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6 **UNITED STATES DISTRICT COURT**
7 **EASTERN DISTRICT OF CALIFORNIA**
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9 **UNITED STATES OF AMERICA,**

10 **Plaintiff**

11 **v.**

12 **BENJAMIN BUSTAMANTE,**

13 **Defendant and**
14 **Judgment Debtor**

15 _____
16 **THE SF LGBT CENTER,**

17 **Garnishee**

CASE NO. 1:17-mc-0047 AWI EPG

**ORDER FOR INTRADISTRICT
TRANSFER TO SACRAMENTO
DIVISION**

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19 This matter is an application for a writ of garnishment.

20 On April 30, 2010, Defendant Benjamin Bustamante pled guilty pursuant to a plea
21 agreement to wire fraud (18 U.S.C. § 1343). As part of that sentence, Bustamante was ordered to
22 pay nearly \$700,000 in restitution. This sentence and restitution were ordered as part of a criminal
23 case that was prosecuted in the Eastern District of California – Sacramento Division. See United
24 States v. Bustamante, 2:09-CR-504 GEB (E.D. Cal. Sacramento Div.).

25 On July 5, 2017, the United State filed this application for a writ of garnishment that
26 sought to garnish a portion of Bustamante wages from his current employer, The SF LGBT
27 Center. The application was filed with the Eastern District of California – Fresno Division.
28 According to the application, Bustamante and The SF LGBT Center are located in San Francisco.

1 On August 10, 2017, the Magistrate Judge issued a Findings and Recommendation to grant
2 the writ of garnishment. The time for filing objections has passed and no objections were filed by
3 any interested party.

4 Upon review, the Court finds that the application was not properly filed in the Fresno
5 Division. The Fresno Division has absolutely no connection to the criminal conviction, the
6 garnishment order, Bustamante's current location, or The SF LGBT Center. Because the
7 garnishment order was entered as part of the criminal proceedings in the Sacramento Division, the
8 United States should have filed the writ application with the Sacramento Division. The Fresno
9 Division is not the proper venue.

10 Instead of addressing the Findings and Recommendation or the writ application any
11 further, the Court will transfer this matter to the Sacramento Division of the Eastern District of
12 California. See Local Rule 120(f) ("Whenever in any action the Court finds upon its own motion .
13 . . that the action has not been commenced in the proper court in accordance with this Rule, or for
14 other good cause, the Court may transfer the action to another venue within the District.").

15
16 **ORDER**

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Pursuant to Local Rule 120, this matter is TRANSFERRED forthwith to the Sacramento
19 Division of the Eastern District of California; and
20 2. The Court expresses no opinions with respect to the Findings and Recommendation, which
21 remains pending.

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23 IT IS SO ORDERED.

24 Dated: October 6, 2017



25 SENIOR DISTRICT JUDGE
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