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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOE HAND PROMOTIONS, INC.,

Plaintiff,

v.

ROLANDO VIZCARRA, et al.,

Defendants.

Case No. 10-CV-1052 W (NLS)

ORDER (1) GRANTING EX PARTE APPLICATION [DOC. 11], AND (2) AUTHORIZING PROCESS SERVER TO LEVY EXECUTION PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE § 699.080

On October 28, 2010, the Court granted Plaintiff Joe Hand Promotions, Inc.’s motion for default judgment against Defendants Rolando Vizcarra a/k/a Rolando Vizcarrapayan, individually, and d/b/a/ La Hamaca Botana & Sports Bar, and ordered that a judgment be entered in favor of Plaintiff. (Doc. 9.) On December 3, 2010, Plaintiff filed an ex parte application for an entry of an order authorizing a process server to levy execution pursuant to California Code of Civil Procedure § 699.080. (Doc. 11.)

The execution of final judgments is governed by Rule 69(a) of the Federal Rules of Civil Procedure. Pursuant to Rule 69(a), post-judgment enforcement proceedings

1 must comply with California law. Credit Suisse v. U.S. Dist Court for Cent. Dist. of
2 California, 130 F.3d 1342, 1344 (9th Cir. 1997); Hilao v. Estate of Marcos, 95 F.3d 848,
3 850 (9th Cir. 1996). Under California law, a registered process server may levy under
4 a writ of execution on property specified in the California Code of Civil Procedure §
5 699.080(a). A registered process server is a person registered as a process server
6 pursuant to the California Business and Professions Code. Cal. Civ. Proc. Code §
7 481.205 (citing Cal. Bus. & Prof. Code §§ 22350 to 22360). This authority is limited
8 to cases where the levy does not involve the possibility of taking immediate possession
9 of the property. The procedures for a registered process server to properly levy under
10 the writ of execution are set forth in §§ 699.080(b)–(c) of the California Code of Civil
11 Procedure.

12 The Court has reviewed the Declaration of David J. Cook, Esq. The Court finds
13 that Advanced Attorney Services is a registered process server¹—having filed a
14 certificate of registration with the County Clerk in San Diego County Superior
15 Court—authorized to perform the services pursuant to California Code of Civil
16 Procedure § 699.080. Furthermore, the Court finds that the use of a private process
17 server would serve the interest of justice in relieving the United States Marshal from
18 effectuating certain types of services necessary to effectuate collection of the judgment
19 in this action. Also, the Court notes that the use of a process server is routine in the
20 enforcement of judgments and is authorized by California law.

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27 ¹ Advanced Attorney Services employs two process servers registered in San Diego
28 County: Jaime Torres (Registration # 1460), and Rodrigo Lora (Registration # 479). (David
J. Cook, Esq. Decl., Ex. B ¶¶ 2 & 4 [Doc. 11-2].)

1 Accordingly, good cause appearing, the Court **GRANTS** Plaintiff's ex parte
2 application and **HEREBY ORDERS** that:

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4 1. Plaintiff may employ the services of Advanced Attorney Services to
5 perform the duties and responsibilities of a levying officer as defined under
6 California Code of Civil Procedure § 699.080; and

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8 2. Advanced Attorney Services *shall* comply with the requirements of the
9 California Code of Civil Procedure in the enforcement of the judgment,
10 consistent with and in conformity to the California Code of Civil
11 Procedure § 699.080.

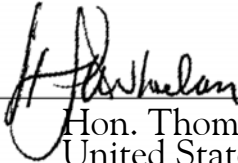
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13 **IT IS SO ORDERED.**

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15 DATED: December 6, 2010

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Hon. Thomas J. Whelan
United States District Judge

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