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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Lawrence Eugene Gomes,
Plaintiff,
vs.
Charles Ryan, et al.,
Defendants.

No. CV-14-02789-PHX-PGR (JFM)

ORDER

Pending before the Court is the Order, Report and Recommendation (Doc. 361) of Magistrate Judge Metcalf, which the Court has reviewed *de novo* in light of the Plaintiff's Objection to Order, Report and Recommendation and Motion to Reconsider (Doc. 377), as well as the plaintiff's Motion and Exhibit (Doc. 382), which the Court construes as a supplement to his objections to the Report and Recommendation.

At issue are various post-judgment motions filed by the plaintiff (Docs. 332, 335, 336, and 345) related to his efforts to collect on the \$25,000 default judgment entered against defendant Nwaohia. As an initial matter, the Court concludes that the plaintiff's objections related to his belief that Magistrate Judge Metcalf had no authority to issue his Order, Report and Recommendation are meritless. In its Order

1 (Doc. 353), entered on March 18, 2016, the Court referred this matter to the
2 Magistrate Judge “for all proceedings pursuant to Federal Rule of Civil Procedure
3 69 and all post-judgment proceedings which relate to the judgment against
4 Nwaohia.” Magistrate Judge Metcalf’s Order, Report and Recommendation clearly
5 falls within his delegated authority.¹

6 In his first motion at issue (Doc. 332), the plaintiff sought orders placing a lien
7 against the assets of defendant Nwaohia in Texas, a \$25,000 lien against non-party
8 AB-Staffing Solution LLC (“AB Staffing”), Nwaohia’s employer, a \$25,000 lien
9 against the non-party insurance carrier for AB Staffing, and a \$25,000 lien against
10 non-party Arizona Department of Administration, Risk Management Division. The
11 Court concludes that the Magistrate Judge correctly determined that the Court’s
12 default judgment does not establish a judgment lien on Nwaohia’s assets in Texas
13 and that he correctly advised the plaintiff that his proper recourse would be to
14 register the judgment with the proper federal district court in Texas and then obtain
15 a writ of execution from that court. The Court also concludes that the Magistrate
16 Judge properly determined that no judgment liens could be issued against the other
17 entities because they are non-parties to which the default judgment does not apply.

18 In his second motion and third motions at issue (Docs. 335 and 336), the
19 plaintiff seeks to have the Court issue an order or writ of execution to AB Staffing for
20 it to (1) disclose Nwaohia’s date of birth, Social Security number, driver’s license
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23 Because the Court has properly referred this action to Magistrate Judge
24 Metcalf pursuant to LRCiv. 72.1(a) and (b), and because the plaintiff has not shown
25 any bias or prejudice by Magistrate Judge Metcalf sufficient for his disqualification
26 from this action as required by 28 U.S.C. § 144 or § 455, the Court will not revoke
the referral as requested by the plaintiff in his motion (Doc. 354) requesting that the
undersigned Judge resolve all of his motions.

1 number, and the names, addresses, occupations, and relationship to Nwaohia of
2 three credible sources who vouched for Nwaohia as part of AB Staffing's hiring
3 process, and (2) notify its insurance carrier to disclose to the plaintiff its relevant
4 insurance agreement related to Nwaohia's employment. The plaintiff also seeks to
5 have the Court issue a writ of execution to Nwaohia seeking discovery of all of her
6 assets, including her vehicles, her employment, her bonds and bank accounts, and
7 her credit cards, and a subpoena duces tecum to the manager of Nwaohia's
8 condominium in Texas for it to disclose Nwaohia's place of employment, her bank
9 account, and her vehicle's make, color, and plate number, as well as a subpoena
10 directed to Nwaohia's prior Texas address.

11 The Magistrate Judge, under his delegated authority, denied both motions
12 without prejudice to the extent they sought the issuance and service of subpoenas
13 duces tecum because the plaintiff (as of the time of the entry of the Order, Report
14 and Recommendation) had not provided the Court with properly completed forms for
15 the requested subpoenas. To the extent that the plaintiff, through his objections to
16 the Report and Recommendation, is seeking reconsideration of that order by an
17 appeal to the undersigned Judge, the Court concludes that the motion must be
18 denied because the Magistrate Judge's order was not clearly erroneous or contrary
19 to law.

20 As to the portions of both motions seeking the issuance and service of writs
21 of execution or writs of garnishment, the Court concludes that the Magistrate Judge
22 correctly determined in his Report and Recommendation that the motions should be
23 denied because the Court cannot issue a writ of execution against Nwaohia in Texas
24 or against any non-party to this action, and that the plaintiff had not (as of the time
25 of the Report and Recommendation) properly provided the Court with the information
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1 needed for any writs of garnishment.

2 In his fourth motion at issue (Doc. 345), the plaintiff seeks an order for
3 \$745.88 in costs against the Arizona Department of Administration's Risk
4 Management Liability Section pursuant to Fed.R.Civ.P. 54(d)(1). The Court
5 concludes that the Magistrate Judge properly determined that the plaintiff's motion
6 should be denied because the State of Arizona's Risk Management division is not
7 a party to this action, the plaintiff's filing was not on a proper form and did not include
8 all necessary information, and because the costs for which the plaintiff seeks
9 reimbursement are not taxable costs. Therefore,

10 IT IS ORDERED that the Magistrate Judge's Report and Recommendation
11 (Doc. 361) is accepted and adopted by the Court.

12 IT IS FURTHER ORDERED that the plaintiff's Motion to Honorable Judge
13 Paul G. Rosenblatt for a Order/Lean [sic] and Demand Against Defendant (Nwaohia)
14 Accets [sic], and the Following Liable Party Insurance Carriers (Doc. 332) is denied.

15 IT IS FURTHER ORDERED that the remaining portion of the plaintiff's Motion
16 Ordering AB-Staffing Solutions LLC, for Relevant Insurance Agreement, on Former
17 Employer [sic] (Nwadiuto Jane Nwaohia) and Writ of Execution (Doc. 335) is denied
18 without prejudice.

19 IT IS FURTHER ORDERED that the remaining portion of the plaintiff's [Motion
20 for] Writ of Execution Against (Nwaohia) to Secure Judgment in the Amount of
21 \$25,000 (Doc. 336) is denied without prejudice.

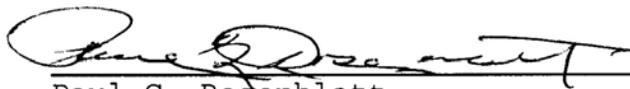
22 IT IS FURTHER ORDERED that the plaintiff's [Motion for] Order for Costs
23 Other Than Attorney's Fee for \$745.88 (Doc. 345) is denied.

24 IT IS FURTHER ORDERED that Plaintiff's Motion that the Clerk Stop Peice
25 Mail [sic] my Motions and Set Every Motion I Have Before the Honorable Paul G.
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1 Rosenblatt for Review to Prevent Further Prejudice (Doc. 354) is denied.

2 IT IS FURTHER ORDERED that the plaintiff's Motion to Reconsider (part of
3 Doc. 377) is denied.

4 DATED this 23rd day of September, 2016.

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7 Paul G. Rosenblatt
8 United States District Judge
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