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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Sallie Mae Servicing LP,
10 Plaintiff,
11 v.
12 Christine M. Lee, et al.,
13 Defendants.
14

No. MC 04-00036-PHX-JAT

ORDER

15 Pending before the Court are three motions filed by the United States of America
16 (“United States”): Motion for Entry of Garnishment Disposition Order (Doc. 18), Motion
17 to Seal Attachment to Motion to Amend Case Caption (Doc. 22), and Amended Motion
18 to Amend Caption (Doc. 23). Defendants have not responded to any of the motions, and
19 the time to do so has passed. The Court now rules on the motions.

20 **I. Procedural Background**

21 On March 27, 2001, Sallie Mae Servicing LP (“Sallie Mae”), as agent for Student
22 Loan Marketing Association (“SLMA”), obtained a judgment (“Judgment”) against
23 Defendant Christine M. Lee (“Lee”) in the Superior Court for the State of Arizona,
24 Maricopa County. (Doc. 1 at 1). The Judgment, entered in favor of SLMA, was in the
25 principal sum of \$128,001.87, in addition to \$20,349.98 in interest, \$575.00 in attorneys’
26 fees, and \$238.00 in costs. (*Id.* at 1–2).

27 On May 1, 2002, for consideration of \$148,351.85, SLMA assigned the Judgment
28 to the United States. (*Id.* at 4). Subsequently, the United States requested the Clerk of

1 Court for the U.S. District Court of Arizona to register the Judgment, and on April 22,
2 2004, the Clerk of Court did so. (*Id.*)

3 On April 16, 2010, the United States filed an application for Writ of Garnishment
4 with the U.S. District Court of Arizona, listing CT Corporation System as the garnishee.
5 (Doc. 2). On April 20, 2010, the Clerk of Court issued the Writ. (Doc. 3). The United
6 States gave notice of the garnishment to Lee, who signed for the service by certified mail
7 on June 9, 2010. (Doc. 7 at 2). Lee did not request a hearing on the garnishment and has
8 never appeared in this case. On August 16, 2010, the Court ordered the garnishee—under
9 the name of High-Tech Institute, Inc.—to pay 25% of Lee’s non-exempt earnings to the
10 United States. (Doc. 9). High-Tech Institute, Inc. did so until May 2, 2014. (Doc. 23 at 2).

11 On April 30, 2015, the United States filed a Motion to Amend Caption to include
12 the United States “as Plaintiff to conform the case caption to the previous garnishment
13 and to a garnishment being filed that same day.” (*Id.*) The United States “inadvertently”
14 failed to serve this motion upon Lee but did so after the Court questioned whether service
15 was necessary. (*Id.* at 2–3).

16 On August 5, 2015, the United States moved for an entry of a garnishment
17 disposition order listing The University of Phoenix, Inc. as the garnishee. (Doc. 18).

18 **II. Amended Motion to Amend Caption (Doc. 23)**

19 In this motion, the Court must determine whether, after a lender obtains a state
20 court judgment against a borrower for defaulting on a federally-insured loan and assigns
21 its interest in the judgment to the United States pursuant to 42 U.S.C. § 292f(b) and the
22 United States “registers” the judgment in federal court pursuant to 42 U.S.C. §
23 292f(h)(3), the registering court¹ can amend the case caption to include the United States
24 as plaintiff.

25
26 ¹ The court that entered the judgment—here, the Maricopa County Superior
27 Court—is the “rendering court” (sometimes referred to as the “court of rendition”). The
28 court in which the judgment is registered and sought to be enforced—here, the U.S.
District Court of Arizona—is the “registering court” (sometimes referred to as the “court
of registration”).

1 The United States argues that the Court should amend this matter’s caption to
2 include the United States as plaintiff because it is the “real party in interest.” (*Id.*) On
3 September 10, 2015, the Court requested supplemental briefing on what authority permits
4 the Court to amend the caption of the registered state court judgment. (Doc. 19). The
5 United States responded that § 292f(h)(3) conveys such authority. (Doc. 23). This statute
6 provides:

7 With respect to any State court judgment that is obtained by a lender or
8 holder against a borrower for default on a loan insured under this subpart
9 and that is subrogated to the United States under subsection (b) of this
10 section, any United States attorney may register such judgment with the
11 Federal courts for enforcement.

12 § 292f(h)(3). Also relevant is subsection (b) of section f which states:

13 Upon payment by the Secretary of the amount of the loss pursuant to
14 subsection (a) of this section, the United States shall be subrogated for all
15 of the rights of the holder of the obligation upon the insured loan and shall
16 be entitled to an assignment of the note or other evidence of the insured
17 loan by the insurance beneficiary. . . .

18 § 292f(b).

19 There is no doubt that the United States was subrogated for and assigned all rights
20 of the original “holder of the obligation,” SLMA, pursuant to § 292f(b). (Doc. 1 at 4).
21 The United States thus obtained the right—which it exercised—under § 292f(h)(3) to
22 “register such judgment with the Federal courts for enforcement.” *See (id.* at 5)
23 (requesting that the Clerk of Court register the Judgment pursuant to “P.L. 102-408
24 § 707(h)(3),” now codified as § 292f(h)(3)).

25 This statute, however, does not resolve the Court’s question: under what authority
26 can this Court—a registering federal court—change the caption of a judgment that was
27 *entered in favor of a different party* by the Maricopa County Superior Court—a rendering
28 state court—to include a party that was *assigned* the judgment *after* it was entered? The
statute cited by the United States simply permits the United States to “register” the state
court judgment in federal court “for enforcement”; it does not speak to whether the
United States is entitled to be named as plaintiff. Consequently, the Court must determine

1 whether it has authority to amend the caption and to do so, will review the statutorily-
2 created procedure of registration and the legal standard for amending case captions.

3 **A. The Registration Process**

4 When a party wishes to take a judgment from one court and enforce it elsewhere,
5 the party has several options. Traditionally, the holder of a state court judgment seeking
6 to have it enforced in federal court would file a civil action on the state court judgment if
7 the holder could establish federal subject matter jurisdiction. There are drawbacks to this
8 process, however, including the added expense of bringing a separate legal action and
9 meeting the requirements of diversity jurisdiction. Thus, federal and state legislatures
10 crafted the statutory procedure of “registration” to expedite the enforcement of foreign
11 judgments. For example, the judgment of a state or federal court may be registered in the
12 courts of a foreign state according to the registering state’s codification of the Uniform
13 Enforcement of Foreign Judgments Act. *See, e.g.,* Ariz. Rev. Stat. § 12-1702. As another
14 example, the judgment of a federal court may be registered in another federal court
15 pursuant to 28 U.S.C. § 1963 and enforced pursuant to Federal Rule of Civil Procedure
16 (“Rule”) 69. *See F.D.I.C. v. Aaronian*, 93 F.3d 636, 638 (9th Cir. 1996) (“Federal law
17 permits a money judgment rendered in one judicial district to be registered in any other
18 judicial district without the need to relitigate.” (quoting 28 U.S.C. § 1963)). Finally, as
19 was the case here, the United States may register and enforce in federal court certain state
20 court judgments that have been assigned to it. *See* § 292f(h)(3); 20 U.S.C. § 1091a(c).

21 As to the registration process itself, “[r]egistration is a rapid procedure that does
22 not require the intervention of a judge. It is ‘merely a matter of having the clerk of the
23 court in which the judgment is registered enter the pertinent provisions of the sister
24 court’s judgment on the judgment docket.’” *In re Prof’l Air Traffic Controllers Org.*, 699
25 F.2d 539, 544 (D.C. Cir. 1983) (quoting Note, Registration of Federal Judgments, 42
26 Iowa L. Rev. 285, 288–89 (1957)); *see Arenas v. Sternecker*, 109 F. Supp. 1, 2 (D. Kan.
27 1953) (“The term ‘registered’ . . . seems to connote a filing with the clerk and an entering
28 upon the records in that office, in substantially the same manner as a judgment rendered

1 by this court.”). According to one district court in this circuit, “[r]egistration is purely a
2 ministerial act in the enforcement of a foreign judgment. It confers upon this court no
3 power to alter the judgment itself.” *Juneau Spruce Corp. v. Int’l Longshoremen’s &
4 Warehousemen’s Union*, 128 F. Supp. 697, 699 (D. Haw. 1955) (citing *Gullet v. Gullet*,
5 188 F.2d 719, 720 (5th Cir. 1951)). Yet, in limited circumstances, “[a] court of
6 registration has jurisdiction to entertain motions challenging the underlying judgment”
7 brought under Rule 60. *F.D.I.C. v. Aaronian*, 93 F.3d 636, 639 (9th Cir. 1996) (citations
8 omitted).

9 If a party cannot enforce a state court judgment in federal court pursuant to a
10 registration statute, the party must pursue the traditional process of filing a civil action on
11 the state court judgment and establishing federal subject matter jurisdiction. This process
12 is the only option requiring the party to file a complaint. *See Aaronian*, 93 F.3d at 638.
13 When a state court judgment is registered in federal court, the party seeking to register
14 the judgment simply files a copy of the state court judgment with the federal court. *See*
15 *Allentown Dev. Co., Inc. v. Gans*, 1995 WL 489477, at *3 (S.D.N.Y. Aug. 16, 1995)
16 (“[T]he filing of a judgment with the [state clerk of court] is not the institution of
17 litigation, and the mere docketing of a judgment with the [state court] is not judicial
18 action; rather, it is a ministerial act.”).

19 **B. Legal Standard for Amending a Case Caption**

20 The Court has not found any case law on the standard for amending captions of a
21 judgment. The United States argues that the “leave should be freely given” standard for
22 amending a *pleading* found in Rule 15 governs its motion. (Doc. 23 at 4). The United
23 States is incorrect for the simple reason that it is not seeking to amend a pleading. The
24 United States was not required to—nor did it—file a “pleading” in the U.S. District Court
25 of Arizona. This procedure of not filing a new “complaint” or pleading is the purpose of
26 the expedited process of registration. Even if there was a pleading that would be
27 inconsequential as the United States only wishes to have the caption reflect that the
28 United States is a plaintiff. *See Hoffman v. Halden*, 268 F.2d 280, 303–04 (9th Cir. 1959)

1 (“[T]he caption of an action is only the handle to identify it[.]”); 5A Charles Alan Wright
2 and Arthur R. Miller, Federal Practice and Procedure § 1321 (3d ed. 1998) (“[T]he
3 contents of the caption usually are not considered a part of the pleader’s statement of the
4 claim or the response thereto for purposes of applying the pleading rules.”).

5 Accordingly, the Court finds that no rule of civil procedure applies for amending
6 the case caption in this case, because, quite plainly, no pleading has been filed.

7 **C. Analysis**

8 The United States is certainly correct in its assertion that federal law authorized it
9 to register the Judgment in the U.S. District Court of Arizona. However, by registering
10 the Judgment in federal court, the United States did not convert the state court judgment
11 into a federal judgment for any other purpose other than “for enforcement.” See §
12 292f(h)(3). Moreover, while § 292f(h)(3) permits the United States to enforce the state
13 court judgment in federal court, docketing the Judgment did not constitute the
14 commencement of a separate action but was merely a “mechanical” endeavor whereby
15 the “pertinent provisions” of the Judgment were transferred to this Court’s docket. *Prof’l*
16 *Air Traffic Controllers*, 699 F.2d at 544; see *Cappiello v. ICD Publ’ns*, 868 F. Supp. 2d
17 55, 62 (E.D.N.Y. 2012) (“For all purposes other than enforcement, the judgment must
18 continue to be treated only as a judgment of the court that rendered it.”).

19 Due to the lack of any authority to the contrary, the Court concludes that, because
20 the United States’ act in availing itself of the procedures afforded by § 292f(h)(3) did not
21 convert the state court judgment into a federal court judgment for any purpose other than
22 enforcement, the Court does not have jurisdiction to amend the caption of this case.²

23
24 ² The Court has identified over two dozen cases in this district where, after being
25 assigned a state or federal court judgment against a debtor in favor of a third party and
26 registering the judgment in the U.S. District Court of Arizona, the United States
27 successfully moved to amend the case caption to become listed as plaintiff. See, e.g.,
28 *United States v. Martin*, No. 2:04-MC-00106-EHC (D. Ariz. 2004); *United States v.*
King, No. 2:12-MC-00044-NVW (D. Ariz. 2012); *United States v. Brantner*, No. 2:01-
MC-00025-NVW (D. Ariz. 2001); *United States v. Arkfeld*, No. 2:94-MC-00071-NVW
(D. Ariz. 1994); *United States v. Farmer*, No. 2:04-MC-00037-NVW (D. Ariz. 2004);

1 **III. Motion to Seal Attachment (Doc. 22)**

2 In this motion, the United States asks the Court to seal a document attached to a
3 prior motion. (Doc. 22). According to the United States, the document contains “private,
4 sensitive and personally identifiable information.” (*Id.*)

5 The “private, sensitive and personally identifiable information” that the United
6 States seeks to seal is also found—in unsealed, non-redacted format³—in documents filed
7 at Docket No. 1. *See* (Doc. 1 at 3, 4).⁴ Because information that has entered the public
8 domain through such means as a publicly-available court filing is no longer protected, the
9 Court will deny the United States’ motion to seal. *See Gambale v. Deutsche Bank AG*,
10 377 F.3d 133, 144 n.11 (2d Cir. 2004) (noting that “[o]nce [information] is public, it

11 *United States v. Martin*, No. 2:08-MC-00006-NVW (D. Ariz. 2008); *United States v.*
12 *Marsh*, No. 4:08-MC-00001-DCB-HCE (D. Ariz. 2008); *United States v. Miranda*, No.
13 2:07-MC-00085-NVW (D. Ariz. 2007); *United States v. Martin*, No. 4:05-MC-00029-
14 FRZ (D. Ariz. 2005); *United States v. Johnston*, No. 4:08-MC-00002-CKJ (D. Ariz.
15 2008); *United States v. Coffey*, No. 2:03-MC-00057-GMS (D. Ariz. 2003); *United States*
16 *v. Mazarella*, No. 2:13-MC-00059-GMS-BSB (D. Ariz. 2013); *United States v. Burton*,
17 No. 2:13-MC-00015-SRB (D. Ariz. 2013); *United States v. Little*, No. 4:03-MC-00019-
18 RCC-JR (D. Ariz. 2003); *United States v. Lent*, No. 2:01-MC-00056-NVW (D. Ariz.
19 2001); *United States v. Slobodnik*, No. 2:12-MC-00018-FJM (D. Ariz. 2012); *United*
20 *States v. Zimmer*, No. 4:07-MC-00022-RCC (D. Ariz. 2007); *United States v. Snow*, No.
21 2:03-MC-00053-RCB (D. Ariz. 2003); *United States v. Rima*, No. 2:95-MC-00036-SRB
22 (D. Ariz. 1995); *United States v. Merchant*, No. 2:09-MC-00011-SRB (D. Ariz. 2009);
23 *United States v. Stewart*, No. 2:06-MC-00036 (D. Ariz. 2006); *United States v.*
24 *Gallagher*, No. 2:14-MC-00043-DLR (D. Ariz. 2014); *United States v. Shields*, No. 2:10-
25 MC-00106-JAT (D. Ariz. 2010); *United States v. Baker*, No. 2:12-MC-000120-JAT (D.
26 Ariz. 2012). The Court notes, however, that every motion to amend was unopposed and
27 all Orders granting the motion, including that from this Court, were cursory “for good
28 cause appearing” dispositions without ancillary analysis. On today’s occasion, the Court
decided to look beyond the unopposed nature of the issue, but not without first inviting
the United States to supply authority for its request.

³ The Court agrees that Lee’s social security number need not be made part of the public record. However, that result can be accomplished by redacting that specific part of a document, rather than sealing the entire document. *See* Fed. R. Civ. P. 5.2(a)(1).

⁴ Additionally, it appears that the document the United States seeks to seal is in the Maricopa County Superior Court public record. If so, there is no reason to seal the document in this matter.

1 necessarily remains public” and further stating that “[o]nce the cat is out of the bag, the
2 ball game is over” (quotation omitted)).

3 **IV. Motion for Entry of Garnishment (Doc. 18)**

4 **A. Applicability of 28 U.S.C. § 1962**

5 As a preliminary concern, the Court questioned whether 28 U.S.C. § 1962 applies
6 to this case. (Doc. 19). This statute states as follows:

7 Every judgment rendered by a district court within a State shall be a lien on
8 the property located in such State in the same manner, to the same extent
9 and under the same conditions as a judgment of a court of general
10 jurisdiction in such State, and shall cease to be a lien in the same manner
11 and time. This section does not apply to judgments entered in favor of the
12 United States. Whenever the law of any State requires a judgment of a State
13 court to be registered, recorded, docketed or indexed, or any other act to be
14 done, in a particular manner, or in a certain office or county or parish
before such lien attaches, such requirements shall apply only if the law of
such State authorizes the judgment of a court of the United States to be
registered, recorded, docketed, indexed or otherwise conformed to rules and
requirements relating to judgments of the courts of the State.

15 § 1962. The Court’s interest in this issue is important because if § 1962 is applicable,
16 registering the Judgment had the effect of creating a lien on all of Lee’s property located
17 in the state of Arizona. *See F.D.I.C. v. Aaronian*, 93 F.3d 636, 638 (9th Cir. 1996) (“[A
18 registered] judgment may then be treated as a lien on any property belonging to the
19 defendant which is located within the district of the court of registration.” (citing 28
20 U.S.C. § 1962)); *Fifth Third Bank v. Mytelka*, 2008 WL 3852170, at *2 (E.D.N.Y. Aug.
21 16, 2008) (“Once a judgment is registered in a given district, it becomes a lien on the
22 defendant’s property in the state in which the district is located to the same extent that a
23 state[] judgment does.” (citing 28 U.S.C. § 1962)).

24 The United States’ papers do nothing to answer the Court’s question of whether
25 § 1962 applies. True, the statute is inapplicable to “judgments entered in favor of the
26 United States,” but the Judgment was never “entered in favor of the United States”—it
27 was “assigned” to it. The United States ostensibly assumes that “assigned to” and
28 “entered in favor of” mean the same thing but cites nothing to support this assumption.

1 Because the phrases clearly have different implications, the Court finds that the Judgment
2 has never been “entered in favor of the United States” thus invoking § 1962.

3 Nonetheless, although a lien based on the Judgment is subject to state-created
4 limitations, see § 1962, Fed. R. Civ. P. 69(a)(1), the Judgment itself is not subject to
5 limitations and is enforceable at any time, see 42 U.S.C. § 292f(i).⁵ By enacting § 292f(i),
6 Congress appeared to craft a carve-out from the state-created lien requirements of § 1962
7 by removing all limitation periods for the repayment of a loan assigned to the United
8 States pursuant to § 292f. In this case, the United States was assigned the rights of a state
9 court judgment and registered that judgment in this Court pursuant to § 292f(h)(3).
10 Consequently, there is “no limitation on the period within which [the] judgment may be
11 enforced, or an offset, garnishment, or other action may be initiated or taken by . . . the
12 Attorney General . . . for the repayment of the amount due” § 292f(i).

13 **B. Analysis**

14 On August 5, 2015, the United States moved for entry of a garnishment
15 disposition order. (Doc. 18). A Writ of Garnishment, directed to The University of
16 Phoenix, Inc. (“Garnishee”), has been duly issued and served upon Garnishee. Pursuant
17 to the Writ of Garnishment, Garnishee filed an Answer on July 6, 2015, stating that at the
18 time of the service of the Writ it had in its possession non-exempt earnings belonging to
19 and due Lee, and that Garnishee was indebted to Lee. On June 26, 2015, the United
20 States notified Lee of her right to a hearing, and she has not requested a hearing to
21 determine exempt property or to object to the answer.

22 For these reasons, the United States’ motion for entry of garnishment disposition
23 order will be granted.

24 **V. Lee’s Mailing Address**

25 In its prior Order, the Court questioned whether Lee was entitled to service of case
26 documents and if so, whether the United States was required to furnish the Court with her

27
28 ⁵ Furthermore, pursuant to 28 U.S.C. § 3201(a) and (c), any lien on Lee’s real property does not expire for twenty years.

1 address to mail copies of Orders to her. (Doc. 19). The United States seemingly agreed
2 that Lee was entitled to receive a copy of its motion to amend but did not provide the
3 Court with her address. The Court sent its prior Order to Lee's address of record but the
4 parcel was returned as undeliverable. (Doc. 20). Consequently, the Court will require the
5 United States to send a copy of this Order to Lee and file a Notice providing the Court
6 with Lee's last known address.⁶

7 **VI. Conclusion**

8 For the foregoing reasons,

9 **IT IS ORDERED** that the United States' Amended Motion to Amend Caption
10 (Doc. 23) is **DENIED**.

11 **IT IS FURTHER ORDERED** that the United States' Motion to Seal Attachment
12 to Motion to Amend Case Caption (Doc. 22) is **DENIED**.

13 **IT IS FURTHER ORDERED** that the United States' Motion for Entry of
14 Garnishment Disposition Order (Doc. 18) is **GRANTED**.

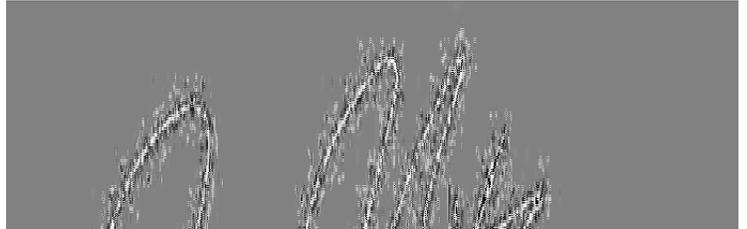
15 **IT IS FURTHER ORDERED** that Garnishee pay the sum of 25% of Lee's non-
16 exempt earnings to the United States, and continue withholding Lee's nonexempt
17 earnings and paying them to the United States until the debt to the United States is paid in
18 full or until Garnishee no longer has possession of any non-exempt earnings belonging to
19 Lee or until further Order of this Court. Checks should be made payable to the
20 Department of Justice and mailed to U.S. Attorney's Office, Financial Litigation Unit,
21 405 West Congress Street, Suite 4900, Tucson, Arizona 85701-5041. Checks should
22 include Lee's name and case number.

23 **IT IS FURTHER ORDERED** that by no later than two days from the date of this
24 Order the United States shall send a copy of this Order to Lee by certified mail.

25
26 _____
27 ⁶ At Docket No. 21, the United States noted that it sent its motion to Lee's last
28 known address of 17212 N. Scottsdale Rd. #2030, Scottsdale, Arizona 85255. (Doc. 21).
If this is Lee's last known address, the United States need only file a Notice to that effect.

1 **IT IS FINALLY ORDERED** that by no later than two days from the date of this
2 Order the United States shall file a Notice notifying the Court of Lee's last known
3 address.

4 Dated this 16th day of February, 2016.



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