

1 or property under any judgment subsequently procured in this action or proceeding.”¹
2 (ECF No. 150.) Plaintiff later obtained a \$675,101.66 judgment in this case against
3 Defendants (ECF Nos. 209, 237), which Defendants have appealed (ECF No. 240).
4 On November 30, 2016, Defendants posted a supersedeas bond in the amount of
5 \$843,877. (ECF Nos. 258, 259.) Subsequently, on December 16, 2016, Plaintiff filed
6 this motion concerning the satisfaction of the judgment lien. (ECF No. 260.)

7 Federal Rule of Civil Procedure 69(a)(1) provides: “A money judgment is
8 enforced by a writ of execution, unless the court directs otherwise. The procedure on
9 execution—and in proceedings supplementary to and in aid of judgment or
10 execution—must accord with the procedure of the state where the court is located, but
11 a federal statute governs to the extent it applies.” Thus, in this case, California state
12 law provides the procedure for obtaining a lien on a judgment. See *id.*; see also, e.g.,
13 *Paul Revere Ins. Grp. v. United States*, 500 F.3d 957, 960 (9th Cir. 2007) (noting that
14 “[c]onsistent with Rule 69(a), the government filed a notice of a judgment lien” under
15 California state law to enforce a \$2,872,634.89 restitution judgment from a federal
16 criminal proceeding).

17 Under California state law, a judgment lien is available to a “judgment creditor
18 who has a money judgment against a judgment debtor who is a party to a pending
19 action.” Cal. Civ. Proc. Code § 708.410(a). “To obtain a lien . . . the judgment creditor
20 shall file a notice of lien and an abstract or certified copy of the judgment creditor’s
21 money judgment in the pending action.” *Id.* § 708.410(b). Once a judgment lien has
22 been filed, state law also provides the procedure for satisfying the lien with a judgment
23 obtained by the judgment debtor. See *id.* § 708.470(a); accord *Ministry of Def. &*
24 *Support for Armed Forces of Islamic Republic of Iran v. Cubic Def. Sys., Inc.*, 984 F.
25 *Supp. 2d* 1070, 1096 (S.D. Cal. 2013) (Moskowitz, J.). Specifically, California Code
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28 ¹ Mr. Moore has since passed away. (ECF No. 228.) The Court granted a request by
Defendant Elaine Moore—also known as Melanie Moore—to be substituted in place of Mr. Moore
in her capacity as the executrix and party representative of the estate of Mr. Moore. (ECF No. 231.)

1 of Civil Procedure section 708.470(a) provides that “any party to the action” may file
2 a motion requesting the court “order that the judgment debtor’s rights to money or
3 property under the judgment be applied to the satisfaction of the lien.”

4 Here, there is a lien on Plaintiff’s judgment under California state law for the
5 amount of the Mono County judgment. The Court construes Plaintiff’s motion as
6 seeking to invoke the procedure set forth in section 708.470(a) for satisfying the lien
7 because the motion ultimately seeks an order providing that Plaintiff’s “rights to
8 money” under this Court’s “judgment be applied to the satisfaction of” the judgment
9 lien. See Cal. Civ. Proc. Code § 708.470(a).² However, before Plaintiff invoked this
10 procedure by filing a motion, Defendants posted a supersedeas bond and stayed
11 Plaintiff’s judgment. See Fed. R. Civ. P. 62(d). Because the judgment was stayed
12 before Plaintiff filed his request, the Court concludes it lacks the authority to now
13 “order that the judgment debtor’s rights to money or property under the judgment be
14 applied to the satisfaction of the lien.” See Cal. Civ. Proc. Code § 708.470(a); see also
15 Fed. R. Civ. P. 62(d). The Court therefore **DENIES WITHOUT PREJUDICE**
16 Plaintiff’s motion to determine satisfaction of the judgment lien (ECF No. 260). Once
17 the appeal has been resolved and the stay imposed by the posting of the supersedeas
18 bond has been lifted, Plaintiff may renew his request.

19 **IT IS SO ORDERED.**

20 **DATED: April 25, 2017**


21 **Hon. Cynthia Bashant**
22 **United States District Judge**

23 ² The Court recognizes that Plaintiff believes he satisfied the judgment lien by tendering a
24 portion of his judgment to Mr. Moore via letter. As noted, however, California Code of Civil
25 Procedure section 708.470(a) sets forth the procedure for Plaintiff to request—by motion—that his
26 “rights to money . . . under the judgment” be applied to satisfy the judgment lien. Further, although
27 a party may tender money or performance to satisfy an obligation, “[a] valid tender of performance
28 must be of the full debt, in good faith, unconditional, and with the ability to perform.” *Intengan v.*
BAC Home Loans Servicing LP, 214 Cal. App. 4th 1047, 1053 (2013). At the time Plaintiff
attempted to tender his judgment to satisfy his obligation to Mr. Moore, the judgment was
automatically stayed under Federal Rule of Civil Procedure 62(a)(1). Thus, even assuming Plaintiff
could tender his right to money under this Court’s judgment to satisfy the Mono County judgment,
he could not do so when he lacked the ability to execute on the Court’s judgment. See Fed. R. Civ.
P. 62(a)(1); *Intengan*, 214 Cal. App. 4th at 1053.