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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL KEVIN MCGEE,

Defendant.

CV 10-6068 ABC (AGRx)

ORDER TO SHOW CAUSE RE CONTEMPT
FOR FAILURE TO APPEAR AT
JUDGMENT DEBTOR EXAMINATIONS

Defendant and Judgment Debtor Michael Kevin McGee was ordered to appear for judgment debtor examinations on at least two different occasions, on October 21, 2010 at 9:00 a.m., 2010 before Magistrate Judge Rosalyn Chapman and March 1, 2011, at 10:00 a.m., before Magistrate Judge Alicia G. Rosenberg, but he did not appear at either time. Plaintiff and Judgment Creditor government requests an Order to Show Cause why Plaintiff should not be held in contempt for failing to appear.

1 The Court accepts the facts certified by Magistrate Judge
2 Rosenberg pursuant to 28 U.S.C. § 636(e)(6) (Docket No. 27):

3
4 1. On August 23, 2010, Judge Rosalyn Chapman ordered Judgment
5 Debtor McGee to attend his examination before Judge Chapman on October
6 21, 2010 at 9:00 a.m. (Docket No. 11.) The Order included the
7 following language in capital letters:

8
9 NOTICE TO JUDGMENT DEBTOR. IF YOU FAIL TO APPEAR
10 AT THE TIME AND PLACE SPECIFIED IN THIS ORDER, YOU
11 MAY BE SUBJECT TO ARREST AND PUNISHMENT FOR
12 CONTEMPT OF COURT, AND THE COURT MAY MAKE AN ORDER
13 REQUIRING YOU TO PAY THE REASONABLE ATTORNEY'S
14 FEES INCURRED BY THE JUDGMENT CREDITOR IN THIS
15 PROCEEDING. See CCP 708.110(e).
16

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18 2. The Order was personally served on judgment debtor MCGEE on
19 August 30, 2010 by a registered process server. (Docket No. 12).

20
21 3. On October 21, 2010, the examination of judgment debtor MCGEE
22 came on regularly for hearing before Judge Rosalyn Chapman; however,
23 judgment debtor MCGEE did not appear. (Docket No. 13).

24
25 4. On October 26, 2010, Judge Chapman continued judgment debtor
26 MCGEE's examination to December 16, 2010 at 9:00 a.m. (Docket No 15).
27 This Order also contained the warning in capital letters:

28
NOTICE TO JUDGMENT DEBTOR. IF YOU FAIL TO APPEAR
AT THE TIME AND PLACE SPECIFIED IN THIS ORDER, YOU
MAY BE SUBJECT TO ARREST AND PUNISHMENT FOR

1 CONTEMPT OF COURT, AND THE COURT MAY MAKE AN ORDER
2 REQUIRING YOU TO PAY THE REASONABLE ATTORNEY'S
3 FEES INCURRED BY THE JUDGMENT CREDITOR IN THIS
4 PROCEEDING. See CCP 708.110(e).
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7 5. The docket reflects that on November 9, 2010, a proof of
8 service was filed showing that the Order was personally served on
9 judgment debtor MCGEE on November 2, 2010 by a registered process
10 derver. (Docket No. 16).

11 6. The case was reassigned to Honorable Alicia G. Rosenberg on
12 November 29, 2010 and the examination of judgment debtor MCGEE was
13 moved to Courtroom D at 10:00 a.m. (Docket No. 18.) It is not clear
14 if judgment debtor MCGEE had notice of the change of time and
15 courtroom of the hearing.

16 7. Judgment debtor MCGEE did not appear on December 16, 2010 in
17 Courtroom D at 10:00 a.m. (Docket No. 19.)

18 8. On January 18, 2011, Judge Rosenberg continued judgment
19 debtor MCGEE's examination to March 1, 2011 at 10:00 a.m. (Docket No.
20 22.) This Order also contained the warning in capital letters:

21 NOTICE TO JUDGMENT DEBTOR. IF YOU FAIL TO APPEAR
22 AT THE TIME AND PLACE SPECIFIED IN THIS ORDER, YOU
23 MAY BE SUBJECT TO ARREST AND PUNISHMENT FOR
24 CONTEMPT OF COURT, AND THE COURT MAY MAKE AN ORDER
25 REQUIRING YOU TO PAY THE REASONABLE ATTORNEY'S
26 FEES INCURRED BY THE JUDGMENT CREDITOR IN THIS
27 PROCEEDING. See CCP 708.110(e).
28

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2 9. The Order was personally served on judgment debtor MCGEE on
3 January 27, 2011 by registered process server. (Docket No. 24.)

4 10. On March 1, 2011, the examination of judgment debtor MCGEE
5 came on regularly for hearing before Judge Alicia Rosenberg; however,
6 judgment debtor MCGEE did not appear. (Docket No. 25.)

7 11. Judgment debtor MCGEE willfully failed to comply with the
8 Court's Order of January 18, 2011, by failing to appear for his
9 examination on March 1, 2011.

10 12. As a result of these post-judgment proceedings, judgment
11 creditor Government has incurred reasonable attorney's fees and costs
12 in an amount to be determined.

13
14 Based on these facts, the Court **ORDERS MR. MCGEE TO SHOW CAUSE**
15 why he should not be found in civil contempt based upon his non-
16 appearance at his debtor examinations, as ordered, on October 21, 2010
17 and March 1, 2011. **A hearing on this Order to Show Cause shall take**
18 **place before Chief Judge Audrey B. Collins on June 20, 2011 at 10:00**
19 **a.m. in Courtroom 680, Roybal Federal Building, 255 East Temple**
20 **Street, Los Angeles, California 90012.**

21 If MR. MCGEE objects to being held in civil contempt, he shall
22 file a legal memorandum of points and authorities containing his
23 objections **no later than May 23, 2011.** The government may file a
24 response **no later than June 6, 2011.**

25 The government is **ORDERED** to **personally serve** this Order on MR.
26 MCGEE and file proof of that service **no later than May 9, 2011.**

27 **MR. MCGEE is advised that, should he fail to appear before this**
28 **Court on the date and time ordered, among the civil penalties to which**

1 he may be subject are fines and imprisonment, and a bench warrant may
2 be issued for his arrest.

3 MR. MCGEE is also urged to consider retaining counsel for the
4 June 20, 2011 hearing.

5
6 IT IS SO ORDERED.

Audrey B. Collins

7
8 DATED: April 28, 2011

9 AUDREY B. COLLINS
10 CHIEF UNITED STATES DISTRICT JUDGE

11 CC: Michael Kevin McGee
12 Certified mail