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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 CHRIS LANGER,
12 Plaintiff,
13 v.
14 CHULA VISTA RENTALS, LLC,
15 Defendant.
16

Case No.: 18-cv-00192-L-JLB

**ORDER DENYING APPLICATION
FOR APPEARANCE AND DEBTOR
EXAMINATION**

[ECF No. 17]

17 On July 2, 2019, Plaintiff and Judgment Creditor Chris Langer filed an Application
18 for Appearance and Debtor Examination for Defendant and Judgment Debtor Chula Vista
19 Rentals, LLC (Manager Jason Kasid). (ECF No. 17.) For the reasons set forth below, the
20 Court **DENIES** Judgment Creditor's application without prejudice.

21 **I. BACKGROUND**

22 In his application, counsel for Judgment Creditor declares under penalty of perjury
23 that a judgment was issued on April 29, 2019, for \$8,972.50 and that the judgment has not
24 been paid. (*Id.* at 1.)

25 **II. DISCUSSION**

26 **A. Applicable Law**

27 Federal Rule of Civil Procedure 69 authorizes federal courts to enforce a money
28 judgment by writ of execution. Fed. R. Civ. P. 69(a)(1). "The procedure on execution—

1 and in proceedings supplementary to and in aid of judgment or execution—must accord
2 with the procedure of the state where the court is located, but a federal statute governs to
3 the extent it applies.” *Id.* Accordingly, in ruling on Judgment Creditor’s motion, the Court
4 follows California’s statutory provisions for the enforcement of judgments, known
5 collectively as the Enforcement of Judgments Law, as set forth in California Code of Civil
6 Procedure §§ 680.010 through 724.260.

7 Judgment debtor proceedings under California law “permit the judgment creditor to
8 examine the judgment debtor, or third persons who have property of or are indebted to the
9 judgment debtor, in order to discover property and apply it toward the satisfaction of the
10 money judgment.” *Imperial Bank v. Pim Elec., Inc.*, 39 Cal. Rptr. 2d 432, 437 (Ct. App.
11 1995). Debtor examinations are intended “to allow the judgment creditor a wide scope of
12 inquiry concerning property and business affairs of the judgment debtor,” *Hooser v.*
13 *Superior Court*, 101 Cal. Rptr. 2d 341, 345 (Ct. App. 2000), *disapproved on other grounds*
14 *by Williams v. Superior Court*, 3 Cal. 5th 531 (2017), and “to leave no stone unturned in
15 the search for assets which might be used to satisfy the judgment,” *Troy v. Superior Court*,
16 231 Cal. Rptr. 108, 112 (Ct. App. 1986).

17 California Code of Civil Procedure § 708.110 provides:

18 (a) The judgment creditor may apply to the proper court for an order requiring
19 the judgment debtor to appear before the court, or before a referee appointed
20 by the court, at a time and place specified in the order, to furnish information
21 to aid in enforcement of the money judgment.

22 (b) If the judgment creditor has not caused the judgment debtor to be
23 examined under this section during the preceding 120 days, the court shall
24 make the order upon ex parte application of the judgment creditor.

25 (c) If the judgment creditor has caused the judgment debtor to be examined
26 under this section during the preceding 120 days, the court shall make the
27 order if the judgment creditor by affidavit of otherwise shows good cause for
28 the order. The application shall be made on noticed motion if the court so
directs or a court rule so requires. Otherwise, it may be made ex parte.

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1 (d) The judgment creditor shall personally serve a copy of the order on the
2 judgment debtor not less than 10 days before the date set for examination.
3 Service shall be made in the manner specified in Section 145.10. Service of
4 the order creates a lien on the personal property of the judgment debtor for a
5 period of one year from the date of the order unless extended or sooner
6 terminated by the court.

7 (e) The order shall contain the following statement in 14-point boldface type
8 if printed or in capital letters if typed: "NOTICE TO JUDGMENT DEBTOR.
9 If you fail to appear at the time and place specified in this order, you may be
10 subject to arrest and punishment for contempt of court and the court may
11 make an order requiring you to pay the reasonable attorney's fees incurred
12 by the judgment creditor in this proceeding."

13 Cal. Civ. Proc. Code § 708.110(a)–(e). Additionally, California Code of Civil Procedure
14 § 491.150(b) provides:

15 (b) A person sought to be examined may not be required to attend an
16 examination before a court located outside the county in which the person
17 resides or has a place of business unless the distance from the person's place
18 of residence or place of business to the place of examination is less than 150
19 miles.

20 Cal. Civ. Proc. Code § 491.150(b).

21 **B. Analysis**

22 Judgment Creditor applies for an order requiring Judgment Debtor Chula Vista
23 Rentals, LLC to appear and furnish information to aid in enforcement of the money
24 judgment. (ECF No. 17 at 1.)

25 Judgment Creditor has failed to meet the requirements of California Code of Civil
26 Procedure § 708.110(b) and (c) in that he has failed to assert either that Judgment Creditor
27 has not examined Judgment Debtor within the last 120 days or that there is good cause to
28 allow an examination within 120 days of the previous examinations. Judgment Creditor
has failed to meet the requirements of California Code of Civil Procedure § 409.150(b) in
that Judgment Creditor has not asserted that Judgment Debtor resides in the county where
the court is located or within 150 miles of the location of the court.


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1 **III. CONCLUSION**

2 Based on the foregoing, Judgment Creditor's Application for Appearance and
3 Debtor Examination (ECF No. 17) is **DENIED without prejudice.**

4 **IT IS SO ORDERED.**

5 Dated: July 10, 2019

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7 Hon. Jill L. Burkhardt
8 United States Magistrate Judge

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