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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ENTREPRENEUR MEDIA, INC., a
California Corporation,

Plaintiff,

v.

SCOTT SMITH d.b.a. ENTREPRENEUR,
Defendant.

No. 2:10-mc-0055-JAM-EFB PS

ORDER

Plaintiff's ex parte application for issuance of an order to show cause re contempt (ECF No. 170) is currently set for hearing on March 11, 2015. ECF No. 178. On March 9, 2015, two days before the hearing, defendant Smith, and not his attorney, filed a request to continue the hearing on plaintiff's motion for at least 60 days. ECF No. 180. The request is denied.

The instant request is not Smith's first request to continue the hearing. Smith, through his attorney Eric Mewes, previously filed an ex parte application to continue the hearing on plaintiff's motion, which was set for hearing on February 11, 2015. ECF No. 177. Mr. Mewes requested that the hearing be continued for at least forty-five days due to the recent and unexpected death of his father. The court granted in part that request, and continued the hearing to March 11, 2015. ECF No. 178.

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1 Smith now contends that another continuance is needed because Mr. Mewes has suffered
2 an unspecified “life threatening medical emergency that could require weeks or months of
3 treatment and recovery.” ECF No. 180 at 4. Smith, however, has not submitted any supporting
4 documentation showing that Mr. Mewes’s health condition precludes his attendance at the March
5 11 hearing. Given the extensive history of delay in this case occasioned by Smith, his
6 unsupported request to continue the hearing is denied and Smith is to appear at the March 11,
7 2015 hearing. *See* ECF No. 178.

8 Furthermore, Smith’s counsel, Mr. Mewes, has not substituted out of this case nor filed a
9 motion to withdraw as counsel for Smith. Accordingly, all communications with the court on
10 behalf of Smith must be made through his counsel. While Smith contends that he was personally
11 required to file his motion to continue the hearing due to counsel’s health condition, Smith has
12 also initiated other personal communications with the court. On January 8, 2015, Smith
13 personally emailed the court’s courtroom deputy to confer about filing an opposition brief. *See*
14 ECF No. 171 (order directing Smith to file his opposition by January 14, 2015). On January 15,
15 2015, Smith emailed the courtroom deputy a copy of his opposition to plaintiff’s motion. In this
16 email, Smith explained that “it was impossible to e-file” his opposition, and that “[w]e have
17 notified the other side” of the difficulty experienced in trying to file his opposition. If Smith
18 intends to represent himself, Mewes and Smith shall comply with the court’s Local Rule as to a
19 motion to withdraw as counsel.

20 SO ORDERED.

21 DATED: March 9, 2015.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE