

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. 2:11-mc-00064 LKK KJN

v.

PATRICIA K. THOMAS,

Defendant and
Judgment Debtor.

ORDER

Presently before the court is plaintiff’s amended application for a writ of continuing garnishment (“Application”), seeking the garnishment of 70% of defendant’s disposable earnings in furtherance of the payment of a criminal restitution balance in the amount of \$1,860,660.43 (which includes interest as of October 6, 2011).¹ The court heard this matter on its law and motion calendar on November 10, 2011. Assistant United States Attorney Bobbie J. Montoya appeared on behalf of plaintiff. Attorney Mark S. Axup appeared on behalf of defendant.²

¹ This case proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(7) and 28 U.S.C. § 636(b)(1). The related criminal action is United States v. Thomas, 2:02-cr-00152 LKK-1 (E.D. Cal.).

² Mr. Axup appeared in this action on October 17, 2011 (Dkt. No. 15).

1 For the reasons stated on the record at the hearing, IT IS HEREBY ORDERED

2 that:

3 1. Defendant shall file a supplemental response to plaintiff’s Application no
4 later than November 25, 2011.³

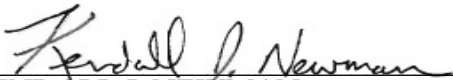
5 2. Plaintiff may file a reply to defendant’s response, if any, on or before
6 December 12, 2011.

7 3. The court will set a subsequent hearing on the Application if the court
8 deems such a hearing necessary.

9 4. Defendant shall pay as restitution, on an interim basis, 25% of her gross
10 bi-weekly pay directly to the office of the United States Attorney for the Eastern District of
11 California. Plaintiff’s next such payment shall be made on November 18, 2011, and such
12 payments shall continue on a bi-weekly basis until entry of a final order on plaintiff’s
13 Application.

14 IT IS SO ORDERED.

15 DATED: November 10, 2011

16
17 
18 KENDALL J. NEWMAN
19 UNITED STATES MAGISTRATE JUDGE
20
21
22
23

24 _____
25 ³ Defendant was proceeding without counsel until October 17, 2011, when Mr. Axup
26 appeared on defendant’s behalf and obtained a continuance of the hearing in this case. At no point before the November 10, 2011 hearing did Mr. Axup advise the court that he wished to file a supplemental response to plaintiff’s Application.