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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA, a  
Connecticut corporation,

Plaintiff,

v.

SIDNEY B. DUNMORE, an individual;  
SID DUNMORE TRUST DATED  
FEBRUARY 28, 2003, a California trust;  
SIDNEY B. DUNMORE, Trustee for Sid  
Dunmore Trust Dated February 28, 2003;  
DHI DEVELOPMENT, a California  
corporation,

Defendants.

No. 2:07-cv-2493 TLN DB

ORDER

On December 4, 2019, plaintiff/judgment creditor filed a motion for an order of contempt and noticed the motion for hearing before the undersigned on December 27, 2019. (ECF No. 457.) On December 13, 2019, defense counsel filed a response. (ECF No. 458.) Plaintiff filed a reply on December 20, 2019. (ECF No. 459.) Having reviewed the parties' filings, the undersigned finds that this matter may be submitted on the record pursuant to Local Rule 230(g) and will vacate the December 27, 2019 hearing. Moreover, plaintiff's motion will be granted as explained below.

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1 **BACKGROUND**

2 On September 10, 2019, plaintiff filed a motion to compel. (ECF No. 444.) Defendant  
3 failed to file a response to the motion to compel in violation of Local Rule 251(e). Accordingly,  
4 on September 24, 2019, the undersigned issued an order ordering defendant to show cause for  
5 failing to comply with the Local Rules and providing defendant a final opportunity to file a  
6 response to plaintiff’s motion. (ECF No. 445.)

7 On October 14, 2019, defense counsel filed a motion to withdraw and a response to the  
8 September 24, 2019 order.<sup>1</sup> (ECF No. 447.) On October 24, 2019, the undersigned issued an  
9 order granting plaintiff’s motion to compel and ordering defendant to provide discovery  
10 responses within twenty-eight days. (ECF No. 452.)

11 On December 4, 2019, plaintiff filed the pending motion for contempt. (ECF No. 457.)  
12 Defense counsel filed a response on December 13, 2019. (ECF No. 458.) Plaintiff filed a reply  
13 on December 20, 2019. (ECF No. 459.)

14 **ANALYSIS**

15 Plaintiff’s motion seeks an order ordering: (1) the judgment debtors held in contempt; (2)  
16 defendant Sidney B. Dunmore to surrender his passport; (3) Sidney B. Dunmore be remanded  
17 into the custody of the U.S. Marshals Service and be imprisoned until discovery responses are  
18 provided. (ECF No. 457 at 3.) Plaintiff also seeks monetary sanctions. (ECF No. 457-1 at 7.)  
19 However, although styled as a motion for an order of contempt for failure to comply with the  
20 undersigned’s October 24, 2019 order granting plaintiff’s motion to compel, plaintiff’s motion  
21 attempts to interject separate matters into this dispute.

22 In this regard, plaintiff argues that it “previously filed a Motion for an Order” requiring  
23 defendant to surrender his passport. (ECF No. 457-1 at 5.) Plaintiff “hereby requests that the  
24 Court issues its ruling on Travelers’ request that Sidney B. Dunmore be required to surrender his  
25 passport until he fully complies with the Repatriation Order.” (*Id.*) However, as plaintiff

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28 <sup>1</sup> The motion to withdraw is pending before the assigned District Judge.

1 acknowledges, that motion has been submitted before the assigned District Judge.<sup>2</sup> (Id.; ECF No.  
2 411.) The undersigned cannot rule on a motion pending before the assigned District Judge.<sup>3</sup>

3 Plaintiff's motion also requests that the defendant "be remanded into the custody of the  
4 U.S. Marshals Service and imprisoned until such time as Judgment Debtors repatriate all funds  
5 held overseas and pay those funds to Travelers[.]" (ECF No. 457-1 at 6.) Again, the issue of  
6 repatriated funds is not before the undersigned.

7 What is before the undersigned is defendant's failure to comply with undersigned's  
8 October 24, 2019 order. And as to that, the parties seem to agree. Defendant Dunmore has not  
9 complied with the October 24, 2019 order and "has not responded to [defense] counsel's  
10 requests." (ECF No. 458 at 2.) Defense counsel, however, "has produced all tax and financial  
11 documents" in defense counsel's possession. (Id. at 1.) Plaintiff acknowledges that production.  
12 (ECF No. 459 at 2.) Thus, it appears to the undersigned that while defense counsel has attempted  
13 to comply with the undersigned's order defendant has not.

14 Accordingly, the undersigned will sanction defendant for defendant's failure to comply  
15 with the undersigned's order. Plaintiff's motion asserts that plaintiff "has incurred reasonable  
16 expenses, including attorney's fees . . . in excess of \$5,000." (ECF No. 457-1 at 3.) Plaintiff's  
17 reply, however, states that plaintiff "has incurred \$4,150.00 in attorney's fees and costs directly  
18 related to seeking this discovery."<sup>4</sup> (ECF No. 459 at 2.) The undersigned will, therefore, award  
19 plaintiff \$4,150 in sanctions. The sanction is against defendant and not defense counsel.

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22 <sup>2</sup> Plaintiff also notes that plaintiff submitted applications for judgment debtor examinations  
23 "which have never been ruled upon." (ECF No. 457 at 3.) The court is aware of plaintiff's  
24 applications.

25 <sup>3</sup> Plaintiff should not include such a request in future filings.


26 <sup>4</sup> Plaintiff's reply also states that "[h]earing on this motion will require at least another three hours  
27 of attorney time, including travel time." (ECF No. 459 at 2.) Plaintiff is advised that the  
28 undersigned does not normally compensate attorneys for travel time in light of the undersigned's  
policy encouraging telephonic appearance. See  
<http://www.caed.uscourts.gov/caednew/index.cfm/judges/all-judges/united-states-magistrate-judge-deborah-barnes-db>.

1 **CONCLUSION**

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. Plaintiff's December 4, 2019 motion for order of contempt (ECF No. 457) is granted;
- 4 2. The December 27, 2019 hearing of plaintiff's motion is vacated;
- 5 3. Within 28 days of the date of this order, defendant shall provide written responses and
- 6 produce documents in response to plaintiff's discovery requests in compliance with the October
- 7 24, 2019 order; and
- 8 4. Within twenty-eight days of the date of this order, defendant shall pay plaintiff \$4,150
- 9 in sanctions.<sup>5</sup>

10 Dated: December 23, 2019

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13 DEBORAH BARNES

14 UNITED STATES MAGISTRATE JUDGE

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28 <sup>5</sup> Plaintiff is advised that, while the undersigned takes compliance and enforcement of orders seriously, the undersigned does not anticipate serial motions for contempt and compliance.