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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SOCIETE D'EQUIPMENTS
INTERNATIONAUX NIGERIA, LTD,

Case No. 1:15-cv-01553-DAD-SKO

Plaintiff,

**ORDER DENYING MOTION FOR
SANCTIONS**

v.

(Doc. 81)

DOLARIAN CAPITAL, INC., and ARA G.
DOLARIAN,

Defendants.

Before the Court is Plaintiff's Motion for Entry of Order for Civil Contempt and Sanctions (the "Motion for Sanctions"). (Doc. 81.) In the Motion for Sanctions, Plaintiff requests "a civil contempt order" due to the failure of Defendant Ara Dolarian ("Dolarian") to pay a monetary sanction, as directed by the Court in an order entered on November 22, 2016. (*Id.* at 1-2.) Plaintiff also requests "compensatory sanctions against [Defendant] Dolarian for the reasonable attorneys' fees incurred in bringing" the Motion for Sanctions. (*Id.* at 2.)

On January 17, 2017, Plaintiff filed a Notice re Motion for Sanctions, in which Plaintiff states that Defendant Dolarian paid the sanctions, as directed by the Court in its November 22, 2016 order. (Doc. 90 at 2.) In this notice, Plaintiff also withdrew "its request for entry of order for civil contempt," but noted that it "still seeks compensatory sanctions against [Defendant] Dolarian for reasonable attorneys' fees in bringing" the Motion for Sanctions. (*Id.*) To date, neither Defendant has filed an opposition to the Motion for Sanctions. As such, the only

1 remaining issue as to the Motion for Sanctions is Plaintiff's request for attorneys' fees and costs in
2 bringing this motion. (*Id.*)

3 "Sanctions for civil contempt may be imposed to coerce obedience to a court order and to
4 compensate the party pursuing the contempt action for injuries resulting from the contemptuous
5 behavior." *Wal-Mart Stores, Inc. v. PT Multipolar Corp.*, 202 F.3d 280, at *2 (9th Cir. 1999)
6 (citing *Gen. Signal Corp. v. Donallco, Inc.*, 787 F.2d 1376, 1380 (9th Cir. 1986)). *See generally*
7 *Gen. Signal Corp.*, 787 F.2d at 1380 ("Compensatory awards are limited to actual losses sustained
8 as a result of the contumacy." (emphasis omitted)). Thus, "[i]t is well-established that attorneys'
9 fees are awarded as compensatory damage to the prevailing party in a civil contempt motion."
10 *U.S. Philips Corp. v. KXD Tech., Inc.*, Case No. CV 05-08953 DMG (PLAx), 2014 WL
11 12567518, at *1 (C.D. Cal. Aug. 26, 2014) (citing *Perry v. O'Donnell*, 759 F.2d 702, 705 (9th Cir.
12 1985)). "A district court enjoys 'wide latitude in making a determination of whether there has
13 been a contemptuous defiance of its own orders.'" *Religious Tech. Ctr. v. Henson*, 229 F.3d 1158,
14 at *1 (9th Cir. 2000) (quoting *Neebars, Inc. v. Long Bar Grinding, Inc.*, 438 F.2d 47, 48 (9th Cir.
15 1971)); *see, e.g., Harcourt Brace Jovanovich Legal & Prof'l Publ'ns, Inc. v. Multistate Legal*
16 *Studies, Inc.*, 26 F.3d 948, 953 (9th Cir. 1994) ("An award of attorney's fees for civil contempt is
17 within the discretion of the district court." (citing *Gen. Signal Corp.*, 787 F.2d at 1380)).

18 The Court finds that additional monetary sanctions are not warranted. Plaintiff did not
19 prevail in its Motion for Sanctions, and instead, withdrew its request for contempt. Without
20 prevailing on its request for contempt, a sanction in the form of attorneys' fees and costs for
21 bringing this request is inappropriate. *See, e.g. Ruckelshaus v. Sierra Club*, 463 U.S. 680, 686
22 (1983) (noting "the traditional rule that a fee claimant must 'prevail' before it may recover
23 attorney's fees"). *See generally Hewitt v. Helms*, 482 U.S. 755, 760 (1987) ("Respect for ordinary
24 language requires that a [party] receive at least some relief on the merits . . . before he can be said
25 to prevail.").

26 Furthermore, the Court finds that monetary sanctions are not proper under the present
27 circumstances. Defendant Dolarian has now complied with the Court's November 22, 2016 order.
28 As such, the Court finds that, at this juncture, additional monetary sanctions are not necessary to

1 adequately compensate Plaintiff or ensure Defendant Dolarian's compliance with the Court's
2 orders. *See, e.g., United States v. Flores*, 628 F.2d 521, 527 (9th Cir. 1980) (“[T]he district court
3 should apply the least coercive sanction . . . reasonably calculated to win compliance with its
4 orders.” (citation omitted)).

5 For these reasons, the Court DENIES Plaintiff's Motion for Sanctions, (Doc. 81), to the
6 extent Plaintiff requests attorneys' fees and costs incurred in bringing this motion.

7
8 IT IS SO ORDERED.

9 Dated: January 24, 2017

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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