

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Tomahawk Manufacturing, Inc., et al. v. Spherical Industries, Inc., et al.

Tomahawk Manufacturing · No. 2:23-cv-01007-APG-NJK · Decided December 9, 2025

OPINION

1 2 3 4 5 UNITED STATES DISTRICT COURT 6 DISTRICT OF NEVADA 7 8 Tomahawk
Manufacturing, Inc., et al., Case No. 2:23-cv-01007-APG-NJK 9 Plaintiff(s), Order 10 v. [Docket
No. 588] 11 Spherical Industries, Inc., et al., 12 Defendant(s). 13 Pending before the Court is
Plaintiffs' motion for order to show cause why Defendants 14 should not be held in contempt for
violating the protective order.

Docket No. 588. For the reasons 15 discussed below, the Court DENIES without prejudice
Plaintiffs' motion. 16 Plaintiffs allege that Defendants (and/or defense counsel) have improperly
provided 17 confidential information from this case to non-parties.

The motion suffers from threshold 18 deficiencies, both with respect to the legal authority cited on
which relief is sought and the framing 19 of the relief sought.¹ Beginning with the former,
sanctions must be imposed under clearly 20 delineated authority upon a finding that the attendant
requirements are met. See *Weissman v. Quail Lodge, Inc.*, 179 F.3d 1194, 1200 (9th Cir.

1999); see also *Keegan Mgmt. Co. Sec. Litig.*, 78 F.3d 22 431, 435 (9th Cir. 1996). Rule 37(b)(2)
of the Federal Rules of Civil Procedure provides 23 comprehensive authority for enforcement of
discovery orders, including protective orders issued 24 pursuant to Rule 26(c). *Westinghouse Elec.
Corp. v. Newman & Holtzinger, P.C.*, 992 F.2d 932, 25 935 (9th Cir. 1993) (quoting Rule 37(b)
Advisory Comm.

Notes (1970)); see also, e.g., *Falstaff* 26 27 1 Although the legal issues herein have not been
addressed in the briefing, the Court has its own duty to articulate and apply the law correctly even
when the parties have failed to do so. 28 *Bateman v. U.S. Postal Serv.*, 231 F.3d 1220, 1224 (9th
Cir. 2000). 1 *Brewing Corp. v. Miller Brewing Co.*, 702 F.2d 770, 784 (9th Cir.

1983). The instant motion does 2 not cite to Rule 37(b)(2), let alone identify the standards
applicable to that rule and explain in 3 structured fashion how the standards are met.² 4 The relief
sought is also meandering and inconsistent.

The motion is framed as seeking 5 civil contempt sanctions, which are meant to coerce
compliance. See, e.g., *Gen. Signal Corp. v. 6 Donallco, Inc.*, 787 F.2d 1376, 1380 (9th Cir. 1986).

The motion, however, indicates that the 7 damage from the alleged disclosure is irreversible. Docket No. 588 at 9. Hence, it is not clear 8 what exactly Plaintiffs seek to coerce.

Moreover, the forms of relief more specifically enumerated 9 in the motion are covered by other legal authority. See, e.g., Fed. R. Civ. P. 37(b)(2)(A)(iii) 10 (striking pleadings); Fed. R. Civ. P. 37(b)(2)(A)(vi) (default judgment); Fed. R. Civ. P. 37(b)(2)(C) 11 (payment of expenses, including fees); see also Fed. R. Civ. P. 37(b)(2)(A) (permitting issuance 12 of “further just orders” upon a finding of a violation of a discovery order).

13 In short, the pending motion raises troubling allegations. As Plaintiffs’ counsel have 14 already been advised in this case, however, motions seeking significant sanctions must be 15 supported by clear argument that is structured pursuant to the governing standards. See *Tomahawk 16 Mfg., Inc. v. Spherical Indus., Inc.*, Case No. 2:23-cv-01007-APG-NJK, 2025 WL 342094, at *1 17 (D.

Nev. Jan. 30, 2025) (collecting cases). The pending motion fails to comply with that 18 requirement, so the Court DENIES it without prejudice. If Plaintiffs continue to seek relief 19 regarding the specific conduct alleged in this motion, they must file a renewed motion by 20 December 16, 2025. That motion must identify the specific legal authority that governs the 21 request, must identify the standards that apply thereto, and must provide robust discussion as to 22 23 24 2 Although the motion cites in passing different legal authorities, it appears to be predicated on inherent authority.

See, e.g., Docket No. 588 at 7-8. Courts do not generally invoke their 25 inherent authority when the rules are up to the task of addressing an issue. See, e.g., *McCart- Pollak v. Saevitzon*, 2025 WL 1706894, at *3 (D. Nev. June 17, 2025).

The motion references 26 violations of sealing orders (in addition to the protective order), but the motion does not clearly explain why it is not centrally predicated on the protective order. See Docket No. 105. If Plaintiffs 27 believe Rule 37(b)(2) is not sufficiently comprehensive to address the issues raised, then they must explain why that is the case.

The motion also references § 1927 sanctions, but fails to explain how 28 the alleged conduct multiplied proceedings. 1} how the standards are met. Counsel must ensure that any renewed motion is properly supported, as the Court will not afford additional opportunities to brief the issues. 3 IT IS SO ORDERED. 4 Dated: December 9, 2025 Nancy J. Kovpe 6 United States Magistrate Judge 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28