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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

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12 In re: BETSEY WARREN
13 LEBBOS,

Debtor,

14 BETSEY WARREN LEBBOS,

Appellant,

16 v.

17 LINDA SCHUETTE,

18 Appellee.
19 _____/

NO. CIV. S-08-1726 FCD

MEMORANDUM AND ORDER

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21 This matter is before the court on pro se appellant Betsey
22 Warren Lebbos' ("Lebbos") appeal¹ of the bankruptcy court's order
23 directing the clerk of the court to register the default judgment
24 entered against Lebbos so that appellee Linda Schuette
25 _____

26 ¹ Because the court finds that oral argument will not be
27 of material assistance, it orders this matter submitted on the
28 briefs. E.D. Cal. L.R. 78-230(h). The court also notes that
Lebbos expressly waived oral argument. (Docket #14.)

1 ("appellee") could file a certified copy of the judgment in the
2 United States District Court for the Central District of
3 California. (Docket #8.) The bankruptcy court entered default
4 judgment against Lebbos as a terminating sanction for her
5 discovery abuses. Lebbos previously appealed that decision to
6 this court. (See Case No. Civ. S-08-912 FCD.) On January 26,
7 2009, this court affirmed the bankruptcy court's decision to
8 strike Lebbos' answer and enter her default as a terminating
9 sanction for various discovery abuses. (Mem. & Order, filed Jan.
10 26, 2009, Case No. Civ. S-08-912 FCD [holding that under "the
11 rare and extreme circumstances of this case, the bankruptcy court
12 acted well within its discretion" in entering default against
13 Lebbos, and ultimately default judgment, as a sanction pursuant
14 to Fed. R. Civ. P. 37(d)].)

15 Lebbos now appeals the bankruptcy court's subsequent order
16 directing that the default judgment be registered by the clerk of
17 this court so that appellee could file the judgment in the
18 Central District of California; appellee sought to file the
19 judgment in that court in order to enforce the judgment against
20 the subject property which is located in the Central District.
21 Pursuant to 28 U.S.C. § 158(a), Lebbos again elected appeal to
22 this court.

23 The court has reviewed the parties' briefs² and the
24 underlying record, as contained within the excerpts of record
25 submitted by Lebbos and appellee, and by this order, issues its
26 decision AFFIRMING the bankruptcy court's order directing the

27
28 ² Despite being provided with additional time to file a
reply brief, Lebbos did not do so. (Docket #12.)

1 registration of the default judgment against Lebbos. This court
2 cannot find that the bankruptcy court abused its discretion in
3 rendering this order.

4 **BACKGROUND**

5 On January 3, 2007, appellee filed an adversary complaint
6 against Lebbos, among others. The complaint sought avoidance of
7 two alleged fraudulent transfers of a condominium located in Long
8 Beach, California, recovery of that condominium, turnover of
9 estate property and related declaratory relief. The first of the
10 subject transfers was from Lebbos, as an individual, to Lebbos as
11 Trustee of the Aida Madeline Lebbos No. 2 Trust. The second
12 transfer was from Lebbos as Trustee of the Aida Madeline Lebbos
13 Trust II to Jason P. Gold ("Gold") and Thomas Carter ("Carter")
14 as Trustees of the Aida Madeline Lebbos Trust II.

15 After being served with the adversary complaint, Lebbos
16 engaged in a litany of actions and activities designed to avoid
17 substantive participation in the litigation, including numerous
18 motions to dismiss, motions to transfer venue, motions to
19 disqualify appellee as the Chapter 7 trustee in Lebbos' parent
20 bankruptcy case, motions to disqualify the bankruptcy judge, and
21 the refusal to participate in discovery. Many of these actions
22 and activities were also engaged in by Lebbos in her parent
23 bankruptcy case both before and after the filing of appellee's
24 adversary complaint.

25 On November 28, 2007, appellee filed a motion in the
26 adversary matter against Lebbos seeking sanctions pursuant to
27 Federal Rule of Civil Procedure 37. Appellee argued that
28 sanctions were warranted based on Lebbos' failure to appear at

1 her properly noticed deposition, her repeated failure to produce
2 documents and based on the court's prior warning that terminating
3 sanctions may be entered if Lebbos continued her conduct.

4 Appellee requested either monetary or terminating sanctions.

5 The sanctions motion was heard on January 16, 2008, and by a
6 memorandum decision of February 13, 2008, the bankruptcy court
7 granted appellee's motion, striking Lebbos' answer and entering
8 default against Lebbos as a terminating sanction pursuant to Rule
9 37. Appellee subsequently filed an application for entry of
10 default judgment, and the bankruptcy court entered judgment
11 against Lebbos by order of April 17, 2008. (Lebbos' Excerpts of
12 Record ["LER"], filed Jan. 7, 2009, at Ex. D-24.) Said order
13 voided the two transfers of the condominium between Lebbos, Gold
14 and Carter and awarded recovery of all right, title and interest
15 in the condominium held by Lebbos, Gold and Carter to appellee.
16 (Id. at Ex. D-24-26.) Lebbos, Gold and Carter were directed to
17 turn over the condominium, all keys, access codes and access
18 cards to the condominium and its common areas and all insurance
19 information for the condominium to appellee. (Id.) Appellee was
20 granted immediate access to, control over and possession of the
21 condominium. (Id.)

22 Lebbos, Gold and Carter refused to voluntarily comply with
23 the judgment. Because the condominium was located in Long Beach,
24 California, in the Central District, on May 13, 2008, appellee
25 filed a motion for an order directing the clerk to register the
26 judgment pursuant to 28 U.S.C. § 1963. (LER at Exs. E-I.) All
27 moving papers were served on Lebbos, Gold and Carter.

28 (Appellee's Excerpts of Record ["AER"], filed Jan. 15, 2009, at

1 Ex. 1.) Lebbos filed an opposition to the motion. (LER at Ex.
2 J49-52.) The bankruptcy court heard oral argument on the motion
3 on June 18, 2008, and later that day issued its memorandum
4 decision granting appellee's motion. (Id. at Ex. A1-6.) The
5 court's order directing the clerk to register the judgment was
6 later filed on July 17, 2008. (Id. at Ex. B7-8.) The instant
7 appeal followed.

8 **STANDARD OF REVIEW**

9 An order allowing registration of a judgment under 28 U.S.C.
10 § 1963 is reviewed for abuse of discretion. Columbia Pictures
11 Industries, Inc. v. Krypton Broadcasting of Birmingham, Inc., 259
12 F.3d 1186, 1197 (9th Cir. 2001).

13 **ANALYSIS**

14 Pursuant to 28 U.S.C. § 1963, a judgment for the recovery of
15 money or property entered in a bankruptcy court may be registered
16 by filing a certified copy of the judgment in any other district,
17 but only when the judgment has become final by appeal or
18 expiration of the time for appeal or "when ordered by the court
19 that entered the judgment for good cause shown." The procedure
20 is typically invoked where a judgment debtor has assets in a
21 district other than the one in which the judgment was entered.
22 See Finova Capital Corp. v. Richard A. Arledge, Inc., 2008 U.S.
23 Dist. LEXIS 27868, *6 (D. Ariz. 2008).

24 In this case, the rationale for permitting registration of
25 the judgment is compelling. The judgment at issue directly
26 awards appellee all right, title and interest in the subject
27 condominium which is located in the Central District. At the
28 time appellee sought registration of the judgment, Lebbos had

1 appealed the judgment, she had not obtained a stay of the
2 judgment nor posted a bond and she had not turned over control
3 of, access to or possession of the property to appellee. The
4 bankruptcy court properly found that these facts constituted
5 "good cause" for permitting registration of the judgment in the
6 Central District as a necessary and appropriate enforcement
7 mechanism. The bankruptcy court limited its order to
8 registration of the judgment in the Central District alone, as it
9 found that appellee had not shown Lebbos had assets in any other
10 judicial district. (LER at Ex. A4-5.) Thus, contrary to Lebbos'
11 suggestions, the bankruptcy court's order is not overbroad.
12 Moreover, Lebbos' arguments on this appeal are largely inapposite
13 to the good cause inquiry under Section 1963. Her arguments go
14 to the merits of the judgment, and this court has previously
15 resolved those arguments against Lebbos, affirming the bankruptcy
16 court's decision to enter the default judgment based on Lebbos'
17 discovery abuses.

18 In sum, this court has previously affirmed the bankruptcy
19 court's entry of default judgment against Lebbos, and the
20 subsequent registration of that judgment, in order to allow
21 appellee to enforce it in another district where the property is
22 located, was well within the bankruptcy court's discretion
23 considering the facts of this case.³

24
25 ³ In bringing this appeal, Lebbos makes allegations of
26 improper service of the motion for registration of the judgment
27 and the orders granting the motion. However, as the excerpts of
28 record reveal, Lebbos was properly served with the relevant
papers. Whether other persons, not involved in this appeal, were
properly served is not issue. Moreover, since Lebbos failed to
raise this issue before the bankruptcy court, it is not properly
raised on appeal. See Turnacliff v. Westly, 546 F.3d 1113, 1120

1 **CONCLUSION**

2 For the foregoing reasons, Lebbos' appeal of the bankruptcy
3 court's order directing registration of the default judgment
4 against her is denied. The bankruptcy court's decision
5 permitting registration of the judgment so that appellee can
6 enforce it in the Central District of California is AFFIRMED.
7 The Clerk of the Court is directed to close this file.

8 IT IS SO ORDERED.

9 DATED: April 20, 2009

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FRANK C. DAMRELL, JR.
12 UNITED STATES DISTRICT JUDGE

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(9th Cir. 2008).