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UNITED STATES DISTRICT COURT

Northern District of California

Oakland Division

XEROX CORPORATION,

No. C 11-04256 LB

Plaintiff,

v.

**ORDER RE *EX PARTE*
APPLICATION FOR REFERENCE
TO MAGISTRATE JUDGE FOR
JUDGMENT DEBTOR EXAM**

SEISMICOM INC,

Defendant.

Plaintiff Xerox Corporation filed an *ex parte* application for a reference to a magistrate judge for a judgment debtor examination. ECF No. 24 at 1. Federal Rule of Civil Procedure 69(a)(2) provides, "In aid of the judgment or execution, the judgment creditor or successor in interest whose interest appears of record may obtain discovery from any person-including the judgment debtor-as provided in these rules or by the procedure of the state where the court is located." Fed. R. Civ. P. 69(a)(2). Debtor's examinations under California law "permit the judgment creditor to examine the judgment debtor, or third persons who have property of or are indebted to the judgment debtor, in order to discover property and apply it toward the satisfaction of the money judgment." *Imperial Bank v. Pim Electric, Inc.*, 33 Cal.App.4th 540, 546-47, 39 Cal.Rptr.2d 432 (1995); *see* Cal. Code Civ. P. §§ 708.110-708.205. In part, the statute requires that the order setting the examination contain the following statement in 14-point boldface type if printed or in capital letters if typed: "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

1 order requiring you to pay the reasonable attorney's fees incurred by the judgment creditor in this
2 proceeding." Cal. Code Civ. P. § 708.110(e). Plaintiff's proposed order filed at ECF No. 25 does
3 not comply with the statute's requirements. Examples of conforming proposed orders may be found
4 at West's California Judicial Council Forms AT-138 and EJ-125. The court **ORDERS** Plaintiff to
5 file a proposed order that complies with the statute and demonstrates that Plaintiff understands and is
6 prepared to comply with the statute's requirements.

7 **IT IS SO ORDERED.**

8 Dated: March 26, 2012

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LAUREL BEELER
United States Magistrate Judge

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