

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

RICKIE L. WALKER,

Plaintiff,

v.

CITIBANK, N.A., as trustee for the
Certificate holder of Structured
Asset Mortgage Investments II Inc.,
Bear Sterns ALT-A Trust, Mortgage
Pass-Through Certificates Series
2007-3, its assignees and/or
successors, and the servicing
agent; EMC Mortgage Corporation;
BAYROCK MORTGAGE, INC and Does
1-20, inclusive,

Defendants.

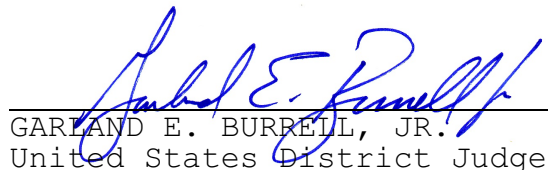
2:09-cv-03171-GEB-DAD

ORDER TO SHOW CAUSE WHY
PLAINTIFF'S COUNSEL SHOULD NOT
BE HELD IN CONTEMPT OF COURT
FOR HIS FAILURE TO COMPLY WITH
THIS COURT'S APRIL 8, 2010
ORDER

Plaintiff's counsel is hereby notified that at the hearing currently scheduled for June 21, 2010 at 9:00 a.m., Plaintiff's counsel shall show cause as to why he should not be held in contempt of court for his failure to pay the \$400 sanction he was ordered to pay on April 15, 2010, no later than 4:30 p.m. The April 8, 2010 order imposing this sanction prescribed that "[p]roof of payment [of the sanction] shall be filed no later than 4:30 p.m. on April 16, 2010." Plaintiff's counsel has not filed proof of payment, and therefore, remains in violation of the Court's April 8 Order.

1 As counsel should be aware, "[t]he failure to pay a sanction
2 may constitute a willful violation of a court order." Leads Club,
3 Inc. v. Peterson, No. 05cv171-J (JMA), 2008 WL 186504, at *3 (S.D.
4 Cal. Jan. 22, 2008) (citations omitted). "A clear violation of a
5 court's order to pay sanctions may properly result in a contempt
6 citation." Id. (citing Adriana Intern. Corp. v. Theoren, 913 F.2d
7 1406, 1417 (9th Cir. 1990) (upholding contempt sanction imposed on
8 attorney for failure to pay sanctions); see also Jones v. J.C.
9 Penney's Dept. Stores, Inc., 228 F.R.D. 190, 198 n.14 (W.D.N.Y. May
10 31, 2005) (noting that "[v]iolations of a Rule 16(b) order are
11 punishable by civil contempt") (citing Fed. R. Civ. P. 16(f)). If "a
12 party [is] . . . found in contempt[,]" a court may issue a number of
13 civil contempt sanctions, including a per diem fine, compensatory
14 fine, and coercive confinement." United States v. Khanh Tung Luong,
15 No. 2:08-MC-00094 WBS KJM, 2009 WL 4282101, at *3 (E.D. Cal. Nov. 19,
16 2009) (citing United States v. Ayers, 166 F.3d 991, 995 (9th Cir.
17 1999) (upholding a district court's award of fines for contempt of an
18 order enforcing IRS summons) & S.E.C. v. Elmas Trading Corp., 824 F.2d
19 732 (9th Cir. 1987) (holding that the district court did not abuse its
20 discretion in adjudging party in civil contempt and ordering him
21 incarcerated until he produced specified documents)). A coercive
22 civil contempt sanction, if appropriate, could be imposed during the
23 hearing scheduled to commence at 9:00 a.m. on June 21, 2010.

24 Dated: June 18, 2010

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27 GARLAND E. BURRELL, JR.
28 United States District Judge