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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

STEVE MCCURRY STUDIOS, LLC,

Plaintiff,

v.

WEB2WEB MARKETING, INC., d/b/a  
ACTEVA.COM,

Defendant.

No. MC 13-80246 WHA

**ORDER TO UNITED STATES  
MARSHAL TO SERVE PANKAJ  
GUPTA AND WEB2WEB  
MARKETING, INC.**

This is an order to the United States Marshal to serve Pankaj Gupta and defendant Web2Web Marketing, Inc. with this order, an order further requiring Mr. Gupta and defendant to appear in Courtroom 8 on the 19th floor of the United States Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, at **8:00 A.M. ON OCTOBER 2, 2014**, to give testimony and to produce documents to the extent stated below. This order is necessary in light of Mr. Gupta and defendant's repeated failure to comply with plaintiff's subpoenas. Accordingly, with the assistance of plaintiff's counsel in locating Mr. Gupta, the United States Marshal shall now serve this order on Mr. Gupta and defendant. If Mr. Gupta disobeys this order, the United States Marshal will be subsequently ordered to find and arrest him and hold him in detention until such time as he complies.

Here is the background. In the District of Delaware, plaintiff obtained a default judgment against defendant and then registered that judgment in this district. Among other items, the default judgment permitted plaintiff "to move for a reassessment" of the compensatory damages,

1 based “on a showing of good cause” and “information provided in [defendant’s] accounting or  
2 otherwise received or discovered by plaintiff” (Dkt. No. 1). Since then, plaintiff has tried  
3 (unsuccessfully on numerous occasions) to personally serve defendant’s president and CEO —  
4 Mr. Gupta — with subpoenas. On May 9, 2014, an order granted plaintiff’s motion to serve both  
5 Mr. Gupta and defendant with subpoenas and future documents by alternative means, such as e-  
6 mail.

7 On June 3, 2014, plaintiff mailed and e-mailed several subpoenas for Mr. Gupta and  
8 defendant to produce documents and other information concerning the company’s assets, and to  
9 testify at a deposition scheduled for July 30, 2014. The document production was due by July 3,  
10 2014. Plaintiff also mailed and e-mailed Mr. Gupta and defendant deposition notices for the July  
11 30 date.

12 Neither defendant nor Mr. Gupta produced any documents by July 3, 2014. Nor have  
13 plaintiff’s e-mails to Mr. Gupta bounced back or otherwise generated a return message indicating  
14 that his e-mail address no longer worked (Pulliam Decl. ¶¶ 10–11). In fact, on July 29, 2014 —  
15 the day before the scheduled deposition — Mr. Gupta called plaintiff’s counsel and confirmed  
16 that he had received all of the subpoenas (*id.* ¶¶ 13–18). He also asked during that phone call  
17 what the consequences would be if he did not appear for deposition, and stated that he would  
18 appear on July 30, 2014, only to produce documents, not for deposition. Later that day at 8:18  
19 p.m., Gupta left a phone message with plaintiff’s counsel, stating that he would not appear the  
20 next day for purposes of being deposed. He then failed to appear for the deposition, and has  
21 since sent only one box of documents to plaintiff. According to plaintiff’s counsel, those  
22 documents do not appear to include any corporate or financial records for either defendant or  
23 Gupta (*id.* ¶ 19).

24 In light of the foregoing, Mr. Gupta is hereby **ORDERED** to produce the following  
25 documents in Courtroom 8 on the 19th floor of the United States Courthouse, 450 Golden Gate  
26 Avenue, San Francisco, CA 94102, at **8:00 A.M. ON OCTOBER 2, 2014**. Please refer to plaintiff’s  
27 subpoenas for definitions of words that are used in the following list:  
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- 1 • All documents constituting, referring to, or relating to any assets of  
2 Acteva, including, without limitation, all deeds, bills of sale, vehicle  
3 registrations and title documents, bank and investment account  
4 statements, accounts receivable lists with aging, ledgers, stock and  
5 bond certificates, membership and partnership agreements and  
6 certificates, appraisals, valuations, offers to purchase or sell any  
7 assets of Acteva, and expressions of interest in purchasing any  
8 assets of Acteva.
- 9 • All documents constituting, referring to, or relating to sources of  
10 income of Acteva.
- 11 • All documents constituting, referring to, or relating to Acteva's  
12 financial performance.
- 13 • All documents constituting, referring to, or relating to any liabilities  
14 of Acteva, including, without limitation, all accounts and loans  
15 payable lists, promissory notes, mortgages, security agreements,  
16 subordination agreements and other loan documents, and also  
17 including all settlement and forbearance agreements to which  
18 Acteva is a party and copies of all claims, demands, and complaints  
19 against Acteva, including without limitation, all complaints or  
20 demands filed in any judicial or other forum.
- 21 • All documents referring or relating to the finances and/or financial  
22 performance of Acteva, including, without limitation, all audited  
23 and unaudited income and loss statements, balance sheets, cash  
24 flow forecasts and financial statements, and all financial statements  
25 or other financial information and loan applications provided to any  
26 actual or prospective lender or investor or other third-party.
- 27 • All federal, state, and local and any foreign tax returns prepared for  
28 Acteva, whether actually filed or not.
- All documents constituting, referring to, or relating to any transfer  
of assignment or assumption of any of Acteva's assets or liabilities.
- All documents constituting, referring to, or relating to any insurance  
policies or claims held by Acteva.
- All documents constituting, referring to, or relating to transactions,  
transfers of assets and payments by or between Acteva and one or  
more of its officers, directors, shareholders, investors, principals, or  
any other person in which any of the foregoing hold an interest,  
including, without limitation, family members and corporate  
affiliates of any of the foregoing.
- All documents constituting, referring to, or relating to any transfer  
of assets, direct or indirect, by Acteva on or after January 1, 2007.
- All documents directly or indirectly referring or related to Steve  
McCurry Studios, LLC, or any of its officers, directors, employees,  
or counsel, or its claims against Acteva.
- All record and accountings (including, without limitation, drafts of  
accountings) related to Steve McCurry Studios LLC's business

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relationships with Acteva and/or amounts collected and distributed by Acteva related to such business relationship and amounts owed by Acteva related to such business relationship at any time from and after January 1, 2007[,] to the present.

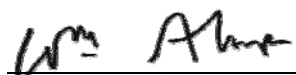
This order recognizes that the above is not the exact list as the one provided in plaintiff's document subpoena (*see* Dkt. No. 25-3). But the documents bulleted above are what the Court believes are the most reasonable ones to request in these circumstances. Mr. Gupta is thus **ORDERED** to bring the documents bulleted above to the hearing at **8:00 A.M. ON OCTOBER 2, 2014**. Mr. Gupta should also be prepared to stay that entire day so that he may testify as needed at this hearing. The judge will supervise.

In the meantime, all requests regarding contempt and attorney's fees and costs are postponed until the undersigned judge hears Mr. Gupta's testimony. This order advises Mr. Gupta that he is entitled to retain a lawyer and may bring a lawyer with him to the hearing. Furthermore, defendant will please remember that a corporation or other entity may appear only through counsel. *See* Civ. L.R. 3-9(b).

The United States Marshal shall now serve this order on Mr. Gupta and defendant. To that end, plaintiff's counsel will assist the United States Marshal in locating Mr. Gupta. Counsel for plaintiff must attend the hearing on October 2, 2014, and be in a position to copy the documents produced at that time. Both sides are warned that the hearing may *not* be cancelled even by mutual agreement except upon further order of the Court.

**IT IS SO ORDERED.**

Dated: August 21, 2014.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

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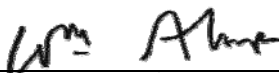
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE