

1 Rule 45. *See, e.g., In re NCAA Student-Athlete Name & Likeness Licensing Lit.*, No. 09-cv-
2 01967 CW (NC), 2012 WL 629225, at *8 (N.D. Cal. Feb. 27, 2012) (awarding sanctions
3 against party serving overly broad subpoena on nonparty).

4 Here, the Court questions whether plaintiffs have taken reasonable steps before filing
5 their application for a contempt citation. In particular, have plaintiffs tailored their
6 document demand to the “immediate needs of the case”? *Mattel, Inc. v. Walking Mountain*
7 *Prods.*, 353 F.3d 792, 813 (9th Cir. 2003) (upholding award of sanctions for overly broad
8 subpoena served on nonparty). Have plaintiffs exhausted their efforts to discover these
9 records directly from the defendants? Have plaintiffs considered a partial production?
10 Have plaintiffs considered a phased production? Have plaintiffs proposed to pay or
11 partially pay for expenses incurred by the nonparty in responding to the request? Are the
12 costs of producing the documents demanded proportional to the issues at stake in the case?

13 Plaintiffs must immediately serve this order on G & C Towing and file a proof of
14 service. G & C Towing must respond to the motion to compel by July 11, 2014. Any
15 argument of undue burden by G & C Towing must be supported by specific facts. Reply
16 will be due July 18. A hearing will be held July 30, 2014, at 1:00 p.m. in Courtroom A in
17 San Francisco, if one is necessary.

18 Amid this briefing, by July 3, plaintiffs must meet and confer with defendants in an
19 effort to determine whether a partial production of a sampling of these records directly from
20 defendants would be a cost-effective and fair approach before demanding from a nonparty
21 discovery for the entire class period as to all putative class members. Plaintiffs also should
22 reflect on whether they have complied with Rule 45 and whether they and their counsel will
23 be sanctioned if this motion gets to a hearing on the present record.

24 IT IS SO ORDERED.

25 Date: June 20, 2014

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Nathanael M. Cousins
United States Magistrate Judge