

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No. LA CV11-01315 JAK (CWx)

Date July 11, 2013

Title Kenneth Eade v. Investorshub.com, Inc., et al.

Present: The Honorable **JOHN A. KRONSTADT, UNITED STATES DISTRICT JUDGE**

Andrea Keifer

Alex Joko

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Kenneth G. Eade, pro se

Christopher B. Good

Proceedings: CONTINUED HEARING ON DEFENDANTS INVESTORSHUB.COM, INC.'S APPLICATION FOR ORDER TO SHOW CAUSE WHY A CONTEMPT CITATION SHOULD NOT ISSUE AGAINST KENNETH EADE FOR FAILURE TO COMPLY WITH COURT ORDERS (DKT. 98)

The continued hearing on Defendant's Application for an Order to Show Cause Why a Contempt Citation Should Not Issue Against Kenneth Eade for Failure to Comply with Court Orders (the "Application") is held. The Court has reviewed the parties' competing submissions in response to the Application and the Court's April 18, 2013 Order. Dkt. 106-110. Defendant requests the Court to take judicial notice of certain documents; Plaintiff does not object. The Court grants the request and takes judicial notice of Docket Numbers: 60, 62, 69, 70-72, 74, 75, 79, 80, 82, 84, 85, 91, 95, 100, 107, 108. The parties further stipulate that by taking judicial notice, the Court will be receiving into evidence all exhibits attached to the foregoing filings. Plaintiff does not request the Court to take judicial notice of any documents and/or evidence.

The Court states its tentative views with respect to the Application and whether Plaintiff should be found in civil contempt for the alleged failure to comply with the Court's Orders. Specifically, the allegations are that the Plaintiff failed to comply with two prior orders: (i) to disclose his financial position given his claimed inability to pay the \$49,000 fee award in this matter; and (ii) to provide monthly updates as to the status of the proceedings in France with respect to the efforts to cause the sale of real estate held by Plaintiff and his former spouse as well as monthly assessments of the net amount of the proceeds of the sale that would be paid to the Plaintiff. The Court states its tentative views that, although Plaintiff has filed certain financial reports with respect to his income and assets, they were not sufficiently complete or accurate. Further, the reports were not timely. However, the reports did contain certain information that was required. The Court also states its tentative view that the evidence shows that, although Plaintiff provided frequent statements as to the status of the French proceedings, these reports were not always timely and did not state the expected net amount that would be paid to Plaintiff at the successful conclusion of the French proceedings. The Court again noted that the reports did provide certain of the information that was to be provided.

After advising Plaintiff of his Fifth Amendment rights, the Court invited each side to present its position as to the Court's tentative views. Each side did so.

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Plaintiff addresses the Court after waiving his 5th Amendment Right and informs the Court that an appeal was filed last week by his former spouse in the action in France, which stays the enforcement of certain order(s) that would expel his former wife from the property in France – a condition to any sale of the property. Plaintiff's attorney will seek to have the stay lifted so that Plaintiff's former spouse can be excluded from the property during the appeal, with the property sold. Plaintiff believes the appellate process can take 6-12 months, with an additional 6-12 months to sell the property once either the appellate process is completed or his former spouse is ordered from the residence during the appeal. He anticipates receiving half of the net proceeds from the sale of the property, which is valued at approximately \$600,000-\$700,000 Euros. The Court later orders Plaintiff to include a status of the foregoing in the monthly reports.

Defense counsel addresses the Court with respect to his client's concern that Plaintiff may file another bankruptcy and the amounts of money being spent on travel expenses incurred by Plaintiff and his spouse.

Following the presentations, the Court held to its tentative views that, although there had been compliance as to parts of its prior orders, there was not complete compliance. Given that one, central purpose of a civil contempt proceeding is to cause compliance with the Court's orders, the Court makes the following orders:

1. Plaintiff shall file a monthly financial report with the Court on or before the 30th of each month and serve such reports on defense counsel. Such reports shall conform to all of the requirements of the March 26, 2012 Order (Dkt. 72) and include a statement of the expected net proceeds from the sale of the real property in France. Such statements shall also provide a report on any developments in the French proceedings, including all steps that Plaintiff has taken, or plans to take, in an effort to conclude the proceedings so that the property can be sold and the net proceeds distributed to Plaintiff. The reports shall include the title of any proceedings, the court in which such proceedings are going forward, the means, if any, of checking the docket in any such proceedings and the name and contact information for any counsel for either Plaintiff and/or his former wife in those proceedings.
2. Plaintiff shall file an income and expense declaration ("IED") in the form required for Family Law proceedings in the California Superior Courts. Such filing shall be made under seal to the extent that it contains confidential, personal information as to Plaintiff, his former spouse or his current spouse. Such filing shall be served each month on defense counsel. In addition to the completed form and required back-up materials, Plaintiff shall ensure that the following information is provided: (i) Plaintiff's income received from any source, including that from any writing, performance of legal services, speaking, advising or any other activity as well as any income from any business(es), entities, and/or investments in which Plaintiff or his spouse has any direct or indirect financial interest; (ii) any and all income received by Plaintiff's spouse on the same terms just stated; (iii) any gifts that either Plaintiff or his spouse received or made during that month; (iv) any newly acquired assets by Plaintiff and Plaintiff's spouse; and (iv) any transfers made between Plaintiff and his spouse or to another person(s) at the direction of Plaintiff. The first report and IED shall be filed no later than July 30, 2013, with an updated report and IED to be filed by the 30th of each month.

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The Court will reserve the issue of whether to impose attorney's fees and sanctions against Plaintiff until a determination can be made of the expenses Defendant has had to incur to date. However, to facilitate that determination, Defendant may file an application by July 22, 2013, to identify the attorney's fees it claims to have incurred in connection with the contempt proceeding. Plaintiff may file a response by August 1, 2013. The Court will determine, upon review of the parties' submissions, whether an award will be made, and if so, the amount to be awarded, and whether that amount will become due and payable immediately or stayed pending further order from this Court.

Finally, the Court orders that Plaintiff shall not disburse any funds he receives or is entitled to receive from the sale of the property in France without notifying the Court and counsel for Defendant. Such funds may be disbursed 30 days after notice is given to both the Court and defense counsel or until further order from this Court; provided, however, if an application is made to this Court by either side during that 30-day period, the Court may permit an earlier distribution, may delay the distribution, and/or may impose appropriate conditions on any such distribution, including its use to pay amounts then due and payable to Defendants pursuant to the Orders of this Court.

IT IS SO ORDERED.

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