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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JONATHAN SORRELL,)	1: 09-cv-1465 AWI-GSA
)	
Plaintiff,)	ORDER REGARDING MR. BRONDO’S
)	REQUEST FOR TELEPHONIC
v.)	APPEARANCE
)	
KEL-TEC CNC INDUSTRIES, INC.,)	ORDER TO SHOW CAUSE WHY
)	SANCTIONS SHOULD NOT BE IMPOSED
Defendant.)	
)	
)	

On June 27, 2011, Mr. Edwin Brondo, counsel for Kel-Tec CNC Industries, Inc., (hereinafter “Kel-Tec” or “Defendant”) filed a Motion for Sanctions based on Jonathan Sorrell’s, (hereinafter, “Plaintiff”) failure to follow this Court’s previous discovery orders. (Doc. 46). On June 27, 2011, Mr. Brondo also filed a Motion to Strike Portions of Plaintiff’s Expert Disclosures based on Plaintiff’s lack of compliance with Fed. R. Fed. P. 26. (Doc. 46). This Court issued a minute order setting the hearing on the motions for July 29, 2011.¹ This minute order was issued

¹ Although it was not explicitly set forth in the minute order resetting the hearing, the Court reset the hearing date because the noticed hearing date was not in compliance with this Court’s Local Rule 251(e) requiring at least 14 days notice when discovery sanctions are requested. The Court notes this was not the first time that defense

1 on June 28, 2011, more than one month prior to the hearing. (Doc. 47).

2 Upon the filing of a motion, an attorney's personal appearance is presumed. However, this
3 Court's scheduling order issued on November 13, 2009, provides the following with regard to
4 telephonic appearances :

5 Counsel or pro se parties may appear and argue non-dispositive motions by
6 telephone *provided a **written request** to do so is made the Magistrate Judge's*
7 *Courtroom Clerk no later than five (5) days before the noticed hearing date.* In the
8 event that more than one party requests to appear by telephone then it shall be the
9 obligation of the moving part(ies) to arrange and originate a conference call to the
10 court.
11 (Doc. 17, pg. 4 lines 6-10).

12 Last week, Mr. Brondo *called* chambers and asked if he could appear telephonically for
13 the hearing. He was told by Courtroom Deputy, Amanda Bradley, that a telephonic appearance
14 would not be permitted in this instance. Mr. Brondo proceeded to call chambers back numerous
15 times over the course of the week seeking a reconsideration of the personal appearance
16 requirement. He was told repeatedly that his personal appearance at this hearing was required,
17 and that local counsel would not be permitted to appear on his behalf even if Mr. Brondo made a
18 telephonic appearance during the hearing.

19 On July 27, 2011, this court issued a minute order clarifying that the personal appearance
20 of Mr. Brondo *and* Mr. Chandler was required. (Doc. 61). The Court issued this order in part
21 based on Mr. Brondo's actions over the past week, as well as on the fact that Mr. Chandler has
22 failed to respond to *two* prior discovery motions. (Docs. 23 and 39). Moreover, the allegations in
23 the current motions are that Mr. Chandler has failed to comply with this Court's explicit orders
24 regarding his discovery obligations. (Doc. 46 and 47).

25 Shortly after the issuance of the minute order, Mr. Brondo called Courtroom Deputy
26 Amanda Bradley, again stating that he was "in a pickle" regarding the personal appearance
27 requirement and requesting a telephonic appearance. He was told that he would need to file a
28 request in writing. Mr. Brondo has filed a declaration requesting that he be able to appear via
29 telephone. (Doc. 67). In the request, he insinuates that the first time he realized that his personal

counsel had to be advised of the Local Rules of this Court.

1 appearance was required was when the minute order was issued. This is disingenuous at best as
2 evidenced by the number of times Mr. Brondo called chambers.

3 Defendants have filed four discovery related motions in this case containing several
4 hundred pages of exhibits. This Court has reviewed all of the motions which has consumed a
5 considerable amount of this Court's resources. (Docs. 18, 19, 20, 34, 35, 45, 46, 50-54). It is
6 interesting that Defendant is requesting sanctions against Mr. Chandler for failure to follow Court
7 orders when Defendant has similarly been non-compliant with the Local Rules of this Court. Doc.
8 21 (Order resetting Defendant's Motion to Compel before the undersigned which was improperly
9 noticed before Chief District Court Judge Anthony Ishii); Doc. 28 (Denial of a stipulation to
10 amend the scheduling conference order for failure to establish good cause in support of the
11 request); Doc. 36 (Order informing the parties of the requirement of a joint statement as well as
12 admonishing defense counsel that its pleadings contained no legal authority); Doc. 43 (Failure to
13 provide a proposed order in a Word or Wordperfect format so it could be signed by the Court).²

14 Plaintiff's counsel conduct has also been less than desirable. Although Mr. Chandler has
15 filed oppositions in the pending motions, the pleadings filed are void of any meaningful legal
16 authority. (Docs. 48, 49, 50). Moreover, as noted above, Mr. Chandler did not make appearances
17 in the two prior Motions to Compel.

18 Both counsel are reminded that the Local Rules and other orders of this Court are not mere
19 suggestions but are to be strictly adhered to. This Court is one of the busiest courts in the nation
20 and the personal appearance of attorneys who have filed pleadings is often necessary for the
21 purpose of efficiently resolving the issues presented. Furthermore, the Rules of Professional
22 Conduct dictate, and this Court expects, that when an attorney files a motion, counsel will be
23 available as needed to litigate the issues, and opposing counsel is likewise obligated to do the
24 same.

25 Despite the above, Mr. Brondo will be permitted to appear telephonically *for purposes of*
26 *this hearing only*. The personal appearance of Mr. Chandler is still required. However, *both*

27
28 ² The Court is aware that in some instances, defense counsel other than Mr. Brondo was responsible for these deficiencies. See, Docs. 21 and 28.

1 counsel shall be prepared to show cause why sanctions should not be imposed on each of them for
2 their respective conduct in this case.

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IT IS SO ORDERED.

Dated: July 28, 2011

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE