

U.S. DISTRICT COU.
DISTRICT OF NEVADA
ENTERED & SERVED
JUN 23 2003
CLERK, U.S. DISTRICT COURT
DEPUTY
BY *[Signature]*

FILED
03 JUN 19 AM 10:39
LANCE S. WILSON
CLERK
BY *[Signature]*
DEPUTY

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICHARD W. LEWIS, Ph.D.,)

CV-N-99-386-ECR (RAM)

Plaintiff,)

vs.)

REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE

ELIZABETH RICHITT, Ph.D.,)
RICHARD WEIHER, Ph.D., DAVID)
ANTONUCCIO, Ph.D., LOUIS)
MORTILLARO, Ph.D., DENNIS)
ORTWEIN, Ph.D., CHRISTA)
PETERSON, Ph.D., STATE OF NEVADA)
BOARD OF PSYCHOLOGICAL)
EXAMINERS, LINDA DUFF, TYRONE)
DUFF,)

Defendants.)

This Report and Recommendation is made to the Honorable Edward C. Reed, Jr., United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4.

This matter was referred to the Magistrate Judge to settle the Pretrial Order on May 1, 2003 (Doc. #286). In that order the court cautioned the Defendants Duffs that if they did not participate in further proceedings a default may be entered against them.

The Magistrate Judge's Courtroom Deputy set the hearing on settling the Pretrial Order for Thursday, June 19, 2003, and left five (5) messages for the Defendants Duffs on May 15, 19, 20, 21 and 23, 2003, asking the Duffs contact her regarding the scheduling of the hearing (Doc. #289). The Defendants Duffs did not return any of those messages.

///

1 On June 19, 2003, at 9:30 a.m. the Magistrate Judge's Courtroom Deputy again attempted to
2 call the Defendants Duffs at the telephone number they have provided and merely received their
3 answering machine. Plaintiff's counsel were present in court for the hearing and ready to proceed
4 pursuant to the court's order.

5 It is apparent to the court that the Defendants Duffs are refusing to personally participate in
6 this case any further although they continue to file documents. In view of this refusal and the inability
7 of the court to deal with this case without their participation and their failure to comply with orders
8 of this court to participate, the court should enter a default judgment against the Defendants Duffs for
9 failure to comply with the court orders and failure to participate in this case.

10 **RECOMMENDATION**

11 **IT IS HEREBY RECOMMENDED** that the District Judge enter a default judgment in favor
12 of the Plaintiff and against the Defendants Linda Duff and Tyrone Duff.

13 The parties should be aware of the following:

14 1. That they may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local
15 Rules of Practice, specific written objections to this Report and Recommendation within ten (10) days
16 of receipt. These objections should be titled "Objections to Magistrate Judge's Report and
17 Recommendation" and should be accompanied by points and authorities for consideration by the
18 District Court.

19 2. That this Report and Recommendation is not an appealable order and that any notice
20 of appeal pursuant to Rule 4(a)(1), Fed. R. Civ. P., should not be filed until entry of the District
21 Court's judgment.

22 DATED: June 19, 2003.

23 
24 _____
25 UNITED STATES MAGISTRATE JUDGE