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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL DELGADO,
Plaintiff,
v.

CASE NO. 1:11-cv-00379-LJO-SKO
**ORDER FOR APPEARANCE AND
EXAMINATION OF JUDGMENT
DEBTOR JUAN GALINDO**
(Doc. 30)

ALI SADIK, dba Bulter Mini Mart; JUAN
GALINDO, dba Bulter Mini Mart,
Defendants.

_____ /

I. INTRODUCTION

On January 17, 2012, the Court entered judgment against Defendant Juan Galindo. (Docs. 27, 28.) On March 29, 2012, Plaintiff filed a request for the issuance of an abstract of judgment, which was issued by the Court on April 2, 2012. (Docs. 29, 32.) On March 29, 2012, Plaintiff filed an ex parte application seeking a court order requiring the appearance and examination of judgment debtor Juan Galindo on May 9, 2012. (Doc. 30.)

II. DISCUSSION

Pursuant to Federal Rule of Civil Procedure 69(a)(1), "[t]he procedure on execution – and in proceedings supplementary to and in aid of judgment or execution – must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies."

In turn, California Code of Civil Procedure § 708.160 provides, in relevant part:

(a) Except as otherwise provided in this section, the proper court for examination of

1 a person under this article is the court in which the money judgment is entered.

2 (b) A person sought to be examined may not be required to attend an examination
3 before a court located outside the county in which the person resides or has a place
4 of business unless the distance from the person's place of residence or place of
5 business to the place of examination is less than 150 miles.

6 (c) If a person sought to be examined does not reside or have a place of business in
7 the county where the judgment is entered, the superior court in the county where the
8 person resides or has a place of business is a proper court for examination of the
9 person.

10 Cal. Civ. Proc. Code §§ 708.160(a)-(c).

11 Plaintiff's application sets forth the showing required by Federal Rule of Civil Procedure
12 69(a)(2) and the applicable provisions of the California Code of Civil Procedure § 708.160.

13 III. CONCLUSION

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Defendant/judgment debtor Juan Galindo shall appear personally on Wednesday,
16 May 9, 2012, at 9:30 a.m. in Courtroom 7 of the United States District Courthouse,
17 located at 2500 Tulare Street, Fresno, California, 93721, to answer questions
18 concerning Defendant/judgment debtor Juan Galindo's real and personal property;
19 and
- 20 2. Plaintiff/judgment creditor must serve this order upon Juan Galindo personally not
21 less than 10 days before the date set for the examination and must file a certificate
22 of such service with the Court.

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

28 IT IS SO ORDERED.

Dated: April 6, 2012

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE