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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EXPERIENCE HENDRIX, LLC., a
Washington Limited Liability Company; and
AUTHENTIC HENDRIX, LLC., a
Washington Limited Liability Company,

Plaintiff,

C07-338Z

MINUTE ORDER

v.

ELECTRIC HENDRIX, LLC., a Washington
Limited Liability Company; ELECTRIC
HENDRIX APPAREL, LLC., a Washington
Limited Liability Company; ELECTRIC
HENDRIX LICENSING LLC., a Washington
Limited Liability Company; and CRAIG
DIEFFENBACH, an individual,

Defendants.

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Thomas T. Osinski, Jr.'s motion to withdraw as counsel for defendants, docket no. 136, is DENIED without prejudice. Neither Mr. Osinski's motion nor his reply in support thereof are accompanied by the certifications required by Local Rule GR 2(g)(4), indicating that his motion was served on the clients at issue and that all business entities were advised they must be represented by counsel to avoid default. The Court previously noted this deficiency, *see* Minute Order (docket no. 137), and the failure to comply with Local Rule GR 2(g)(4) has not been rectified.

(2) Plaintiffs' motion for contempt, docket no. 138, is likewise DENIED without prejudice. In an Order dated October 28, 2009, docket no. 135, the Court directed defendant Craig Dieffenbach to provide responses to plaintiffs' interrogatories and requests for

1 production. Subsequently, Mr. Dieffenbach served timely responses to the discovery
2 requests, and he submitted to a deposition. *See* Exhs. A & B to Donohue Decl. (docket
3 no. 139). Plaintiffs now allege that Mr. Dieffenbach's answers to the written discovery
4 requests, as well as during the course of his deposition, were evasive and dishonest, and they
5 ask the Court to hold Mr. Dieffenbach in contempt. "Civil contempt is appropriate only
6 when a party fails to comply with a court order that is both specific and definite." *Balla v.*
7 *Idaha State Bd. of Corrections*, 869 F.2d 461, 465 (9th Cir. 1989). Plaintiffs make no
8 showing that Mr. Dieffenbach failed to comply with the Court's Order dated October 28,
9 2009, which simply required responses within twenty days, or with any other order.
10 Moreover, plaintiffs offer no evidence to support their assertion that Mr. Dieffenbach's
11 answers were untruthful. Although the tenor of the deposition was acrimonious,
12 Mr. Dieffenbach's animosity alone does not establish that he was being less than candid
13 when he indicated that he "own[s] nothing," has "no assets," and "owe[s] money to
14 absolutely everybody." Dieffenbach Dep. at 24:12&18, 36:9-10, Exh. A to Donohue Decl.
15 In their motion for contempt, plaintiffs do not request monetary sanctions, *cf.* Fed. R. Crim.
16 P. 42 (governing criminal contempt proceedings); *Portland Feminist Women's Health Ctr. v.*
17 *Advocates for Life, Inc.*, 877 F.2d 787 (9th Cir. 1989) (distinguishing between civil and
18 criminal monetary contempt sanctions), but rather seek an order from the Court requiring
19 Mr. Dieffenbach *inter alia* to sign stipulations to release bank records and to locate and
20 produce documents under the control of other people, namely current and/or former
21 attorneys, bookkeepers, accountants, and employees. Plaintiffs fail to explain, however, why
22 they cannot obtain the documents they seek by serving these entities or individuals with
23 appropriate subpoenas or discovery requests.

13 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
14 record.

15 Filed and entered this 3rd day of February, 2010.

16 BRUCE RIFKIN, Clerk

17 s/ Claudia Hawney

18 By _____
19 Claudia Hawney
20 Deputy Clerk
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