

1 their new attorney Brian Barrad,² based on their alleged failure to comply with the subpoenas and
2 the court's December 6, 2013 order. (ECF No. 9.) After review of the papers in support of the
3 application, and without making any findings or determinations with respect to the merits of the
4 application at this juncture, IT IS HEREBY ORDERED that:

- 5 1. Third party witnesses Deborah Sweeney and Molly Floto, as well as their attorney
6 Brian Barrad, shall show cause why contempt citations should not be issued and
7 monetary sanctions imposed against them based on their alleged failure to comply
8 with the subpoenas at issue and the court's December 6, 2013 order.
- 9 2. Deborah Sweeney, Molly Floto, and counsel Brian Barrad shall file a written response
10 to the order to show cause, supported by any appropriate declarations and legal
11 authorities, no later than March 3, 2014.
- 12 3. A hearing on the order to show cause is set for Thursday March 13, 2014, at 10:00
13 a.m., in Courtroom No. 25 before the undersigned. All counsel shall personally
14 appear at the hearing, with no telephonic appearances permitted. Furthermore,
15 Deborah Sweeney and Molly Floto shall personally appear at the hearing for potential
16 testimony.
- 17 4. Failure of the third party witnesses and their counsel to file a timely written response
18 to the order to show cause and/or to personally appear at the hearing may result in a
19 summary finding of contempt (civil or criminal), including monetary sanctions and/or

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21 ² The third party witnesses were formerly represented by attorney W. Austin Cooper, who
22 according to the website of the California State Bar, was ordered inactive on October 26, 2013,
23 and is no longer eligible to practice law in California. See <http://www.calbar.ca.gov>. At the
24 December 5, 2013 hearing, Mr. Barrad clarified that he was taking over some of Mr. Cooper's
25 other cases, but that he had not, at that point, been retained to represent Ms. Sweeney or Ms.
26 Floto, nor had he spoken to them. He indicated that he was merely making a special appearance
27 for the third party witnesses and Mr. Cooper as a courtesy. In the court's December 6, 2013
28 order, the court directed that "[i]f Mr. Barrad is ultimately retained to represent Deborah Sweeney
and Molly Floto, he shall file a notice of appearance of counsel to that effect...." (ECF No. 6 at
3.) Although Mr. Barrad failed to do so, the correspondence between Mr. Barrad and plaintiff's
counsel attached to the application clearly demonstrates that Mr. Barrad now represents Sweeney
and Floto. Accordingly, the court directs the Clerk of Court to add Mr. Barrad to the docket as
counsel of record for the third party witnesses, and to include him in electronic service of all
future court documents in this case.


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the potential issuance of bench warrants for their arrest.

- 5. The parties shall promptly advise the court of any settlement of this matter.
- 6. The Clerk of Court shall add Mr. Brian S. Barrad, Law Offices of Brian S. Barrad, 1455 Response Road, Suite 120, Sacramento CA 95815 [E-mail: bbarradlaw@gmail.com; Telephone: (916) 564-8700], to the docket as counsel for third party witnesses Deborah Sweeney and Molly Floto. If he has not already done so, Mr. Barrad shall ensure that he is familiar with all obligations of counsel under the court's Local Rules, including enrollment in the court's electronic filing system (CM/ECF).
- 7. Out of abundance of caution, and in the event that Mr. Barrad does not yet have access to the CM/ECF system, the Clerk of Court shall serve a copy of the instant order on Mr. Barrad by U.S. Mail at the address listed above.

IT IS SO ORDERED.

Dated: February 19, 2014


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE