

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Tremaine Carroll v. State of California, et al.

Carroll v. State of California · No. 1:23-cv-00974-JLT-HBK (PC) · Decided September 29, 2025

SUMMARY

The United States District Court for the Eastern District of California ordered Attorney Alain Browning to show cause why sanctions should not issue for failing to comply with a prior order. The Court directed Browning within seven days to either move to withdraw or submit a declaration confirming his continued representation of Plaintiff Tremaine Carroll.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Helena M. Barch-Kuchta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 29, 2025
DOCKET	1:23-cv-00974-JLT-HBK (PC)
DISPOSITION	other
PROCEDURAL POSTURE	The court issued an order requiring Plaintiff's attorney, Alain Browning, to show cause why sanctions should not issue for failing to comply with a prior order requiring him either to move to withdraw or confirm his continued representation of Plaintiff.
PRECEDENTIAL VALUE	unpublished

TOPICS

- sanctions
- contempt
- civil procedure

PRACTICE AREAS

- civil procedure
- sanctions
- contempt

QUESTIONS PRESENTED

1. Whether the court may require Attorney Browning to clarify whether he continues to represent Plaintiff after failing to comply with the court's prior order.

2. Whether Attorney Browning should be required to show cause why sanctions should not issue for failing to comply with the court's prior order.

HOLDINGS

1. A federal court has inherent authority to enforce compliance with its lawful orders through civil contempt and may impose sanctions for counsel's failure to comply with a court order under Local Rule 110.
2. Attorney Browning must, within seven days of docketing, file either a motion to withdraw or a declaration confirming his continued representation of Plaintiff, and must show cause in writing why sanctions should not issue.

KEY QUOTATIONS

"The inherent powers of federal courts are those that are necessary to the exercise of all others." (at 2)

"There can be no question that courts have inherent power to enforce compliance with their lawful orders through civil contempt." (at 2)

"A court has power to adjudge in civil contempt any person who willfully disobeys a specific and definite order requiring him to do or to refrain from doing an act." (at 2)

FACTUAL BACKGROUND

Joseph Virgilio, Plaintiff's former counsel, moved to withdraw from the action. While that motion was pending, Alain Browning entered an appearance for Plaintiff, but the record did not clearly establish whether Browning continued to represent Plaintiff after Virgilio's withdrawal. The court ordered Browning to clarify his status, but he failed to respond, leaving the court uncertain whether Plaintiff was represented or proceeding pro se and hindering further proceedings.

PROCEDURAL HISTORY

Plaintiff's former counsel, Joseph Virgilio, moved to withdraw on February 14, 2025. While that motion was pending, Alain Browning entered an appearance for Plaintiff; the court later granted Virgilio's withdrawal motion. After reassignment, the court ordered Browning to file either a motion to withdraw or a declaration confirming continued representation. Browning did not comply, prompting this order requiring compliance and a written showing of cause within seven days.

DISPOSITION

other

CASES CITED

- Primus Automotive Fin. Servs., Inc. v. Batarse, 115 F.3d 644, 648 (9th Cir. 1997)
- Shillitani v. United States, 384 U.S. 364, 370 (1966)
- Shuffler v. Heritage Bank, 720 F.2d 1141, 1147 (9th Cir. 1983)

OPINION

Tremaine Carroll v. State of California, et al.

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 TREMAINE CARROLL, Case No. 1:23-cv-00974-JLT-HBK (PC) 12 Plaintiff, ORDER
REQUIRING ATTORNEY ALAIN

BROWNING TO SHOW CAUSE WHY

13 v. SANCTIONS SHOULD NOT ISSUE FOR

FAILURE TO COMPLY WITH COURT

14 STATE OF CALIFORNIA, et al., ORDER 15 Defendant. SEVEN DAY DEADLINE 16 17 On
February 14, 2025, Plaintiff's former counsel, Attorney Joseph Virgilio of the Justice 18 Law
Firm, moved to withdraw from this action. (Doc. No. 32, "Virgilio's Motion"). While 19 Virgilio's
Motion remained pending, Attorney Alain Browning, also of the Justice Law Firm, 20 entered a
notice of appearance on behalf of Plaintiff. (Doc. No. 37). On July 2, 2025, the 21 previously
assigned magistrate judge granted Virgilio's Motion. (Doc. No. 41). 22 This matter was
subsequently reassigned to the undersigned magistrate judge. (Doc. No. 23 42). On July 31, 2025,
after noting that it was unclear whether Attorney Browning continued to 24 represent Plaintiff in
this action given he did not enter an appearance until after the motion to 25 withdraw was filed
and was not specifically referenced in either the motion to withdraw or the 26 order granting the
motion, the Court directed Attorney Browning to either file a motion to 27 withdraw or a
declaration confirming his continued representation of Plaintiff within seven days. 28 (Doc. No.
43, "July 31, 2025 Order"). To date, Attorney Browning has not complied with the 1 Court's July
31, 2025 Order. 2 "The inherent powers of federal courts are those that are necessary to the
exercise of all 3 others." *Primus Automotive Fin. Servs., Inc. v. Batarse*, 115 F.3d 644, 648 (9th
Cir. 1997) 4 (internal quotation marks omitted). "There can be no question that courts have
inherent power to 5 enforce compliance with their lawful orders through civil contempt." *Shillitani*
v. United States, 6 384 U.S. 364, 370 (1966). "A court has power to adjudge in civil contempt any
person who 7 willfully disobeys a specific and definite order requiring him to do or to refrain from
doing an 8 act." *Shuffler v. Heritage Bank*, 720 F.2d 1141, 1147 (9th Cir. 1983). Local Rule 110
provides 9 that "[f]ailure of counsel ... to comply ... with any order of the Court may be grounds
for 10 imposition by the Court of any and all sanctions ... within the inherent power of the Court."
11 Here, the Court ordered Attorney Browning to file either a motion to withdraw or a 12
declaration confirming his representation of Plaintiff. (Doc. No. 43). Attorney Browning's 13
failure to respond in any way hinders the Court's ability to move forward with proceedings in this
14 action because it is unclear whether Plaintiff is represented by counsel or proceeding pro se. 15
Accordingly, it is ORDERED: 16 1. Within seven (7) days of the docketing date of this order,

Attorney Browning is 17 DIRECTED to file either (1) a file a motion to withdraw as attorney or (2) a 18 declaration confirming his continued representation of Plaintiff. 19 2. Within seven (7) days of the docketing date this order, Attorney Browning SHALL 20 SHOW CAUSE IN WRITING why sanctions should not issue for his failure to 21 comply with the Court's July 31, 2025 Order. 22 3. In addition to the standard notice provided by the Court, the Clerk of Court is 23 DIRECTED to email Attorney Browning at alainbrowning@yahoo.com as well as 24 mail a copy of this order to counsel's address of record: 25 Alain Browning The Justice Firm 26 5850 Canoga Avenue Ste 4th Floor 27 Woodland Hills, CA 91367 28 4. The Clerk of Court is DIRECTED to mail a copy of this order to Plaintiff at the 1 address below: 2 Tremaine Carroll 3 Correctional Training Facility

31625 Highway 101

4 Soledad, California 93960 5 | DONE AND ORDERED: 6 | Dated: _ September 27, 2025 Mile. Th fareh Hack

HELENA M. BARCH-KUCHTA

8 UNITED STATES MAGISTRATE JUDGE

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