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7 **UNITED STATES DISTRICT COURT**

8 EASTERN DISTRICT OF CALIFORNIA

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10 LA-KEBBIA WILSON; TERI McCADA,

Case No. 1:09-cv-00887-LJO-SKO

11 Plaintiffs,

**ORDER FOR APPEARANCE AND
EXAMINATION OF JUDGMENT
DEBTOR TERI McCADA**

12 v.

13 (Doc. 43)

14 CITY OF FRESNO,

15 Defendant.
16 _____/

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18 **I. INTRODUCTION**

19 On December March 29, 2011, summary judgment was granted against Plaintiff Teri McCada
20 and in favor of Defendant City of Fresno, and judgment was issued accordingly. (Doc. 51; 52.) A bill
21 of costs of was submitted by the City of Fresno against Plaintiff Teri McCada, and the Court ordered
22 \$4,491.47 taxed as costs. (Docs. 58; 85.)¹ An abstract of Judgment was issued against Terri McCada
23 on December 10, 2013, for \$4,491.47.

24 On December 16, 2014, Plaintiffs filed an application and request for an order for the
25 appearance and examination of judgment debtor Teri McCada. (Doc. 96.) For the reasons set
26 forth below, Teri McCada is ordered to appear personally on Wednesday, February 11, 2015, at
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¹ The costs taxed by the Court were amended on November 8, 2013. (Doc. 85.)

1 9:30 a.m. in Courtroom 7 of the United States District Courthouse, located at 2500 Tulare Street,
2 Fresno, California, 93721, to furnish information to aid in enforcement of a money judgment by
3 answering questions about the Plaintiff/judgment debtor's real and person property.

4 II. DISCUSSION

5 Federal Rule of Civil Procedure 69 governs enforcement of judgment proceedings in
6 federal courts. *Hilao v. Estate of Marcos*, 95 F.3d 848, 851 (9th Cir. 1996). Rule 69(a) provides:

7 (1) Money Judgment; Applicable Procedure. A money judgment is enforced
8 by a writ of execution, unless the court directs otherwise. The procedure on
9 execution – and in proceedings supplementary to and in aid of judgment or
10 execution – must accord with the procedure of the state where the court is located,
11 but a federal statute governs to the extent it applies.

12 (2) Obtaining Discovery. In aid of the judgment or execution, the judgment
13 creditor or a successor in interest whose interest appears of record may obtain
14 discovery from any person--including the judgment debtor--as provided in these
15 rules or by the procedure of the state where the court is located.

16 Fed. R. Civ. P. 69(a)(1)-(2).

17 Judgment debtor proceedings under California law “permit the judgment creditor to
18 examine the judgment debtor, or third persons who have property of or are indebted to the
19 judgment debtor, in order to discover property and apply it toward the satisfaction of the money
20 judgment.” *Imperial Bank v. Pim Elec., Inc.*, 33 Cal. App. 4th 540, 546-47; *see also* Cal. Civ.
21 Proc. Code, §§ 708.110-708.205. All assets of a judgment debtor are subject to enforcement. Cal.
22 Civ. Proc. Code, § 695.010 (a).

23 California Code of Civil Procedure § 708.110 provides in relevant part:

24 (a) The judgment creditor may apply to the proper court for an order requiring
25 the judgment debtor to appear before the court, or before a referee appointed by
26 the court, at a time and place specified in the order, to furnish information to aid
27 in enforcement of the money judgment.

28 (b) If the judgment creditor has not caused the judgment debtor to be examined
under this section during the preceding 120 days, the court shall make an order
upon ex parte application of the judgment creditor.

(c) If the judgment creditor has caused the judgment debtor to be examined under
this section during the preceding 120 days, the court shall make the order if the
judgment creditor by affidavit or otherwise shows good cause for the order. The
application shall be made on noticed motion if the court so directs or a court rule
so requires. Otherwise, it may be made ex parte.

1 (d) The judgment creditor shall personally serve a copy of the order on the
2 judgment debtor not less than 10 days before the date set for examination.
3 Service shall be made in the manner specified in Section 145.10. Service of the
4 order creates a lien on the personal property of the judgment debtor for a period of
5 one year from the date of the order unless extended or sooner terminated by the
6 court.

7 (e) The order shall contain the following statement in 14-point boldface type if
8 printed or in capital letters if typed: "NOTICE TO JUDGMENT DEBTOR. If
9 you fail to appear at the time and place specified in this order, you may be subject
10 to arrest and punishment for contempt of court and the court may make an order
11 requiring you to pay the reasonable attorney's fees incurred by the judgment
12 creditor in this proceeding."

13 Cal Civ. Proc. Code § 708.110(a)-(e).

14 California Code of Civil Procedure § 708.160(a) also provides that "[e]xcept as otherwise
15 provided in this section, the proper court for examination of a person under this article is the court
16 in which the money judgment is entered." Cal. Civ. Proc. Code, § 708.160(a). Here, judgment
17 was entered by this Court on March 29, 2011. (Docs. 51; 52.)

18 As such, Defendants' application sets forth the showing required by Federal Rule of Civil
19 Procedure 69(a)(2) and the applicable provisions of the California Code of Civil Procedure
20 §§ 708.110 and 708.160.

21 **III. CONCLUSION AND ORDER**

22 Accordingly, IT IS HEREBY ORDERED that:

23 1. Plaintiff/judgment debtor Teri McCada **shall appear personally on Wednesday,**
24 **February 11, 2015, at 9:30 a.m.** in Courtroom 7 of the United States District Courthouse, located
25 at 2500 Tulare Street, Fresno, California, 93721, to furnish information to aid in enforcement of a
26 money judgment by answering questions about the Plaintiff/judgment debtor's real and person
27 property;

28 2. Defendant/judgment creditor must serve this order upon Plaintiff/judgment debtor
Teri McCada personally not less than ten (10) days before the date set for the examination and
must file a certificate of such service with the Court; and

3. If Defendant/judgment creditor is unable to effectuate personal service on
Plaintiff/judgment debtor Teri McCada within the required time, Defendant/judgment creditor

1 must file notice with the Court by no later than nine (9) days before the date set for the
2 examination and inform the Court that the examination hearing must be taken off calendar.

3 NOTICE TO JUDGMENT DEBTOR. IF YOU FAIL TO APPEAR AT THE TIME AND
4 PLACE SPECIFIED IN THIS ORDER, YOU MAY BE SUBJECT TO ARREST AND
5 PUNISHMENT FOR CONTEMPT OF COURT AND THE COURT MAY MAKE AN ORDER
6 REQUIRING YOU TO PAY THE REASONABLE ATTORNEY'S FEES INCURRED BY THE
7 JUDGMENT CREDITOR IN THIS PROCEEDING.²

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9 IT IS SO ORDERED.

10 Dated: December 18, 2014

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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² This notice is furnished pursuant to California Code of Civil Procedure § 708.110(e).