

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
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	No. 2:15-mc-0016-JAM-KJN
Plaintiff,	No. 2:15-mc-0017-JAM-KJN
v.	No. 2:15-mc-0099-JAM-KJN
HODA SAMUEL,	
Defendant.	<u>ORDER</u>

On January 17, 2017, defendant filed a motion to withdraw the court’s February 17, 2016 consolidated order issued in the above-captioned cases. The United States has opposed the motion. For the reasons discussed below, the defendant’s motion is DENIED.

On February 17, 2016, the court issued a consolidated order in the above-captioned cases overruling claims of exemption and objections to the writs of garnishment, upholding two of the three writs, permitting partial garnishment of the funds subject to the third writ, and granting the United States additional time to further brief certain issues with respect to the third writ. Defendant then appealed the court’s February 17, 2016 order directly to the Ninth Circuit Court of Appeals.

1 On June 1, 2016, and before the United States submitted its supplemental briefing, the
2 court, at the United States' request, stayed the garnishment proceedings pending resolution of a
3 bankruptcy case that had been commenced by defendant and her spouse. The United States was
4 ordered to notify the court within 21 days of resolution of the bankruptcy case and inform the
5 court what issues remain to be adjudicated in the garnishment proceedings.

6 Thereafter, on November 3, 2016, the Ninth Circuit dismissed defendant's appeal upon
7 defendant's own motion on the ground that this court's February 17, 2016 order, issued by a
8 magistrate judge, was not a final appealable order. Defendant then filed the instant motion to
9 withdraw that order.

10 This court finds no proper basis to withdraw the February 17, 2016 order. Although the
11 order is not a final, appealable order, and no judgment has been entered, the court finds no reason
12 to reconsider its findings and conclusions in that order. Once the bankruptcy stay is lifted, the
13 United States, consistent with the court's prior order, will inform the court what issues remain to
14 be adjudicated, and request the issuance of findings and recommendations to the district judge for
15 a final order of garnishment and the entry of judgment.¹

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Defendant's motion to withdraw the court's February 17, 2016 order, filed in each of
18 the above-captioned cases, is DENIED.
- 19 2. The above-captioned cases remain STAYED pending resolution of defendant's
20 bankruptcy case and further order of the court.

21 IT IS SO ORDERED.

22 Dated: March 3, 2017

23 
24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE
26

27 _____
28 ¹ To the extent that the United States requests additional findings and determinations, defendant
will be provided with an opportunity to respond to such a request.