

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 08-cv-00664-RPM

WESTERN RETEK DISRIBUTORS, INC., a Colorado Corporation in good standing;
assignee of G.B., LLC, a Colorado Limited Liability Company in good standing,

Plaintiff,

v.

CRUSHTEK, LLC, a Georgia Limited Liability Company and
JOHANN SCHMIDT, personally,

Defendants.

ORDER STRIKING "SHOW CAUSE" PLEADING

After a hearing held on January 21, 2009, on the motion to withdraw filed by C. Barton Dunn of Schunk & Dunn as counsel for defendants, this Court entered an order granting that motion and issued an order to show cause on defendants Johann Schmidt and Crushtek, LLC, why the plaintiff's motion to compel discovery responses pursuant to Fed.R.Civ.P. 37, filed January 7, 2009, should not be granted. On February 23, 2009, this Court received a communication apparently signed by Johann Schmidt personally and on behalf of Crushtek, LLC, dated February 17, 2009, entitled, "Show Cause." Mr. Schmidt is apparently in custody in the Rusk County Jail in Henderson, Texas, and explains that under the circumstances it will be difficult to obtain new counsel. The Court having already granted Mr. Dunn's motion to withdraw on the ground that there has been no communication from his clients permitting him to proceed in this case and the filing by Mr. Schmidt being of no legal significance, it must be stricken. The plaintiff filed a second motion to compel discovery responses pursuant to Fed.R.Civ.P. 37 on

February 4, 2009, and a certificate of service shows mailing to Mr. Schmidt at his current address and to Crushtek, LLC, at its reported place of business in Duluth, Georgia. Pursuant to Rule 37, the defendant should now be given an opportunity to respond to that motion to compel, noting that Crushtek, LLC, must appear by counsel because it is a limited liability company. It is now

ORDERED that the filing identified as "Show Cause" is stricken and it is

FURTHER ORDERED that the defendants Crushtek, LLC, and Johann Schmidt shall respond to the motion to compel, filed February 4, 2009, on or before February 27, 2009, failing in which the defendants' pleadings shall be stricken and the defendants declared in default.

Dated: February 24th, 2009

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior District Judge