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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

OPEN TEXT INC.,

Plaintiff,

v.

MICHELLE BEASLEY,

Defendant.

Case No. [21-cv-03986-EMC](#)**ORDER DENYING PLAINTIFF'S  
MOTION FOR CONTEMPT, AND  
REQUIRING PAYMENT OF  
ATTORNEYS' FEES WITHIN 90 DAYS**

Docket No. 34

**I. INTRODUCTION**

This case involves a dispute over commission payments advanced by an employer, Plaintiff Open Text, Inc. (“Open Text”), to its former employee, Defendant Michelle Beasley. Docket No. 6-1 (“Compl.”) ¶¶ 1-6. Open Text originally filed the action in the Superior Court of San Mateo County, California in March 2021. *See id.* at 3. Ms. Beasley removed the case to this Court on May 26, 2021. *See* Docket No. 1. The Court then granted Open Text’s motion to remand the case to state court on July 30, 2021, and granted Open Court’s request for attorneys’ fees and costs pursuant to 28 U.S.C. § 1447(c). Docket No. 31 (“Remand Order”).

Now pending before the Court is Open Text’s motion to hold Ms. Beasley in contempt for failure to pay the attorneys’ fees awarded in the Court’s July 2021 order, and request for further fees and sanctions. Docket No. 34 (“Mot.”). For the following reasons, the Court **DENIES** Open Text’s motion. However, the Court **ORDERS** Ms. Beasley to satisfy her obligations under the July 2021 order within 90 days of entry of this order, and enters judgment as to the award of attorneys’ fees to Open Text. This matter is suitable for determination without oral argument pursuant to Civil Local Rule 7-1(b).



1 the \$7,786.00 which the Court awarded in its July 30, 2021 order. *See generally* Mot. Open Text  
2 also requests that the Court impose a sanction on Beasley of \$100 for each day of further  
3 noncompliance with the July 30, 2021 order, and to award Open Text attorneys’ fees incurred in  
4 preparing and presenting this motion. Mot. at 2.

5 **III. LEGAL STANDARD**

6 A. Civil Contempt

7 Civil contempt “consists of a party’s disobedience to a specific and definite court order by  
8 failure to take all reasonable steps within the party’s power to comply.” *Reno Air Racing Ass’n.,*  
9 *Inc. v. McCord*, 452 F.3d 1126, 1130 (9th Cir. 2006) (internal quotation marks and citation  
10 omitted). “The contempt ‘need not be willful;’ however, a person should not be held in contempt  
11 if his action ‘appears to be based on a good faith and reasonable interpretation of the court’s  
12 order.’” *Id.* (quoting *In re Crystal Palace Gambling Hall, Inc.*, 817 F.2d 1361, 1365 (9th Cir.  
13 1987)).

14 The party alleging civil contempt must demonstrate by clear and convincing evidence that  
15 (1) the contemnor violated a court order, (2) the noncompliance was more than technical or *de*  
16 *minimis*, and (3) the contemnor’s conduct was not the product of a good faith or reasonable  
17 interpretation of the violated order. *See United States v. Bright*, 596 F.3d 683, 694 (9th Cir. 2010).  
18 The moving party has the burden of showing by clear and convincing evidence that the  
19 contemnors violated a specific and definite order of the court. The burden then shifts to the  
20 contemnors to demonstrate why they were unable to comply. *Stone v. City and County of San*  
21 *Francisco*, 968 F.2d 850, 856 n. 9 (9th Cir. 1992) (citations omitted).

22 A court may wield its civil contempt powers for two separate and independent purposes:  
23 (1) “to coerce the defendant into compliance with the court’s order”; and (2) “to compensate the  
24 complainant for losses sustained.” *Shell Offshore Inc. v. Greenpeace, Inc.*, 815 F.3d 623, 629 (9th  
25 Cir. 2016) (citation omitted).

26 **IV. DISCUSSION**

27 Open Text argues that Ms. Beasley should be held in contempt for her failure to pay the  
28 attorneys’ fees awarded in the Court’s July 2021 remand order. *See generally* Mot. In the

1 alternative, Open Text asks the Court to set a deadline by which Ms. Beasley must pay the  
2 attorneys' fees. Docket No. 37 ("Reply") at 5.

3 A. Disobedience to a Specific and Definite Court Order

4 Open Text's motion for contempt fails because it has not shown that Ms. Beasley has  
5 disobeyed a specific and definite court order. *McCord*, 452 F.3d at 1130. Although the Court  
6 awarded Open Text attorneys' fees of \$7,786,00 in its Remand Order, the Court did not set a date  
7 by which Ms. Beasley was required to pay the attorneys' fees. *See* Remand Order at 13. Despite  
8 the absence of a date by which the Court required Ms. Beasley to pay the attorneys' fee award,  
9 Open Text does not cite any rule of procedure, local rule, or case law requiring Ms. Beasley to  
10 have completed her payment of the attorneys' fees award by a particular date. Open Text has  
11 failed to present any evidence that Ms. Beasley is *overdue* on her payment of attorneys' fees.

12 To the extent that Open Text is arguing that Ms. Beasley has disobeyed a court order  
13 because she refuses to *ever* pay the attorneys' fee award, Open Text fails to provide any evidence  
14 in support of such a conclusion. Indeed, the *only* evidence Open Text has provided is a  
15 declaration in which Open Text's counsel states that Ms. Beasley's counsel informed her that Ms.  
16 Beasley planned to dispose of her obligation to pay the attorneys' fees award at the end of the state  
17 court proceedings, after all awards and costs have been accounted for, in a single payment. *See*  
18 Wong Decl. ¶¶ 12-13. The state court proceedings remain pending. Therefore, Open Text's  
19 evidence does not demonstrate that Ms. Beasley has *refused* to comply with Court's order  
20 altogether.

21 Thus, Open Text has failed to meet its burden to demonstrate by clear and convincing  
22 evidence that Ms. Beasley has disobeyed a specific and definite court order, and, thus, a finding of  
23 contempt is not warranted. Accordingly, Open Text's request for additional attorneys' fees and  
24 sanctions related to this contempt motion is also denied.

25 B. Deadline for Payment of Award

26 The Court, next, considers Open Text's alternative request to set a deadline by which Ms.  
27 Beasley must pay the attorneys' fee award. The Court could have set a payment deadline at the  
28 time that it issued the July 2021 order, and there is no obstacle to the Court setting such a deadline

1 at this juncture.

2 Ms. Beasley argues that she intends to pay the attorneys' fees award by exercising her right  
3 under California law to offset her monetary obligations against any other claims she may pursue,  
4 as part of a final judgment in the state court proceedings. *See* Docket No. 36 ("Opp.") at 3-7;  
5 *Brown v. Mandarich L. Grp., LLP*, No. 13-CV-04703-JSC, 2014 WL 2860631, at \*1 (N.D. Cal.  
6 June 23, 2014) ("In California, a judgment debtor who owns a judgment against her judgment  
7 creditor may go into the court in which the judgment against her was rendered and have her  
8 judgment offset against the first judgment.") (citing *Harrison v. Adams*, 20 Cal.2d 646, 648  
9 (1942)); *see also Brienza v. Tepper*, 35 Cal.App. 4th 1839, 1847-48 (1995) ("we accept the  
10 principle that a judgment debtor who has acquired a judgment or claim against his judgment  
11 creditor may ask the court in which the judgment against him was rendered to have his judgment  
12 or claim offset against the first judgment"); *Riggs v. Gov't Emp. Fin. Corp.*, 623 F.2d 68, 73 (9th  
13 Cir. 1980) (allowance of an offset lies within the sound discretion of the trial court). But whether  
14 Ms. Beasley can successfully pursue an offset of her payment obligations on any judgment  
15 obtained in state court is at the discretion of the state trial court and requires no further  
16 consideration or delay by this Court. *See Riggs*, 623 F.2d at 73. Indeed, Ms. Beasley's right  
17 under California law to seek to offset any payment obligations she incurs as a result of the state  
18 court proceedings does not affect this Courts authority to set a deadline by which she must comply  
19 with this Court's order.

20 Thus, the Court **ORDERS** Ms. Beasley to satisfy her payment obligations pursuant to the  
21 July 2021 award within 90 days of entry of this order. Moreover, the Court enters a separate  
22 judgment as to the July 2021 award of attorneys' fees. *See* Fed R. Civ. P. 58(d) ("A party may  
23 request that judgment be set out in a separate document as required by Rule 58(a)."); Fed. R. Civ.  
24 P. 69 ("A money judgment is enforced by a writ of execution, unless the court directs  
25 otherwise.").

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**V. CONCLUSION**

The Court **DENIES** Open Text’s motion for contempt, sanctions and additional fees. The Court **ORDERS** Ms. Beasley to pay the attorneys’ fees award set out in the Court’s July 2021 order within 90 days of entry of this Order.

This order disposes of Docket No. 34.

**IT IS SO ORDERED.**

Dated: May 6, 2022



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EDWARD M. CHEN  
United States District Judge