

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MILO A. JONES,

Plaintiff,

v.

Case No. 04-3255-JWL

JUSTIN COURTNEY,

Defendant.

ORDER AND SECOND NOTICE TO APPEAR

On July 11, 2019, the undersigned U.S. Magistrate Judge, James P. O'Hara, entered an order requiring defendant Justin Courtney to appear for a debtor's examination on July 25, 2019 (ECF 299). The court mailed copies of the order to Courtney at both the address listed on the court's docket,¹ and the address provided by plaintiff Milo Jones as Courtney's "last address served on record."² Both of the mailings were returned as undeliverable.

Today the court convened the scheduled debtor's examination but, unsurprisingly, Courtney did not appear. However, Jones, who did attend the examination, provided additional information about how Courtney might be reached. Specifically, Jones provided what he believes is Courtney's current home address and the name of Courtney's current

¹ See ECF Nos. 292 & 303 (certified mail addressed to Courtney's address of record returned as undeliverable). Courtney has a history of failing to update his address of record, despite the dictates of D. Kan. R. 5.1(c)(3) and an in-person admonishment and reminder by the court of his obligation to so do. See ECF No. 256 at 2-4.

² ECF No. 302.

employer. Therefore, the court continued the debtor's examination for a later date in order to pursue additional avenues of reaching Courtney. The court denied Jones's oral motion to garnish Courtney's wages, but granted Jones leave to reassert the motion at the rescheduled examination.

IT IS THEREFORE ORDERED that the debtor's examination is rescheduled for **August 16, 2019, at 9:00 a.m.** in Courtroom 223 of the United States Court House before the undersigned U.S. magistrate judge. The court will arrange for Jones to appear via telephone. The dial-in for the conference-center line, for Jones only, is 888-363-4749, with the access code 8914911 to join the conference. At the hearing, Jones may ask Courtney about his income, assets, and employment, as permitted by Kan. Stat. Ann. § 60-2419. **If Courtney fails to appear before the court, he will be deemed guilty of contempt of court.**³ At that point, the court shall issue a citation requiring Courtney to appear and show cause why he should not be punished for contempt.⁴ If, after proper service of the citation, Courtney does not appear or if it appears Courtney is hiding to avoid the process of the court, the court may issue a bench warrant commanding law enforcement to bring him before the court.⁵

³ See Kan. Stat. Ann. § 60-2419.

⁴ See *id.*

⁵ See *id.* Unfortunately, the court previously had to resort to issuing a bench warrant for Courtney's arrest based on his failure to appear at a debtor's hearing in this case. See ECF No. 256. The court urges Courtney to comply with this order, rather than set in motion the process for a similar arrest.

IT IS FURTHER ORDERED that the clerk's office shall mail copies of this order and notice, via regular and certified mail, to Jones (at his address on record) and to Courtney at the following addresses:

Justin Courtney
1104 High St.
Baldwin City, KS 66006

Justin Courtney
c/o ProActive Solutions, Inc.
13605 W. 96th Terr.
Lenexa, KS 66215

Justin Courtney
c/o ProActive Solutions, Inc.
5625 Foxridge Dr.
Mission, KS 66202

IT IS SO ORDERED.

Dated July 25, 2019, at Kansas City, Kansas.

s/ James P. O'Hara
James P. O'Hara
U. S. Magistrate Judge