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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

JLG ENTERPRISES, INC.,

Plaintiff,

v.

EXCALIBUR SIRES, INC.,

Defendant,

CASE NO. 1:10-cv-02138-AWI-SKO

**ORDER CONTINUING HEARING
AND ORDER TO SHOW CAUSE**

EXCALIBUR SIRES, INC.,

Counter-Claimant,

v.

JLG ENTERPRISES, INC.,

Counter-Defendant,

On December 16, 2010, Plaintiff JLG Enterprises, Inc. ("JLG") filed a motion seeking an order authorizing the sale of livestock. The hearing on JLG's motion was noticed for January 19,

1 2011. (*See* Doc. 19.) Local Rule ("L.R.") 230(c) provides that any opposition to a motion must be
2 filed at least 14 days prior to the scheduled hearing. Defendant Excalibur Sires, Inc. ("Excalibur")
3 did not file an opposition to the motion within the time set forth in Local Rule 230(c).

4 On January 7, 2011, JLG filed a Reply brief and notice of non-opposition. (Doc. 20.) JLG
5 requested that Excalibur be excluded from participation in the hearing on this matter pursuant to
6 Local Rule 230(c) and requested that the Court take the matter under submission. *See* L.R. 230(c)
7 ("No party will be entitled to be heard in opposition to a motion at oral arguments if opposition to
8 the motion has not been timely filed by that party."); (Doc. 20.)

9 On January 12, 2011, seven days prior to the hearing, Excalibur filed an opposition. This
10 opposition is untimely. In response to Excalibur's opposition, JLG filed a surreply as well as an
11 additional declaration of Larry Gerber in support of the motion. (Doc. 25.) On January 13, 2011,
12 Excalibur filed an additional declaration of David Winkels in opposition to JLG's motion. (Doc. 28.)
13 On January 14, 2011, JLG submitted a supplemental declaration of Larry Gerber in support of JLG's
14 motion. (Doc. 29.)

15 The Court ADMONISHES Excalibur that the filing of untimely briefs without the express
16 leave of Court may result in the imposition of sanctions. As discussed above, the Local Rules of the
17 United States District Court for the Eastern District of California require that any opposition to a
18 motion be filed at least 14 days prior to the hearing on that motion. L.R. 230(c). Nonetheless, the
19 Court finds that the specific issues raised in JLG's motion necessitate that Excalibur's opposition be
20 considered and that Excalibur be allowed to participate in argument at the hearing.

21 The Court ADMONISHES both parties that the filing of any documents not contemplated
22 by the Local Rules without first seeking leave of Court may result in the imposition of sanctions.
23 (*See* Docs. 28, 29.)

24 Accordingly, IT IS HEREBY ORDERED THAT:

- 25 1. As a result of the additional pleadings filed less than a week prior to the hearing, the
26 Court will VACATE the current hearing scheduled for January 19, 2011, and RESET
27 it for **January 26, 2011, at 9:30 a.m. in Courtroom 8 of the above entitled Court;**
- 28 2. **A PERSONAL APPEARANCE by both parties (or their designated counsel) IS**

REQUIRED. No request for a telephonic appearance will be entertained;

3. No further documents related to this motion shall be filed without leave of Court;
and

4. At the January 26, 2011, hearing, the parties will be required to SHOW CAUSE why
sanctions should not be imposed for the failure to comply with the Local Rules.

IT IS SO ORDERED.

Dated: January 18, 2011

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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