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NOTE: CHANGES MADE BY THE COURT

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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 William Brockhaus,
15 Plaintiff,
16 v.
17 Luis Miguel Gallego Basteri
18 a/k/a Luis Miguel,
19 Defendant.

Case No.: 2:16-cv-06275-VAP (JPRx)

**~~PROPOSED~~ FINDINGS OF FACT
IN SUPPORT OF CONTEMPT
ORDER AGAINST THIRD PARTY
JOE MADERA**

21 **TO THIS HONORABLE COURT AND ALL INTERESTED PARTIES:**

22 Plaintiff William Brockhaus (“Plaintiff”) hereby submits the following
23 proposed findings of fact in support of an order of contempt.

24 Proposed Findings of Fact

25 1. Plaintiff obtained a judgment in the Southern District of New York
26 against Defendant Luis Miguel Gallegos Basteri a/k/a Luis Miguel (“Defendant”)
27 in the amount of \$1,043,483.77, which judgment was registered in this Court at
28 Dkt. No. 1.

1 2. A writ of execution was issued on August 22, 2016 for the full amount
2 of the judgment plus interest at Dkt No. 7.

3 3. On January 3, 2017, Plaintiff applied for a judgment debtor exam
4 before this Court at Dkt. No. 15. The application was referred by Judge Phillips to
5 Hon. Magistrate Judge Jean P. Rosenbluth for consideration at Dkt. No. 17.

6 4. On January 4, 2017, Magistrate Judge Rosenbluth ordered the
7 personal appearance of Defendant for a judgment debtor exam on February 16,
8 2017 at 9:30 a.m. in Courtroom 827-A of the above-referenced court at Dkt. No.
9 19. As reflected in representations made by counsel to the Court at the hearing on
10 February 16, 2017, as well as the declaration of due diligence and proofs of service
11 filed on February 13, 2017, Plaintiff had difficulty effecting personal service on
12 Defendant but was ultimately able to do so on February 10, 2017. Plaintiff had
13 apparently also posted notice of the judgment debtor exam on the gate of
14 Defendant's residence and mailed a copy of the notice to Defendant, as reflected in
15 Dkt. 23.

16 5. On February 13, 2017 Plaintiff applied for a judgment debtor exam of
17 third party witness Joe Madera at Dkt. No. 24. Mr. Madera was ordered to appear
18 on March 10, 2017 at 1:30 pm, as reflected in the Court's order at Dkt. No. 27.
19 Mr. Madera was personally served no later than 10 days before the exam as
20 reflected in the proof of personal service filed on March 7, 2017. See Dkt. No. 33.

21 6. Counsel from New York appearing *pro hac vice* for Plaintiff appeared
22 for Defendant's judgment debtor exam before this Court on February 16, 2017. No
23 appearance was made by Defendant or his counsel. Magistrate Judge Rosenbluth
24 continued the exam to March 9, 2017 and ordered Plaintiff to serve notice of the
25 exam, including minutes of the proceeding, on Defendant by personal service as
26 reflected in the Court Minutes at Dkt. No.28.

27 7. On February 23, 2017, Defendant was personally served with notice
28 of the exam and Court Minutes at the Aria Hotel in Las Vegas, Nevada in the valet

1 area. Proof of personal service was filed on March 2, 2017 at Dkt. No. 29. The
2 Court has evaluated the proof of service that was filed and finds it to be valid on its
3 face and reflecting timely service of the documents required on Defendant to
4 require his appearance on March 9, 2017 for a judgment debtor exam.

5 8. Counsel from New York appearing *pro hac vice* for Plaintiff appeared
6 for Defendant's judgment debtor exam before this Court on March 9, 2017. Again
7 no appearance was made by Defendant or his counsel. Neither Defendant nor his
8 counsel attempted to continue the judgment debtor exam by contacting the Court,
9 and Plaintiff's counsel has represented that no attempts were made to Plaintiff to
10 continue the exam. Plaintiff's counsel requested a bench warrant be issued or
11 Defendant fined for his non-appearance. Although the Court denied this request, it
12 appears to the Magistrate Judge that Defendant Luis Miguel is in contempt of a
13 court order. See Dkt. No. 34.

14 9. Counsel from New York appearing *pro hac vice* for Plaintiff appeared
15 for Mr. Madera's exam before this Court on March 10, 2017 at 1:30 pm. No
16 appearance was made by Mr. Madera or his counsel. Neither Mr. Madera nor his
17 counsel attempted to continue the judgment debtor exam by contacting the Court
18 and Plaintiff's counsel has represented that no attempts were made to Plaintiff to
19 continue the exam. It appears to the Magistrate Judge that Mr. Madera is in
20 contempt of a court order. It is therefore recommended that the District Judge set
21 an Order to Show Cause re: Contempt.

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1 DATED: March 14, 2017

EPSTEIN BECKER & GREEN, P.C.

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3 By: /s/ Amy B. Messigian

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David Jacobs
Amy B. Messigian
Kenneth J. Kelly

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Attorneys for Plaintiff
WILLIAM BROCKHAUS

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Dated: March 17, 2017

Honorable Jean P. Rosenbluth,
Magistrate Judge of the U.S. District Court

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16 CC: Judge Phillips

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