

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KEN WALTERS, et al.,  
Plaintiffs,  
v.  
GOLDEN GATE CRANE & RIGGING, INC.,  
Defendant.

No. C-06-01906 WHA (DMR)  
Consolidated with  
No. C-06-05396 WHA (DMR)

**ORDER RE SERVICE OF ORDER  
SETTING DEBTOR'S EXAMINATION  
OF JUDGMENT DEBTOR ROBERT  
NEWBERRY**

KEN WALTERS, et al.,  
Plaintiffs,  
v.  
GOLDEN GATE CRANE & RIGGING, INC.,  
ROBERT NEWBERRY, SUE NEWBERRY,  
et al.  
Defendants.

On December 7, 2011, the court set these matters for a debtor's examination of Robert Newberry, as an officer of Judgment Debtor Golden Gate Crane & Rigging and in his personal capacity, to take place on January 18, 2012 at 9:00 a.m. at the U.S. District Court, 1301 Clay Street, Oakland, California 94612. [Docket Nos. 145 (Case No. 06-1906); Docket No. 106 (Case No. 06-

1 5396.)] The court also ordered Plaintiffs to serve a copy of the December 7, 2011 Order on  
2 Defendants and to e-file a proof of service on the same day that service is effected.

3 Federal Rule of Civil Procedure 69 directs courts to the “procedure of the state where the  
4 court is located” for guidance as to the execution and enforcement of money judgments. Fed. R.  
5 Civ. P. 69(a)(1). California law provides this court may issue an order for the examination of a  
6 judgment debtor upon an *ex parte* application by a judgment creditor “[i]f the judgment creditor has  
7 not caused the judgment debtor to be examined . . . during the preceding 120 days . . . .” Cal. Code  
8 Civ. Proc. § 708.110(b). The judgment creditor must “personally serve a copy of the order on the  
9 judgment debtor not less than 10 days before the date set for the examination. Service shall be made  
10 in the manner specified in [California Code of Civil Procedure] Section 415.10 . . . .” Cal. Code  
11 Civ. Proc. § 708.110(d).

12 According to the proofs of service filed by Plaintiffs, it does not appear that the December 7,  
13 2011 Order has been personally served on Defendants. Accordingly, Plaintiffs are ordered to  
14 personally serve the court’s December 7, 2011 Order on Defendants by **no later than January 9,**  
15 **2012**, and to e-file a proof of service on the same day that service is effected. In the alternative,  
16 Plaintiffs may file a request that the court vacate the January 18, 2012 debtor’s examination and set  
17 a new date for the examination so that Plaintiffs may properly effect service on Defendants pursuant  
18 to California Code of Civil Procedure section 708.110(d). Any such request shall be filed by no  
19 later than January 9, 2012.

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21 IT IS SO ORDERED.

22  
23 Dated: January 3, 2012



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25 DONNA M. RYU  
United States Magistrate Judge