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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

VICTOR RODAS,  
  
Plaintiff,  
  
v.  
  
CREDITORS SPECIALTY SERVICE,  
INC., et al.,  
  
Defendants.

No. 2:11-cv-209-JAM-DAD

**ORDER DENYING PLAINTIFF'S MOTION  
TO ENFORCE SETTLEMENT OR IN THE  
ALTERNATIVE TO COMPEL RESPONSES  
TO POST-JUDGMENT DISCOVERY**

16 Presently before the Court is Plaintiff Victor Rodas's  
17 ("Plaintiff") Motion to Enforce Settlement or in the Alternative  
18 to Compel Responses to Post-Judgment Discovery (Doc. #57).<sup>1</sup>  
19 Defendant Creditors Specialty Service, Inc. ("Defendant") opposes  
20 the motion (Doc. #59) and Plaintiff replied (Doc. #61).

21 This action stems from Plaintiff's allegations that  
22 Defendant violated the Fair Debt Collection Practices Act and the  
23 Fair Credit Reporting Act. Plaintiff accepted Defendant's offer  
24 of judgment on December 11, 2012 (Doc. #48) and successfully  
25 moved for attorneys' fees (Doc. #52). The parties agree that

26  
27 <sup>1</sup> This motion was determined to be suitable for decision without  
28 oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled  
for July 24, 2013.

1 Plaintiff is entitled to payment in the amount of \$17,000 -  
2 \$2,000 for the statutory claims pursuant to the settlement and  
3 \$15,000 for attorneys' fees.

4 In an attempt to enforce the settlement and collect on the  
5 judgment, Plaintiff served post-judgment discovery requests on  
6 Defendant's counsel on March 13, 2013. Plaintiff received no  
7 response to his discovery requests and the judgment remains  
8 unpaid. Plaintiff brought the present motion to obtain a court  
9 order directing Defendant to pay the judgment or, in the  
10 alternative, compel responses to Plaintiff's discovery requests.

11 Defendant opposes the motion on the grounds that the  
12 judgment needs to be enforced directly against the judgment  
13 debtor, which means that all post-judgment discovery must be  
14 served directly on Defendant, not Defendant's counsel. Defendant  
15 does not dispute that the judgment is otherwise valid and  
16 enforceable, but argues that Plaintiff must proceed through a  
17 writ of execution under Federal Rule of Civil Procedure 69(a) and  
18 California law, which he has not done. Plaintiff responds that  
19 under both the federal rules and California law, post-judgment  
20 discovery is properly served on a judgment debtor's counsel.

21 Under the Federal Rules of Civil Procedure, "[a] money  
22 judgment is enforced by a writ of execution . . . . The  
23 procedure on execution . . . must accord with the procedure of  
24 the state where the court is located . . . ." Fed. R. Civ. P.  
25 69(a)(1). Post-judgment discovery may be sought in accordance  
26 with the federal rules or state law. Fed. R. Civ. P. 69(a)(2).  
27 "[W]here state rules of practice and procedure do not specify the  
28 method of service in supplementary proceedings [under Rule 69],

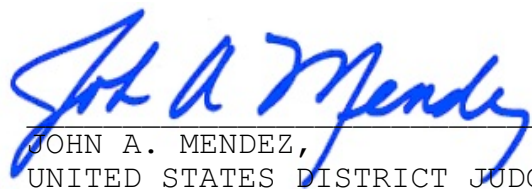
1 the federal rules govern.” Cerami v. Robinson, 85 F.R.D. 371,  
2 372-73 (S.D.N.Y. 1980) (citing Rumsey v. George E. Failing Co.,  
3 333 F.2d 960, 962 (10th Cir. 1964)). In California, the Code of  
4 Civil Procedure sections that govern post-judgment service of  
5 process require service directly to the judgment debtor instead  
6 of the attorney for the judgment debtor. Cal. Civ. Proc. Code  
7 § 684.020(a).

8 In this case, it is clear that California has a specific  
9 process that governs service of all post-judgment papers,  
10 requiring that they be served on the judgment debtor directly.  
11 Since California has a specific rule, Federal Rule of Civil  
12 Procedure 5, which requires service on the judgment debtor’s  
13 attorney of record, is inapplicable. Cerami, 85 F.R.D. at 372-  
14 73. Plaintiff also argues that under California Code of Civil  
15 Procedure § 684.010, post-judgment papers must be served on a  
16 party’s attorney. That section, however, only applies to the  
17 attorney for the judgment creditor, but Defendant is the judgment  
18 debtor in this case. Because the discovery requests were not  
19 properly served, there is accordingly no basis upon which to  
20 compel Defendant’s response.

21 Plaintiff’s motion is not supported by citation to  
22 applicable authority so it is accordingly DENIED. Plaintiff must  
23 enforce his judgment in accordance with Federal Rule of Civil  
24 Procedure 69 and the relevant California statutes.

25 IT IS SO ORDERED.

26 Dated: August 2, 2013

  
JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE