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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROY T. CAVELLINI, et al.,
Plaintiffs,
v.
MICHAEL F. HARRIS, et al.,
Defendants.

Case No. 93-cv-00057-SBA (KAW)

ORDER REQUIRING SUPPLEMENTAL
BRIEFING REGARDING PLAINTIFFS'
MOTION FOR ASSIGNMENT ORDER;
ORDER VACATING NOVEMBER 6, 2014
HEARING

Dkt. No. 350

On October 2, 2014, Plaintiffs and Judgment Creditors (“Plaintiffs”) filed a motion for assignment order against Defendant and Judgment Debtor Michael F. Harris (“Defendant”) to assign any and all rights to payment under the Rita Harris Trust, the Gilbert Harris Bypass Trust and/or the Michael Harris Discretionary Trust. (Pl.’s Mot., Dkt. No. 350 at 2.) On October 16, 2014, Judgment Debtor Michael Harris filed his opposition, in which he argued that the federal court lacks subject matter jurisdiction pursuant to California Code of Civil Procedure § 709.010. (Def.’s Opp’n, Dkt. No. 351 at 1.)

The Court asks the parties to provide supplemental briefing to address the following issues:

1. Whether the undersigned can issue an assignment order, pursuant to California Probate Code § 17000(b)(2), on the grounds that Mr. Harris is currently a debtor of the Trusts.
2. Whether the exception in California Probate Code § 15305.5 applies to Mr. Harris, which would permit the court to “order the trustee to satisfy all or part of the restitution judgment out of all or part of future payments that the trustee, pursuant to the exercise of the trustee's discretion, determines to make to or for the benefit of the beneficiary.”

Accordingly, the Court VACATES the November 6, 2014 hearing. Plaintiffs shall file a supplemental brief not to exceed five pages on or before December 1, 2014. Defendant shall file a

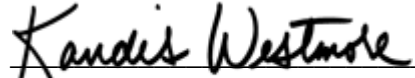
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response not to exceed five pages on or before December 12, 2014. There will be no reply.

Upon review of the supplemental briefing, the Court will determine whether a hearing is necessary or if the matter may be resolved without further briefing and oral argument under Civil Local Rule 7-1(b).

IT IS SO ORDERED.

Dated: November 4, 2014



KANDIS A. WESTMORE
United States Magistrate Judge