

1 contest the validity of service at the time she received this email.

2 Counsel for Najafi now contends that Najafi was not personally served, as “he did not
3 receive a copy of the order until he found it taped to his front door the evening of July 11.” Dkt.
4 No. 75 at 1. Counsel also argues that she did not consent to service via e-mail. *Id.*

5 Federal Rule of Civil Procedure 69 provides that with respect to a money judgment,
6 “procedure on execution—and in proceedings supplementary to and in aid of judgment or
7 execution—must accord with the procedure of the state where the court is located, but a federal
8 statute governs to the extent it applies.” FED. R. CIV. P. 69(a). California Code of Civil
9 Procedure § 708.110 governs judgment debtor examinations in California and provides that “the
10 judgment creditor shall personally serve a copy of the order on the judgment debtor not less than
11 10 days before the date set for the examination. Service shall be made in the manner specified in
12 Section 415.10.” CAL. CODE CIV. P. § 708.110(d). “The method described as ‘personal service’
13 means service that is accomplished ‘by personal delivery of a copy of the summons and of the
14 complaint to the person to be served.’” *American Exp. Centurion Bank v. Zara*, 131 Cal. Rptr. 3d
15 99, 103 (Cal. Ct. App. 2011) (citing CAL. CODE CIV. P. § 415.10). “[P]roof of service made
16 pursuant to section 415.10 ‘may be made by affidavit of the person making the service showing
17 the time, place, and manner of service and the facts showing that the service was made in
18 accordance with the applicable statutory provisions. The affidavit shall recite or in other manner
19 show the name of the person to whom the papers served were delivered and, if appropriate, the
20 title of the person or the capacity in which the person was served.’” *Id.* (citing CAL. CODE CIV. P.
21 § 684.220). Proof of service that meets these requirements establishes a rebuttable presumption
22 of proper service. *Id.*

23 Here, the court finds that Injazat has established a presumption of proper service under §
24 415.10, as counsel for Injazat has filed proof of service showing that process server Ron Marcus
25 effected personal service on Najafi on July 11, 2012, by “personally delivering to and leaving
26 with the [] defendant a true copy” of the order setting the judgment debtor examination and a
27 subpoena to produce documents at the examination. Dkt. 74, Ex. A. Accordingly, Najafi must
28 appear before this court on August 1, 2012, at 9:00 a.m., at which time he may present evidence

1 showing that he was not served in accordance with § 415.10. Additionally, as the subpoena that
2 Injazat served on Najafi is not subject to a motion to quash, Najafi must be prepared to produce
3 documents and information in accordance with the subpoena at the hearing on August 1, 2012.

4 IT IS SO ORDERED.

5 DATE: July 30, 2012



Nathanael M. Cousins
United States Magistrate Judge

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