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3 **UNITED STATES DISTRICT COURT**  
4 **EASTERN DISTRICT OF CALIFORNIA**  
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6 **AMUR EQUIPMENT FINANCE, INC. fka**  
7 **Axis Capital, Inc.,**

8 **Plaintiff**

9 **v.**

10 **CHD TRANSPORT, INC. dba Singh**  
11 **Transportation, dba Balvinder Singh**

12 **Defendant**

**CASE NO. 1:17-CV-0416 AWI SKO**

**ORDER REFERRING MATTER TO**  
**MAGISTRATE JUDGE**

(Doc. No. 4)

13 This is a breach of contract matter that was filed by Plaintiff on March 22, 2017.

14 On March 27, 2017, Plaintiff filed an application for writ of possession pursuant to Federal  
15 Rule of Civil Procedure 64 and California Code of Civil Procedure § 512.010 et seq.<sup>1</sup> See Doc.  
16 No. 4.

17 Before a writ of possession will issue, there must be a hearing on a noticed motion.<sup>2</sup> See  
18 Cal. Code Civ. P. § 512.020(a). Here, Plaintiff has not yet set a hearing date, and there is no  
19 indication that Defendant has been served with the application. Once Defendant has been served,  
20 it is anticipated that Plaintiff will notice hearing on its application. In anticipation of Plaintiff  
21 setting a hearing date, the Court finds it appropriate to refer Plaintiff's application for a writ of  
22 possession to Magistrate Judge Oberto for entry of Findings and Recommendations pursuant to 28  
23 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72.<sup>3</sup>

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25 <sup>1</sup> Plaintiff also references Local Rule 64.1. See Doc. No. 4 at 2:2-3. However, the Eastern District of California does not have a Local Rule 64.1.

26 <sup>2</sup> A write of possession may be obtained on an ex parte basis. See Cal. Code Civ. P. § 512.020(b). However, the  
27 application in this case does not state that it is being made on an ex parte basis, and the requirements of § 512.020(b)  
28 have not been addressed. Therefore, the Court will not view the application as being made ex parte.

<sup>3</sup> Because the Court is referring the matter to Magistrate Judge Oberto, the hearing on the application for writ of possession should noticed for Magistrate Judge Oberto.

ORDER

Accordingly, it is HEREBY ORDERED that the pending application for a writ of possession (Doc. No. 4) is REFERRED to Magistrate Judge Oberto for the purposes of entering Findings and Recommendation.

IT IS SO ORDERED.

Dated: March 28, 2017

  
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SENIOR DISTRICT JUDGE