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UNITED STATES DISTRICT COURT

Northern District of California

Oakland Division

BLUE GRASS MANUFACTURING
COMPANY OF LEXINGTON, INC.,

No. MC 10-80248 WHA (LB)

Plaintiff,

**ORDER DIRECTING
SUPPLEMENTAL BRIEFING RE *EX
PARTE* MOTION FOR PROCESS
SERVER TO LEVY EXECUTION**

v.

BEYOND A BLADE, INC., FLUSH-CUT,
INC., and PAWS OFF TOOLS, LLC

[ECF No. 6]

Defendants.

Plaintiff Blue Grass Manufacturing Company of Lexington, Inc. (“Blue Grass”) filed an unopposed *ex parte* motion seeking an order permitting a private process server to levy execution instead of a United States marshal. ECF No. 6.¹ The district court referred the matter to the undersigned on January 25, 2011. ECF No. 10.

The undersigned observes that Judge Alsup has denied a similar request in the past. *See J & J Sports Productions, Inc. v. Steve Sang Ro* (N.D. Cal. Feb. 19, 2010), No. C 09-02860 WHA, ECF No. 42 at 1-2. In *J & J Sports Productions*, the plaintiff obtained a default judgment in the amount of \$4,350 against the defendant. *Id.* at 1. Then, the plaintiff moved pursuant to section 699.080 of the California Code of Civil Procedure for an order authorizing a process server – instead of United States marshals perform service – to effectuate service of the writ of execution. *Id.* The plaintiff

¹ Citations are to the clerk’s electronic case file (ECF) with pin cites to the electronic page numbers at the top (as opposed to the bottom) of the page.

1 claimed that this would relieve the United States marshals of the burden of effectuating service. *Id.*
2 Judge Alsup denied the request because writs of execution issued by federal district courts are
3 ordinarily served by United States marshals pursuant to 28 U.S.C. § 566(c), and the plaintiff failed
4 to explain what about the matter justified departing from the normal course of action in which
5 United States marshals perform the duty of service. *Id.* at 1-2. Blue Grass did not address this issue
6 either.

7 Therefore, the undersigned **ORDERS** Blue Grass to submit supplemental briefing on why the
8 facts of this case militate in favor of application of California Code of Civil Procedure § 699.080
9 instead of 28 U.S.C. § 566(c) by May 12, 2011.

10 **IT IS SO ORDERED.**

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12 Dated: May 6, 2011



13 LAUREL BEELER
14 United States Magistrate Judge
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