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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 GREGORY KELLY,
11 Plaintiff/Judgment Creditor,
12 v.
13 RANDALL MARK HICKMAN, et al.,
14 Defendant/Judgment Debtors.

Case No.: 3:22-mc-00296-BEN-MMP

**ORDER ADOPTING REPORT AND
RECOMMENDATION GRANTING
PLAINTIFF'S MOTION FOR
ASSIGNMENT ORDER AND
ORDER RESTRAINING
JUDGMENT DEBTOR**

[ECF No. 9, 18]

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18 On March 4, 2024, Plaintiff filed a Motion for Assignment Order and Order
19 Restraining Judgment Debtor. ECF No. 9. Defendants did not file an opposition.

20 On September 30, 2021, Magistrate Judge Michelle M. Pettit issued a thoughtful and
21 thorough Report and Recommendation, recommending that this Court grant Plaintiff's
22 motion for assignment order and order restraining judgment debtor. ECF No. 18 ("R&R").
23 Magistrate Judge Pettit concluded Plaintiff's request was supported by sufficient evidence,
24 and noted Judgment Debtors' failure to oppose. R&R at 4. Regarding the restraining order,
25 Magistrate Judge Pettit cited Defendant's failure to make payments on the judgment since
26 2018 and confirmed this creates a reasonable inference the Defendant will dispose of any
27 payments received from his 2023 tax returns without paying Plaintiff. R&R at 5.
28 Accordingly, Judge Pettit recommended granting Plaintiff's motion for an order restraining

1 Defendant from assigning or otherwise disposing of money received from tax returns. *Id.*
2 Neither party filed objections to the Report and Recommendation.

3 A district judge “may accept, reject, or modify the recommended disposition” of a
4 magistrate judge on a dispositive matter. FED. R. CIV. P. 72(b)(3); *see also* 28 U.S.C. §
5 636(b)(1). “[T]he district judge must determine *de novo* any part of the [report and
6 recommendation] that has been properly objected to.” FED. R. CIV. P. 72(b)(3). However,
7 “[t]he statute makes it clear that the district judge must review the magistrate judge’s
8 findings and recommendations *de novo* if objection is made, but not otherwise.” *United*
9 *States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also Wang v.*
10 *Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005). “Neither the Constitution nor the statute
11 requires a district judge to review, *de novo*, findings and recommendations that the parties
12 themselves accept as correct.” *Reyna-Tapia*, 328 F.3d at 1121.

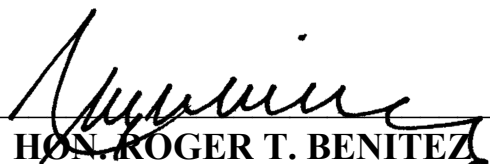
13 The Court need not conduct *de novo* review given the absence of objections. The
14 Court has considered and agrees with the Report and Recommendation.

15 CONCLUSION

16 For the reasons set forth above, the Court **ADOPTS** the Report and
17 Recommendation and **GRANTS** Plaintiff’s motion for assignment order. Judgment
18 Debtors are **ORDERED** to assign to Plaintiff its interests and rights to their 2023 state
19 and federal tax refunds. This Assignment is effective ten (10) days from the date of the
20 order, until such time as the Judgment herein is fully satisfied or unless the Parties
21 stipulate otherwise. The Judgment Debtors are further **ORDERED** immediately to
22 restrain from assigning or otherwise disposing of its rights and interest to payment as
23 described above, so that the rights to payment may be available for satisfaction of the
24 Judgment herein.

25 **IT IS SO ORDERED.**

26 Dated: August 29, 2024

27 
28 HON. ROGER T. BENITEZ
United States District Judge