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

STERLING CROSS DEFENSE
SYSTEMS, INC.,

Plaintiff,

v.

DOLARIAN CAPITAL, INC., et al.,

Defendants.

No. 1:13-cv-01773-AWI-GSA

ORDER RE. DISCOVERY SANCTIONS

(Doc. 32)

On May 19, 2015, Plaintiff Sterling Cross Defense Systems, Inc. (“Plaintiff”) filed a motion to compel based on the failure of Defendant Ara Dolarian (“Defendant”) and his counsel, Myron Smith, to appear at Mr. Dolarian’s deposition, which was properly noticed for May 11, 2015. Doc. 32 at 3, 6; Doc. 32-1 at 11-15. Defendant did not file any opposition to Plaintiff’s motion to compel. The motion was set for hearing on May 22, 2015. Docs. 31, 33. Neither Defendant nor his counsel appeared at the motion hearing. Doc. 34.

The Court has since determined, with reference to the website of the State Bar of California, that Defendant’s counsel appears to have stopped practicing law in California as of February 27, 2015. However, Mr. Smith failed to advise the Court of this development and to

1 withdraw as attorney of record for Plaintiff. Furthermore, Plaintiff's counsel, Jeff Reich, states in
2 a declaration submitted with the motion to compel that "it has been difficult to communicate with
3 [Defendant's] counsel throughout this case." Doc. 32 at 7, ¶ 11. Mr. Reich also states in his
4 declaration that "over the last six to eight weeks I have attempted to contact [Defendant's]
5 counsel on several occasions, leaving messages each time, but have had no response whatsoever."
6 *Id.* As detailed in Plaintiff's moving papers, Plaintiff's counsel expended considerable time and
7 energy in attempting to reach Mr. Smith to discuss the scheduling of Defendant's deposition, to
8 no avail. *See* Docs. 32 and 32-1.

9
10 Accordingly, at the hearing on Plaintiff's motion to compel, the Court granted Plaintiff's
11 request for discovery sanctions, specifically attorney fees and expenses for bringing the instant
12 motion to compel. *See* Fed. R. Civ. P. 37(d)(3). Plaintiff has requested \$ 1,625.00 in attorney
13 fees (3 hours of attorney time billed at \$275 per hour and 8 hours of paralegal time billed at \$100
14 per hour). Doc. 32 at 7. The Court finds that the respective rates for attorney and paralegal
15 services, as well as the hours of attorney and paralegal time requested, are reasonable. Myron
16 Smith, who remains Defendant's counsel of record, is therefore ordered to pay \$ 1,625.00 in
17 attorney fees to Plaintiff.
18

19 Finally, the Court directs the United States Marshals Service to personally serve a copy of
20 this order on Defendant Ara G. Dolarian and Mr. Myron Smith respectively and to submit proof
21 of such service to the Court.
22

23
24 IT IS SO ORDERED.

25 Dated: May 29, 2015

/s/ Gary S. Austin
26 UNITED STATES MAGISTRATE JUDGE