

1 No. 203; ECF No. 210. On October 15, 2012, Mr. Earl filed an objection to the settlement. ECF
2 No. 213. The Court held a final approval of class action settlement hearing on November 8, 2012,
3 which Mr. Earl did not attend. On November 13, 2013, the Court overruled Mr. Earl's objections,
4 granted final approval of the settlement, and extended the settlement opt-out deadline to permit Mr.
5 Earl to exclude himself from the class and bring his individual claims separately, ECF No. 223.
6 Instead of opting out, Mr. Earl filed a motion to vacate the judgment pursuant to Rule 60(b), ECF
7 No. 225, which the Court denied on January 1, 2013, ECF No. 237. On January 28, 2012, Mr. Earl
8 appealed the following orders of this Court: (1) order granting in part and denying in part class
9 certification, ECF No. 184; (2) order granting preliminary approval of the settlement, ECF No.
10 210; (3) order granting final approval of the settlement over Mr. Earl's objections, ECF No. 223;
11 and (4) order denying Mr. Earl's post-judgment Motion to Vacate, ECF No. 237. In his appeal, Mr.
12 Earl alleged inadequate representation by lead plaintiffs, a "disproportionate" settlement
13 distribution, and an inadequate opt-out notice. ECF No. 238.

14 On April 2, 2013, this Court issued an order regarding several motions related to Mr. Earl's
15 appeal brought by both Mr. Earl and Plaintiffs-Appellees. ECF No. 259. Among the motions was
16 Plaintiffs-Appellees' motion that Mr. Earl post an appeal bond pursuant to Federal Rule of
17 Appellate Procedure 7 to secure payment of Plaintiffs-Appellees' costs on appeal ("Bond
18 Motion"). See ECF No. 240. The Court found that posting a bond would not be an undue burden to
19 Mr. Earl, that Plaintiffs-Appellees reasonably anticipated difficulty in collecting costs related to the
20 appeal, and that it was likely Mr. Earl would not prevail on appeal. ECF No. 259, at 6-8. The Court
21 therefore granted the Bond Motion, and ordered Mr. Earl to post a \$5,000 bond. *Id.* at 9-10.

22 On June 27, 2014, Plaintiffs-Appellees filed the instant motion, arguing that the Court
23 should find Mr. Earl in contempt for disobeying this Court's April 2, 2013 order by not posting an
24 appeal bond. ECF No. 272. Mr. Earl filed his opposition on July 14, 2014, ECF No. 274, and
25 Plaintiffs-Appellees filed their reply on July 16, 2014, ECF No. 273. On September 26, 2014, this
26 Court issued an order instructing Mr. Earl to post the appeal bond within seven days.¹ ECF No.
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¹ The Court did not serve Mr. Earl with this order by mail. See ECF No. 278.

1 275. On October 6, 2014, this Court issued a second order instructing Mr. Earl to post the appeal
2 bond within seven days. ECF No. 278; see also ECF No. 278-1 (clerk’s proof of service by mail).

3 On October 15, 2014, this Court received a \$5,000 personal check from Mr. Earl. Mr. Earl
4 mailed the check by certified mail on October 10, 2014.

5 **II. LEGAL STANDARD**

6 It is a “basic proposition that all orders and judgments of courts must be complied with
7 promptly.” *Maness v. Meyers*, 419 U.S. 449, 458-59 (1975). A party fails to act as ordered by the
8 court “when he fails to take ‘all the reasonable steps within [his] power to insure compliance with
9 the [court’s] order [].’” *In re Crystal Palace Gambling Hall, Inc.*, 817 F.2d 1361, 1365 (9th Cir.
10 1987) (quoting *Sekaquaptewa v. MacDonald*, 544 F.2d 396, 406 (9th Cir. 1976)). If a party
11 “disobeys a specific and definite court order, he may properly be adjudged in contempt.” *In re*
12 *Crystal Palace*, 817 F.2d at 1365; see also *United States v. Powers*, 629 F.2d 619, 624 (9th Cir.
13 1980) (“The inherent power of the courts to punish contempt of their authority and to coerce
14 compliance with orders is not disputed.”). Failure to obey a court order to post an appellate bond is
15 justifiable grounds for civil contempt, as well as the imposition of “any appropriate sanction.” *In re*
16 *Magsafe Apple Power Adapter Litig.*, 571 F. App’x 560, 563 (9th Cir. 2014).

17 However, a district court has wide latitude in determining whether a party in defiance of its
18 order should be judged in contempt. *Gifford v. Heckler*, 741 F.2d 263, 266 (9th Cir. 1984).
19 Moreover, Mr. Earl, who is representing himself pro se, is entitled to greater leniency than a party
20 represented by an attorney. See *Draper v. Coombs*, 792 F.2d 915, 924 (9th Cir. 1986) (pro se
21 plaintiff entitled to leniency when judging compliance with technical rules).

22 **III. DISCUSSION**

23 Mr. Earl mailed his personal check in the amount of \$5,000 to the Court by certified mail
24 on October 10, 2014, which was within the seven-day deadline set by this Court’s October 6, 2014
25 order. See ECF No. 278. To verify that the bond has in fact been posted, the Court hereby
26 CONTINUES the hearing on Plaintiffs-Appellees motion to October 30, 2014, at 1:30 p.m.
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IT IS SO ORDERED.

Dated: October 15, 2014



LUCY H. KOH
United States District Judge