

AT-138, EJ-125

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Ronald L. Richman SBN 139189 Susan J. Olson SBN 152467 Bullivant Houser Bailey 601 California Street, Ste 1800 San Francisco, CA 94108 TELEPHONE NO.: (415) 352-2700 FAX NO.: (415) 352-2701 ATTORNEY FOR (Name): Plaintiffs		FOR COURT USE ONLY
NAME OF COURT: United States District Court, Northern District of California STREET ADDRESS: 450 Golden Gate Avenue MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME:		
PLAINTIFF: Jose Moreno et al. DEFENDANT: Division Two Construction, Inc. et al.		
APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION <input checked="" type="checkbox"/> ENFORCEMENT OF JUDGMENT <input type="checkbox"/> ATTACHMENT (Third Person) <input checked="" type="checkbox"/> Judgment Debtor <input type="checkbox"/> Third Person		CASE NUMBER: C 04-5353 JCS MHP

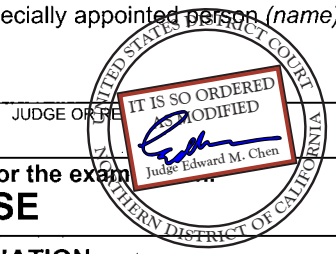
ORDER TO APPEAR FOR EXAMINATION

- TO (name): John Michael Shearer for and on behalf of Division Two Construction, Inc
- YOU ARE ORDERED TO APPEAR personally before this court, or before a referee appointed by the court, to
 - furnish information to aid in enforcement of a money judgment against you.
 - answer concerning property of the judgment debtor in your possession or control or concerning a debt you owe the judgment debtor.
 - answer concerning property of the defendant in your possession or control or concerning a debt you owe the defendant that is subject to attachment.

Date: March 21, 2008 Time: ~~1:30 p.m.~~ 9:15 am Dept. or Div.: Rm.: Courtroom A, 15th Floor
 Address of court shown above is: 450 Golden Gate Avenue, San Francisco, CA (Hon. Edward M. Chen)

3. This order may be served by a sheriff, marshal, registered process server, or the following specially appointed person (name):

Date: February 6, 2008



This order must be served not less than 10 days before the date set for the exam
IMPORTANT NOTICES ON REVERSE

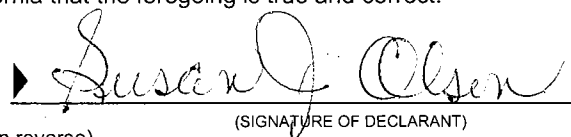
APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION

- Judgment creditor Assignee of record Plaintiff who has a right to attach order
 applies for an order requiring (name): _____ to appear and furnish information to aid in enforcement of the money judgment or to answer concerning property or debt.
- The person to be examined is
 - the judgment debtor.
 - a third person (1) who has possession or control of property belonging to the judgment debtor or the defendant or (2) who owes the judgment debtor or the defendant more than \$250. An affidavit supporting this application under Code of Civil Procedure section 491.110 or 708.120 is attached.
- The person to be examined resides or has a place of business in this county or within 150 miles of the place of examination.
- This court is not the court in which the money judgment is entered or (attachment only) the court that issued the writ of attachment. An affidavit supporting an application under Code of Civil Procedure section 491.150 or 708.160 is attached.
- The judgment debtor has been examined within the past 120 days. An affidavit showing good cause for another examination is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: February 4, 2008

Susan J. Olson


 (SIGNATURE OF DECLARANT)

(TYPE OR PRINT NAME)

(Continued on reverse)

APPEARANCE OF JUDGMENT DEBTOR (ENFORCEMENT OF JUDGMENT)

NOTICE TO JUDGMENT DEBTOR If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

**APPEARANCE OF A THIRD PERSON
(ENFORCEMENT OF JUDGMENT)**

(1) NOTICE TO PERSON SERVED If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

(2) NOTICE TO JUDGMENT DEBTOR The person in whose favor the judgment was entered in this action claims that the person to be examined pursuant to this order has possession or control of property which is yours or owes you a debt. This property or debt is as follows (*Describe the property or debt using typewritten capital letters*):

If you claim that all or any portion of this property or debt is exempt from enforcement of the money judgment, you must file your exemption claim in writing with the court and have a copy personally served on the judgment creditor not later than three days before the date set for the examination. You must appear at the time and place set for the examination to establish your claim of exemption or your exemption may be waived.

APPEARANCE OF A THIRD PERSON (ATTACHMENT)

NOTICE TO PERSON SERVED If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the plaintiff in this proceeding.

**APPEARANCE OF A CORPORATION, PARTNERSHIP,
ASSOCIATION, TRUST, OR OTHER ORGANIZATION**

It is your duty to designate one or more of the following to appear and be examined: officers, directors, managing agents, or other persons who are familiar with your property and debts.

ATTACHMENT A

Debtor is further ordered to produce for inspection the following documents and things at the Appearance and Examination of Judgment Debtor Division Two Construction, Inc. which are described as follows:

- All business and corporate checkbooks for any and all existing accounts including, but not limited to, bank accounts, credit union accounts, savings accounts, investment accounts;
- All bank statements including, but not limited to, bank accounts, credit union accounts, savings accounts, investment accounts showing the current balance in such accounts;
- All statements from any bank account, credit union account, savings account, investment account showing the current balance in such accounts;
- All accounting records identifying all business and corporate accounts and receivables;
- All documents of title identifying any real property owned in whole or in part by Division Two Construction, Inc. or to which Division Two Construction, Inc. has a future interest in;
- All promissory notes or other documents identifying monies due to Division Two Construction, Inc.;
- All documents identifying accounts, funds, monies, credits, receivables, interest, proceeds owing or belonging to Division Two Construction, Inc.;
- All documents identifying personal property, including, but not limited to, computers, office equipment, office furnishings, vehicles, boats owned in whole or in part by Division Two Construction, Inc.;
- All documents identifying any Money Judgments obtained by Division Two Construction, Inc. to which Division Two Construction, Inc. has collected or has a right to collect; and
- All documents identifying any liens that Division Two Construction, Inc. has against any real or personal property or bank accounts, savings accounts and investment accounts.

1 **PROOF OF SERVICE**

2 I am employed in the City and County of San Francisco by the law firm of Bullivant
3 Houser Bailey ("the business"), 601 California Street, Suite 1800, San Francisco, CA 94108. I
4 am over the age of 18 and not a party to this action. On February 4, 2008, I served the
document(s) entitled:

5 **APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION**

6 upon the following party(ies):

7 John Michael Shearer 8 Division Two Construction, Inc. 9 7 Mt Lassen Drive, Suite C-256 San Rafael, California 94903	John Michael Shearer for Division Two Construction, Inc. 7 Mt Lassen Drive, Suite C-256 San Rafael, California 94903
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11 () BY MAIL (CCP § 1013(a)): I am readily familiar with the ordinary practice of the
12 business with respect to the collection and processing of correspondence for mailing
13 with the United States Postal Service. I placed a true and correct copy(ies) of the above-
14 titled document(s) in an envelope(s) addressed as above, with first class postage thereon
fully prepaid. I sealed the aforesaid envelope(s) and placed it(them) for collection and
mailing by the United States Postal Service in accordance with the ordinary practice of
the business. Correspondence so placed is ordinarily deposited by the business with the
United States Postal Service on the same day.

15 () BY FACSIMILE TRANSMISSION (CCP § 1013(e), CRC 2008(e)): I transmitted the
16 document(s) by facsimile transmission by placing it(them) in a facsimile machine
17 (telephone number 415-352-2701) and transmitting it(them) to the facsimile machine
18 telephone number(s) listed above. A transmission report was properly issued by the
transmitting facsimile machine. Each transmission was reported as complete and
without error. A true and correct copy of the transmission report is attached hereto.

19 () BY OVERNIGHT DELIVERY (CCP § 1013(c)): I am readily familiar with the
20 ordinary practice of the business with respect to the collection and processing of
21 correspondence for mailing by Express Mail and other carriers providing for overnight
22 delivery. I placed a true and correct copy(ies) of the above-titled document(s) in an
23 envelope(s) addressed as above, with first class postage thereon fully prepaid. I sealed
the aforesaid envelope(s) and placed it(them) for collection and mailing by Express Mail
or other carrier for overnight delivery in accordance with the ordinary practice of the
business. Correspondence so placed is ordinarily deposited by the business with Express
Mail or other carrier on the same day.

24 () BY PERSONAL SERVICE UPON AN ATTORNEY (CCP § 1011(a)): I placed a true
25 and correct copy(ies) of the above-titled document(s) in a sealed envelope(s) addressed
26 as indicated above. I delivered each of said envelope(s) by hand to a receptionist or a
person authorized to accept same at the address on the envelope, or, if no person was
present, by leaving the envelope in a conspicuous place in the office between the hours
of nine in the morning and five in the afternoon.

27 (X) BY HAND Pursuant to Code of Civil Procedure § 1011, I directed each envelope to the
28 party(ies) so designated on the service list to be delivered by courier this date. A proof
of service by hand executed by the courier shall be filed/lodged with the court under
separate cover.

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() BY PERSONAL SERVICE UPON A PARTY (CCP § 1011(b)): I placed a true and correct copy(ies) of the above-titled document(s) in a sealed envelope(s) addressed as indicated above. I delivered each of said envelope(s) by hand to a person of not less than 18 years of age at the address listed on the envelope, between the hours of eight in the morning and six in the evening.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 4, 2008, at San Francisco, California.



Delores L. Sandefur
