

FILED

AUG 10 2015

**CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK**

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10 File No. 54,749

11 Attorneys for Plaintiff
12 **ENTREPRENEUR MEDIA, INC., a California corporation**

13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA
15 SACRAMENTO DIVISION

16 ENTREPRENEUR MEDIA, INC., a
17 California corporation,
18 Plaintiff,
19 vs.
20 SCOTT SMITH d.b.a.
21 ENTREPRENEUR,
22 Defendant.

CASE NO. 2:10-mc-00055-JAM-EFB
ORDER ADJUDICATING SCOTT SMITH IN
CONTEMPT OF COURT
Judge: Hon. John A. Mendez

WHEREAS, said hearing on the Order to Show Cause (Document 203), which adopted the Findings and Recommendation (Document 196), why SCOTT SMITH shall not be held in contempt of court having come on regularly for hearing on the 5th day of August, 2015 at 9:30 a.m. before the Honorable John A. Mendez, Judge of the United States District Court, and David J. Cook, Esq., appearing on behalf of Plaintiff ENTREPRENEUR MEDIA, INC., and Eric Mewes, Esq., appearing for and on behalf of SCOTT SMITH, and SCOTT SMITH present in court, and the court

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1 having adopted the Magistrate Judge's Edmund F. Brennan's Findings and Recommendation, and
2 the court finding no good cause why SCOTT SMITH shall not be held in contempt of court, and for
3 good cause appearing, therefore,

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that SCOTT SMITH shall be
5 held in contempt of court and is in contempt of court for the failure to comply with the Discovery
6 Order dated 11/26/13 (Document 162) of the Honorable Edmund F. Brennan, which compels
7 SCOTT SMITH to produce certain records.

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that SCOTT SMITH be and
9 the same shall be incarcerated in the custody of the United States Marshal for the Eastern District of
10 California for thirty (30) days, or until he can show that he is in compliance with the Discovery
11 Order, whichever occurs first. SCOTT SMITH can show that he is in compliance with the
12 Discovery Order, by (1) turnover of the records described therein, and (2) filing a declaration by
13 SCOTT SMITH as to what documents do or do not exist, and whether they have been produced.

14 HOWEVER, in light of the hearing on Monday, August 10, 2015, at which Defendant
15 SCOTT SMITH and Plaintiff's counsel, David Cook appeared in person, and Defendant's counsel,
16 Eric Mewes, appeared telephonically, and at which hearing SCOTT SMITH produced additional
17 documents responsive to the Magistrate Judge's Discovery Order, this order of incarceration is
18 stayed until 9:30 a.m. on August 19, 2015 to allow SCOTT SMITH to comply with the Discovery
19 Order, and to allow Plaintiff and the Court to determine whether SCOTT SMITH is in full
20 compliance.

21 IT IS FURTHER ORDERED that SCOTT SMITH file a declaration, upon penalty of
22 perjury, detailing which documents have been provided to Plaintiff, and which documents have not

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1 been provided (along with an explanation as to why those documents have not been produced).
2 This declaration shall be filed by Wednesday, August 12, 2015 at 5:00 p.m. Plaintiff's counsel
3 shall file a response to Mr. Smith's declaration by Monday, August 17, 2015 at 5:00 p.m. If the
4 Court determines that a further hearing is necessary, said hearing will be held on Wednesday,
5 August 19, 2015 at 9:30 a.m., at which SCOTT SMITH will be required to personally appear, and at
6 which counsel for each party will be required to appear, either personally or telephonically.

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the court shall keep and
8 retain continuing jurisdiction to ensure compliance with the Discovery Order, which may include
9 the issuance of other relief as the court may order.

10 DATED: August 10, 2015


11 John A. Mendez
12 Judge of the United States District Court
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