

1 violated a specific and definite order of the court. The burden then shifts to the contemnors to
2 demonstrate why they were unable to comply.” Federal Trade Com’n v. Enforma Natural
3 Products, Inc., 362 F.3d 1204, 1211 (9th Cir. 2004) (quoting FTC v. Affordable Media, LLC, 179
4 F.3d 1228, 1239 (9th Cir. 1999)).

5 Moreover, the failure of a party to comply with any order of the court “may be grounds
6 for imposition by the Court of any and all sanctions authorized by statute or Rule or within the
7 inherent power of the Court.” Local Rule 110. “[T]he district court has ‘wide latitude in
8 determining whether there has been a contemptuous defense of its order.’” Stone v. City and
9 County of San Francisco, 968 F.2d 850, 856 (9th Cir. 1992) (quoting Gifford v. Heckler, 741
10 F.2d 263, 266 (9th Cir. 1984)). However, “[d]ue process requires that a person facing contempt
11 sanctions be given adequate notice and fair opportunity to be heard in civil contempt
12 proceedings.” U.S. S.E.C. v. Hyatt, 621 F.3d 687, 694 (7th Cir. 2010).

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Defendant’s December 5, 2017 motion for an order to show cause (ECF No. 9) is
15 granted¹;
- 16 2. Kert Miller shall appear in person on **Friday, February 9, 2018, at 10:00 a.m.**, at the
17 United States District Court, 501 I Street, Sacramento, California, in Courtroom No. 27, before
18 the undersigned;
- 19 3. On or before **January 26, 2018**, Kert Miller shall show cause in writing as to why he
20 should not be sanctioned for failure to comply with the court’s September 22, 2017 order;
- 21 4. On or before **January 26, 2018**, defendants shall file and serve on Kert Miller a
22 memorandum addressing their request for contempt sanctions;
- 23 5. On or before **February 2, 2018**, Kert Miller shall file any response to defendants’
24 request for sanctions; and

25 ///

26
27 ¹ Defendants’ request for attorneys’ fees and costs is premature, should be addressed in their
28 January 26, 2018 memorandum, and will be addressed by the undersigned at the February 9, 2018
hearing.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6. The Clerk of the Court is directed to serve a copy of this order on Kert Miller at the following address:

9060 Central Avenue
Orangevale, CA 95662

Dated: January 9, 2018



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

DLB:6
DB\orders\orders.civil\dynacom0121.osc.miller