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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NATIVIDAD GUTIERREZ,
Plaintiff,
v.

Case No. 1:13-cv-00642-LJO-SKO
**ORDER FOR APPEARANCE AND
EXAMINATION OF JUDGMENT
DEBTOR VANTIA PROPERTIES**
(Doc. 49)

VANTIA PROPERTIES, LLC, et al.,
Defendants.

I. INTRODUCTION

On June 16, 2014, judgment was entered against Defendant Vantia Properties, LLC, and in favor of Plaintiff Natividad Gutierrez, and judgment was issued accordingly. (Docs. 43; 44.) A request for issuance of an abstract of judgment was submitted by Plaintiff against Defendant Vantia Properties, LLC, in the amount of \$12,157.05. (Doc. 45.) An Abstract of Judgment was issued against Vantia Properties, LLC, on June 20, 2014, for \$12,157.05. (Doc. 46.)

On February 5, 2015, Plaintiff filed an application and request for an order for the appearance and examination of judgment debtor Vantia Properties, LLC. (Doc. 49.) For the reasons set forth below, one or more officers, directors, managing agents, or other persons who are familiar with its property and debts of judgment debtor Vantia Properties, LLC, are ordered to appear personally on Wednesday, March 18, 2015, at 10:00 a.m. in Courtroom 7 of the United

1 States District Courthouse, located at 2500 Tulare Street, Fresno, California, 93721, to furnish
2 information to aid in enforcement of a money judgment by answering questions about the
3 Plaintiff/judgment debtor's real and personal 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 § 708.150 pertains to an order for examination of a
15 corporation, partnership, etc., and sets forth that:

16 (a) If a corporation, partnership, association, trust, or other organization is
17 served with an order to appear for an examination, it shall designate to appear and
18 be examined one or more officers, directors, managing agents, or other persons
19 who are familiar with its property and debts.

20 (b) If the order to appear for an examination requires the appearance of a
21 specified individual, the specified individual shall appear for the examination and
22 may be accompanied by one or more officers, directors, managing agents, or other
23 persons familiar with the property and debts of the corporation, partnership,
24 association, trust, or other organization.

25 (c) If the order to appear for the examination does not require the appearance of
26 a specified individual, the order shall advise the corporation, partnership,
27 association, trust, or other organization of its duty to make a designation under
28 subdivision (a).

(d) A corporation, partnership, association, trust, or other organization, whether
or not a party, may appear at an examination through any authorized officer,
director, or employee, whether or not the person is an attorney.

21 Cal. Civ. Proc. Code § 708.150. Here, judgment creditor Natividad Gutierrez’s application does
22 not require the appearance of a specific individual. (Doc. 49.) Accordingly, judgment debtor
23 Vantia Properties, LLC, “shall designate to appear and be examined one or more officers,
24 directors, managing agents, or other persons who are familiar with its property and debts.”

25 Cal. Civ. Proc. Code § 708.150(a).

26 Additionally, California Code of Civil Procedure § 708.160(a) provides that “[e]xcept as
27 otherwise provided in this section, the proper court for examination of a person under this article is
28 the court in which the money judgment is entered.” Cal. Civ. Proc. Code, § 708.160(a). Here,

1 judgment was entered by this Court and in favor of Natividad Gutierrez on March 29, 2011.
2 (Docs. 51; 52.)

3 As such, judgment creditor Natividad Guttierrez's application sets forth the showing
4 required by Federal Rule of Civil Procedure 69(a)(2) and the applicable provisions of the
5 California Code of Civil Procedure §§ 708.110 and 708.160.

6 **III. CONCLUSION AND ORDER**

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. Defendant/judgment debtor Vantia Properties, LLC, shall designate one or more
9 officers, directors, or managing agents who are familiar with Vantia Properties, LLC's property
10 and debts and **shall appear personally on Wednesday, March 18, 2015, at 10:00 a.m.** in
11 Courtroom 7 of the United States District Courthouse, located at 2500 Tulare Street, Fresno,
12 California, 93721, to furnish information to aid in enforcement of a money judgment by answering
13 questions about the Defendant/judgment debtor's real and person property;

14 2. Plaintiff/judgment creditor must serve this order upon Defendant/judgment debtor
15 Vantia Properties, LLC, personally not less than 10 days before the date set for the examination
16 and must file a certificate of such service with the Court; and

17 3. If Plaintiff/judgment creditor is unable to effectuate personal service on
18 Defendant/judgment debtor Vantia Properties, LLC, within the required time, Plaintiff/judgment
19 creditor must file notice with the Court by no later than 9 days before the date set for the
20 examination and inform the Court that the examination hearing must be taken off calendar.

21 NOTICE TO JUDGMENT DEBTOR. IF YOU FAIL TO APPEAR AT THE TIME AND
22 PLACE SPECIFIED IN THIS ORDER, YOU MAY BE SUBJECT TO ARREST AND
23 PUNISHMENT FOR CONTEMPT OF COURT AND THE COURT MAY MAKE AN ORDER

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1 REQUIRING YOU TO PAY THE REASONABLE ATTORNEY'S FEES INCURRED BY THE
2 JUDGMENT CREDITOR IN THIS PROCEEDING.¹

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IT IS SO ORDERED.

Dated: February 12, 2015

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

¹ This notice is furnished pursuant to California Code of Civil Procedure § 708.110(e).