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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 DARREN D. ROYSTER,

15 Defendant.

Civil 11-CV-2416-WQH (BGS)
No.

**ORDER CONTINUING HEARING
AND REQUESTING FURTHER
BRIEFING**

16
17 On June 13, 2013, the United States of America filed Applications for Writ of
18 Continuing Garnishment against Garnishees Chase Bank, U.S. Bank, and USE Credit Union
19 (collectively, “Garnishees”) pursuant to 28 U.S.C. § 3205(b)(1). (Doc. Nos. 20, 23, 26.)
20 Also on June 13, 2013, the Clerk’s Office filed the Clerk’s Notice of Post-Judgment
21 Garnishment/Instructions to Debtor, which was mailed to all parties by the United States.
22 (Doc. Nos. 22, 25, 28.) On June 20, 2013, prior to the answer of any Garnishee, Debtor
23 Darren D. Royster (“Debtor”) filed a request for a hearing on the application for writ of
24 continuing garnishment pursuant to 28 U.S.C. § 3205(c)(5). (Doc. No. 32.) Though
25 Debtor’s request does not specify which Writ of Continuing Garnishment he objects to,
26 Debtor claims that he is entitled to an exemption of 100% of all his wages, salary,
27 commissions, and periodic or lump sum payments in lieu of vacation because they are
28 necessary for the support of the debtor or the debtor’s family. (*Id.*) On June 25, 2013,

1 Garnishee USE Credit Union filed an answer stating that it had no money owned by the
2 Debtor. (Doc. No. 33.) On July 17, 2013, Garnishee Chase Bank filed an answer stating that
3 it had no money owned by Debtor. (Doc. No. 34.) On July 22, 2013, Garnishee U.S. Bank
4 filed an answer stating that it had no money owned by Debtor, but Debtor's accounts had
5 been frozen until a release was received from the United States. (Doc. No. 37.)

6 On July 17, 2013, the Court issued an order directing Debtor to file a brief which
7 identified (a) the total amount of the property held by the Garnishees that qualifies as wages,
8 salary, commission, and periodic or lump sum payments in lieu of vacation as defined in Cal.
9 Civ. Proc. Code §§ 704.070 and .113, 703.080, 706.040, and .051, (b) what Debtor's total
10 earnings that qualify as wages, salary, commission, and periodic or lump sum payments in
11 lieu of vacation as defined in Cal. Civ. Proc. Code §§ 704.070 and .113, 703.080, 706.040,
12 and .051, and (c) what are the total expenses Debtor considers necessary to support himself
13 and his family. (Doc. No. 35.) Debtor was also ordered to provide a declaration under
14 penalty of perjury identifying the sources of the earnings which qualify under the above
15 mentioned California Civil Code for exemption. (*Id.*) On July 26, 2013, Debtor filed his
16 brief and did not file a declaration. (Doc. No. 38.) On August 9, 2013, the Court entered an
17 order directing Debtor to file another brief and declaration containing the same information,
18 and set a hearing for September 3, 2013. (Doc. No. 39.) On August 13, 2013, the United
19 States filed an ex-parte motion to continue the hearing until September 5, 2013. (Doc. No.
20 40.) The Court granted the continuance. (Doc. No. 41.) On September 4, 2013, nunc pro
21 tunc to August 30, 2013, the Clerk filed Debtor's second brief, in which Debtor claims to
22 have shared all the requested information with the government. (Doc. No. 42.) Additionally,
23 Debtor claims that the only source of income he has is the income from rent. (*Id.* at 2.)

24 After reviewing the Debtor's brief, **IT IS HEREBY ORDERED:**

25 1. The hearing scheduled for September 5, 2013 regarding Debtor's objection is
26 continued until **September 19, 2013**, at **2:30 p.m.** in Courtroom 1B of the Edward J.
27 Schwartz U.S. Courthouse. Debtor must be ready to explain why his property is exempted,
28 and should bring any documents which support his claims.

1 2. Each party is to file a brief no later than **September 12, 2013**, on the following
2 issues:

3 a. Whether Debtor's objection to the continuing writs of garnishment based on
4 Debtor's claimed exemption are premature due to the fact that Debtor appears to have no
5 money in the garnished bank accounts;

6 b. Whether there is a procedure for any party to object to or modify the continuing
7 writs of garnishment in the future should Debtor's current economic status change;

8 c. Whether there is a law that limits the maximum amount of garnishment of a
9 debtor's earnings the United States may collect to recover a defaulted student loan;

10 d. Whether Debtor qualifies for the claimed exemption; and

11 e. Whether rental income qualifies as exempt under Cal. Civ. Proc. Code §§
12 704.070 and .113, 703.080, 706.011, 040, and .051.

13 Dated: September 3, 2013

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15 **BERNARD G. SKOMAL**
16 United States Magistrate Judge
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