

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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DAIMLER AG, a German
corporation,

Plaintiff,

v.

A-Z WHEELS, LLC d/b/a
USARim.com, et al.,

Defendants.

Case No.: 16cv0875-JLS-MDD

**ORDER DENYING PLAINTIFF’S
MOTION FOR AN ORDER TO
SHOW CAUSE REGARDING
SALLY PEDERSEN**

[ECF NO. 78]

Before the Court is Plaintiff’s motion, filed on April 3, 2018, for an order to show cause regarding non-party Sally Pedersen’s failure to appear for deposition. (ECF No. 78)

Discussion

Rule 45, Fed. R. Civ. P., governs subpoenas in civil cases. Ms. Pedersen, a non-party, was served by Plaintiff with a subpoena issued by this Court on March 14, 2018, to appear and be deposed on March 22, 2018. (ECF No. 78-3 at 2-3).¹ She was served at her residence in Laguna Niguel, CA, and

¹ The Court will refer to page numbers supplied by CM/ECF rather than original

1 commanded to appear in Irvine, CA. (*Id.*). It appears that the subpoena was
2 valid, required appearance within 100 miles of her residence and that the
3 mandatory witness fees were tendered. (*Id.*). Ms. Pedersen failed to appear.
4 Plaintiff has moved for an order to show cause why Ms. Pedersen should not
5 be held in contempt for failing to appear.

6 Unfortunately, despite the fact that the case is pending in this Court
7 and the subpoena duly issued here, the place of compliance, Irvine, is in the
8 Central District of California. Plaintiff is required to bring this motion in the
9 district where compliance was required. *See* Rule 45(g), Fed. R. Civ. P. That
10 Court may transfer the motion to this Court with the consent of Ms. Pedersen
11 or upon a finding of exceptional circumstances. Rule 45(f), Fed. R. Civ. P.

12 Conclusion

13 Plaintiff's Motion for an Order to Show Cause is **DENIED WITHOUT**
14 **PREJUDICE**. Plaintiff may file this motion in the United States District
15 Court for the Central District of California.

16 **IT IS SO ORDERED.**

17 Dated: April 9, 2018

18 

19 Hon. Mitchell D. Dembin
20 United States Magistrate Judge

21
22
23
24
25
26
27 _____
pagination throughout.