

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, EASTERN DIVISION**

**H AND M SERVICES, LLC v. ALLIANCE INVENTORY
SERVICE, LLC, et al.**

No. 2:23-cv-2822, United States District Court for the Southern District of Ohio, Eastern Division (November 21, 2025)

OPINION

H AND M SERVICES, LLC v. ALLIANCE INVENTORY SERVICE, LLC, et al.

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF OHIO

EASTERN DIVISION

H AND M SERVICES, LLC, : Plaintiff, : Case No.: 2:23-cv-2822 v. : Judge Algenon L. Marbley
ALLIANCE INVENTORY SERVICE, : Magistrate Judge Chelsey M. Vascura LLC, et al., :
Defendants. :

OPINION & ORDER

Before this Court is the Magistrate Judge's Report and Recommendation ("R&R") (ECF No. 46), which recommends that Robert Queen II and BC Inventory, LLC be held in contempt for failure, without adequate excuse, to obey the subpoena served upon them by Plaintiff on March 9, 2024, and that a fine of \$100.00 per day be imposed on each of them until they respond to the subpoena. The R&R also recommends that Robert Queen II and BC Inventory, LLC be ordered to pay the attorney's fees and costs that Plaintiff reasonably incurred in connection with its motion for a show cause hearing and Plaintiff's appearance at the May 28, 2024, show cause hearing. For the reasons that follow, the Magistrate Judge's R&R (ECF No. 46) is ADOPTED, and Robert Queen II and BC Inventory, LLC are held in CONTEMPT. This Court imposes upon each of them a fine of \$100.00 PER DAY, from the date of the show cause hearing, May 28, 2024, until each complies with the Rule 45 requirements for responding to a subpoena. Finally, this Court ORDERS Robert Queen II and BC Inventory, LLC to pay the attorney's fees and costs that Plaintiff reasonably incurred in connection with its motion for a show cause hearing and appearance at the show cause hearing.

I. BACKGROUND

This Court adopts the R&R's description of the facts and highlights the following key facts for the purpose of analysis. First, Robert Queen II and BC Inventory, LLC failed to respond to Plaintiff's subpoena duces tecum, which was served on March 9, 2024, and failed to respond to an email by Plaintiff's counsel sent on April 12, 2024, requesting compliance with the subpoena. (ECF No. 46

at 1). On April 25, 2024, this Court ordered Robert Queen II and BC Inventory, LLC to appear at a May 28, 2024, hearing and show cause for why they should not be held in contempt. (ECF No. 46 at 1). Robert Queen II and BC Inventory, LLC failed to appear at this hearing. (ECF No. 46 at 1). On May 28, 2024, the Magistrate Judge issued its R&R (ECF No. 46), recommending: (1) that Robert Queen II and BC Inventory, LLC be held in contempt for failure, without adequate excuse, to obey the subpoena served upon them by Plaintiff and that a fine of \$100.00 per day be imposed on each of them until they comply with the requirements for responding to a subpoena pursuant to Federal Rule of Civil Procedure 45; (2) that Robert Queen II and BC Inventory, LLC be ordered to pay the attorney's fees and costs that Plaintiff reasonably incurred in connection with its motion for a show cause hearing and Plaintiff's appearance at the show cause hearing; and (3) that these sanctions not be imposed should Robert Queen II and BC Inventory, LLC comply with the requirements for responding to a subpoena within fourteen days of being personally served with the R&R. (ECF No. 46 at 2). Robert Queen II and BC Inventory, LLC did not respond to the subpoena within fourteen days of service of the R&R, nor did they file any objections to the R&R.

II. STANDARD OF REVIEW

Courts commonly review the Report and Recommendation for clear error, and failure to object ordinarily waives appellate review. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *Thomas 2 v. Arn*, 474 U.S. 140, 144-45, 151 (1985); *Howard v. Sec'y of HHS*, 932 F.2d 505, 508-09 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981); *Neuman v. Rivers*, 125 F.3d 315, 322 (6th Cir. 1997).

III. LAW AND ANALYSIS

Under Federal Rule of Civil Procedure 45, a district court "may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it." Fed. R. Civ. P. 45(g). Here, Robert Queen II and BC Inventory, LLC failed to comply with the Rule 45 requirements for responding to a subpoena and failed to appear at the show cause hearing as ordered by this Court. (ECF No. 46 at 1). Despite the email request from Plaintiff's counsel, despite this Court's order to show cause, and despite the Magistrate Judge's R&R, Robert Queen II and BC Inventory, LLC failed to communicate any excuse for their lack of response. (ECF No. 46 at 1). As such, this Court is presented with clear and convincing evidence that shows that Robert Queen II and BC Inventory, LLC violated definite and specific orders to respond to Plaintiff's subpoena. Further, given that Robert Queen II and BC Inventory, LLC's lack of response to the subpoena within fourteen days of the R&R, this Court determines that sanctions are appropriate.

IV. CONCLUSION

Accordingly, this Court ADOPTS the Magistrate Judge's R&R (ECF No. 46) and holds Robert Queen II and BC Inventory, LLC in CONTEMPT. This Court imposes upon each of them a fine of \$100.00 PER DAY, from the date of the show cause hearing, May 28, 2024, until each complies with the Rule 45 requirements for responding to a subpoena. Finally, this Court ORDERS Robert

Queen II and BC Inventory, LLC to pay the attorney's fees and costs that Plaintiff reasonably 3 incurred in connection with its motion for a show cause hearing and appearance at the show cause hearing. IT IS SO ORDERED.

ALGENON L. MA

UNITED STATES DISTRICT JUDGE

DATED: November 21, 2025