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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JEANNETTE S. CLARK,

Plaintiff,

vs.

DANA WOODY & ASSOCIATES, INC.,
DANA WOODY BREWER, TRES CHIC
BOUTIQUE, VETERANS TRANSITION
SERVICES, INC. and DOES 1 – 25,

Defendant.

Case No: 09-CV-2931 CAB (DHB)
JUDGE: Cathy Ann Bencivengo
COURTROOM 13, Fifth Fl.
COMPLAINT DATE: 12/30/09

**ORDER FOR APPEARANCE AND
EXAMINATION OF JUDGMENT
DEBTOR DANA BREWER**

Date: September 6, 2017
Time: 10:00 a.m.
Courtroom: 1F

I. INTRODUCTION

Following a partial summary judgment and a jury trial, the Court entered judgment for Plaintiff Jeannette S. Clark and against Defendants Dana Woody & Associates, Inc. and Dana Brewer on April 17, 2015. (Docket Entry No. 261.)

II. DISCUSSION

Federal Rule of Civil Procedure 69 governs enforcement of judgment proceedings in federal courts. (*Hilao v. Estate of Marcos*, 95 F.3d 848, 851 (9th Cir. 1996).) Rule 69(a) provides:

- (1) Money Judgment; Applicable Procedure. A money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution – and in proceedings supplementary to and in aid of judgment or execution – must accord with the procedure of the state where the court is located, but a federal statute governs to

1 the extent it applies.

2 (2) Obtaining Discovery. In aid of the judgment or execution, the judgment creditor
3 or a successor in interest whose interest appears of record may obtain discovery from
4 any person –including the judgment debtor—as provided in these rules or by the
5 procedure of the state where the court is located.

(Fed. R. Civ. P. 69(a)(1)-(2).)

6 Judgment debtor proceedings under California law “permit the judgment creditor to
7 examine the judgment debtor, or third persons who have property of or are indebted to the
8 judgment debtor, in order to discovery property and apply it toward the satisfaction of the money
9 judgment.” (*Imperial Bank v. Pim Elec., Inc.*, 33 Cal.App.4th 540, 546-47; See also California
10 Code of Civil Procedure Sections 708.110-708.205.) All assets of a judgment debtor are subject
11 to enforcement. (California Code of Civil Procedure Section 695.010(a).)

12 California Code of Civil Procedure Section 708.110 provides in relevant part:

- 13
- 14 (a) The judgment creditor may apply to the proper court for an order requiring the
15 judgment debtor to appear before the court, or before a referee appointed by the court,
16 at a time and place specified in the order, to furnish information to aid in enforcement
17 of the money judgment.
- 18 (b) If the judgment creditor has not caused the judgment debtor to be examined under this
19 section during the preceding 120 days, the court shall make an order upon ex parte
20 application of the judgment creditor.
- 21 (c) If the judgment creditor has caused the judgment debtor to be examined under this
22 section during the preceding 120 days, the court shall make the order if the judgment
23 creditor by affidavit or otherwise shows good cause for the order. The application
24 shall be made on noticed motion if the court so directs or a court rule so requires.
25 Otherwise, it may be made ex parte.
- 26 (d) The judgment creditor shall personally serve a copy of the order on the judgment
27 debtor not less than 10 days before the date set for examination. Service shall be
28 made in the manner specified in Section 145.10, Service of the order creates a lien on
the personal property of the judgment debtor for a period of one year from the date of
the order unless extended or sooner terminated by the court.
- (e) The order shall 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 order requiring you to

1 pay the reasonable attorney's fees incurred by the judgment creditor in this
2 proceeding."

3 (California Code of Civil Procedure Section 708.110(a)-(e).)

4 California Code of Civil Procedure Section 708.160(a) also provides that "[e]xcept as
5 otherwise provided in this section, the proper court for examination of a person under this article
6 is the court in which the money judgment is entered." Here, judgment was entered by this Court
7 on April 17, 2015. (Docket Entry No. 261.) As such, Plaintiff and Judgment Creditor Jeannette
8 Clark's application sets forth the showing required by Federal Rules of Civil Procedure 69(a)(2)
9 and the applicable provisions of the California Code of Civil Procedure Sections 708.110 and
10 708.160.

11 **III. CONCLUSION AND ORDER**

12 Accordingly, IT IS HEREBY ORDERED that:


- 13
- 14 1. Defendant/Judgment Debtor Dana Brewer shall appear on September 6, 2017 at 10:00
15 a.m. in Courtroom 1F of the United States District Courthouse located at 221 West
16 Broadway, San Diego, California 92101, to furnish information to aid in enforcement
17 of a money judgment by answering questions about the Defendant/Judgment Debtor's
18 real and personal property;
 - 19 2. Plaintiff/Judgment Creditor must serve this order upon Defendant/Judgment Debtor
20 Dana Brewer personally not less than ten days before the date set for the examination
21 and must file a certificate of such service with the Court. Plaintiff/Judgment Creditor
22 may also serve this order of Defendant/Judgment Debtor's counsel of record if
23 counsel agrees to accept service on behalf of his client; and
 - 24 3. If Plaintiff/Judgment Creditor is unable to effectuate personal service (or service upon
25 the counsel of record) on Defendant/Judgment Debtor within the required time,
26 Plaintiff/Judgment Creditor must file a notice with the Court by no later than 10 days
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before the date set for the examination and inform the Court that the examination hearing must be taken off calendar.

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 ORDER REQUIRING YOU TO PAY THE REASONABLE ATTORNEYS' FEES INCURRED BY THE JUDGMENT CREDITOR IN THIS PROCEEDING.

Dated: August 10, 2017



Hon. Andrew G. Schopler
United States Magistrate Judge