROSEN & GARCÍA, P.C.

By: _____

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Attorney for the United States of America

Certificate of Service

A true and correct copy of the foregoing Motion to Show Cause and To Compel Attendance at Oral Post-Judgment Deposition has been sent by regular U. S. mail on June 25th, 2012 to:

WINFORD AKER
[redacted]

By: _____
M. H. Cersonsky