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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

AGCS MARINE INSURANCE CO.,
Plaintiff,
v.
SHREDALL, INC.,
Defendant.

Case No. 1:12-cv-01935-SAB
ORDER FOR APPEARANCE AND
EXAMINATION OF JUDGMENT DEBTOR
SHREDALL
(ECF No. 25)

I.
INTRODUCTION

Pursuant to the stipulation of the parties on settlement, judgment was entered in favor of Plaintiff AGCS Marine Insurance Co. and against Defendant Shredall, Inc. in this action in the amount of \$325,800.00 on September 25, 2013. (ECF No. 21.) An abstract of judgment issued on August 22, 2014. (ECF No. 24.) On this same date, Plaintiff filed the instant application for order for appearance and examination of the judgment debtor. (ECF No. 25.)

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

1 applies." "[T]he procedure on execution is to be in accordance with the procedure of the state in
2 which the district court is located at the time the remedy is sought." In re Estate of Ferdinand
3 Marcos Human Rights Litigation, 536 F.3d 980, 987-88 (9th Cir. 2008). In turn, California Code
4 of Civil Procedure § 708.110 provides, in relevant part:

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

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

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

17 (d) The judgment creditor shall personally serve a copy of the order on the
18 judgment debtor not less than 10 days before the date set for the examination.
19 Service shall be made in the manner specified in Section 415.10. Service of the
20 order creates a lien on the personal property of the judgment debtor for a period of
21 one year from the date of the order unless extended or sooner terminated by the
22 court.

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

Cal Civ. Proc. Code § 708.110(a)-(e).

California Code of Civil Procedure § 708.160(b) also provides that "[a] person sought to
be examined may not be required to attend an examination before a court located outside the
county in which the person resides or has a place of business unless the distance from the person's
place of residence or place of business to the place of examination is less than 150 miles." Cal.
Civ. Proc. Code § 708.160(b).

The Court finds that Defendant has satisfied the requirement of 28 U.S.C. § 1963 because
judgment in the amount of \$325,800.00 in the favor of Plaintiff has been entered by this Court.
Additionally, Plaintiff's application sets forth the showing required by Federal Rule of Civil

1 Procedure 69(a)(2) and the applicable provisions of the California Code of Civil Procedure §§
2 708.110 and 708.160.

3 **III.**

4 **CONCLUSION**

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Defendant/judgment debtor Shredall, Inc. shall appear personally on **Wednesday,**
7 **October 29, 2014, at 10:00 a.m.** in Courtroom 9 of the United States District
8 Courthouse, located at 2500 Tulare Street, Fresno, California, 93721, to furnish
9 information to aid in enforcement of a money judgment by answering questions
10 about the Defendant/judgment debtor's real and personal property; and
- 11 2. Plaintiff/judgment creditor must serve this order upon Defendant/judgment debtor
12 Shredall, Inc. personally not less than ten (10) days before the date set for the
13 examination and must file a certificate of such service with the Court.

14 **NOTICE TO JUDGMENT DEBTOR. IF YOU FAIL TO APPEAR AT THE TIME**
15 **AND PLACE SPECIFIED IN THIS ORDER, YOU MAY BE SUBJECT TO ARREST**
16 **AND PUNISHMENT FOR CONTEMPT OF COURT AND THE COURT MAY MAKE**
17 **AN ORDER REQUIRING YOU TO PAY THE REASONABLE ATTORNEY'S FEES**
18 **INCURRED BY THE JUDGMENT CREDITOR IN THIS PROCEEDING.**

19 IT IS SO ORDERED.

20 Dated: August 25, 2014

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22 _____
23 UNITED STATES MAGISTRATE JUDGE