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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NUWAVE, LLC,
Plaintiff/Judgment Creditor,
v.
GUANGDONG ENAITER
ELECTRICAL APPLIANCE CO. LTD,
Defendant/Judgment Debtor.

Case No.: 24-mc-1934-MMP

**ORDER DENYING MOTION TO
STAY EXAMINATION OF THIRD
PARTY MIRAMA ENTERPRISES**

[ECF No. 10]

This miscellaneous action arises from Judgment Creditor NuWave, LLC’s (“NuWave”) application for a third-party examination of Mirama Enterprises Inc. (“Mirama”) to discover information about Mirama’s financial dealings with Judgment Debtor Guangdong Enaiter Electrical Appliance Co. Ltd. (“Enaiter”). [ECF No. 1.] The procedural history has been set out in detail in the Court’s prior orders. [ECF No. 5, 8.] Relevant to the pending motion, this Court entered an order requiring Mirama to appear

1 for a third-party examination pursuant to California Civil Procedure Code sections 187 and
2 708.150. [ECF No. 5.] In accordance with the Court’s Order, NuWave personally served
3 Mirama with notice on January 31, 2025. [ECF No. 6.] The Court subsequently granted a
4 joint request on behalf of NuWave and Mirama to continue the examination date to allow
5 NuWave and Mirama to further meet and confer to “discuss potential ways to obviate the
6 need for the examination and lessen the burden on the parties and the Court.” [ECF No. 8
7 at 1.] The third-party examination of Mirama is currently set for March 19, 2025. [See *id.*]

8 On February 11, 2025, Enaiter filed the instant “Motion to Stay Third-Party
9 Examination to Discover Assets,” and NuWave filed an opposition [ECF Nos. 10, 13.]
10 Enaiter raises two arguments to stay the third-party examination of Mirama—neither is
11 persuasive.

12 First, Enaiter urges the Court to stay Mirama’s examination pursuant to Federal Rule
13 of Civil Procedure 62(b), which provides:

14 At any time after judgment is entered, a party may obtain a stay by providing
15 a bond or other security. The stay takes effect when the court approves the
16 bond or other security and remains in effect for the time specified in the bond
or other security.

17 Fed. R. Civ. P. 62(b). “The purpose of security under Rule 62(b) is to preserve the status
18 quo” pending the trial court’s disposition of post-trial motions or an appeal. *Hackworth v.*
19 *Arevalos*, No. 19-cv-01362-KES-CDB, 2025 WL 240832, at *1 (E.D. Cal. Jan. 17, 2025)
20 (citation omitted). Importantly, however, “the applicability of Rule 62(b) hinges on the
21 Court entering a ‘judgment[.]’” *Arnaudov v. California Delta Mech. Inc.*, No. 16-MC-
22 00085-PHX-MTL, 2022 WL 1224259, at *1 (D. Ariz. Apr. 26, 2022) (citing Fed. R. Civ.
23 P. 62(b)). Here, this Court’s order for a third-party examination of Mirama was not a
24 judgment as contemplated by Rule 54; accordingly, Enaiter fails to show the applicability
25 of Rule 62(b) to this miscellaneous action. *See id.* *1–3 (recognizing “application of Rule
26 62 in *this* Court must stem from a judgment issued by *this* Court” and finding a motion to
27 stay a judgment pursuant to Rule 62 must be filed in the court that rendered the judgment).
28 Furthermore, even if Rule 62(b) did apply to this miscellaneous action, the Court agrees

1 with NuWave that Enaiter has not provided a bond or other security or otherwise shown
2 “extraordinary circumstances” it concedes are necessary to justify waiver of a bond
3 requirement. [See ECF No. 10 at 5.] In addition, the Court finds good cause does not exist
4 to stay Mirama’s examination based on Enaiter’s pending motion for reconsideration of
5 the Northern District of Illinois’s unequivocal denial of Enaiter’s attempt to vacate the
6 default judgment.¹ [See *NuWave LLC v. Guangdong Enaiter Electr. Appliances Co.*, Case
7 No. 23-cv-3176, ECF No. 51. (N.D. Ill. Jan. 8, 2025).]

8 Second, Enaiter argues NuWave failed to provide proper notice under California
9 Civil Code section 708.120(b), which Enaiter contends is “the applicable statute.” [ECF
10 No. 10 at 7.] But the Court did not order Mirama’s examination pursuant to section
11 708.120. [ECF No. 5 at 6.] To the contrary, the Court expressly found NuWave “ha[d] not
12 provided sufficient proof by affidavit of either requirement of section 708.120(a)” and
13 therefore it “[could] not order a third-party examination pursuant to this provision at this
14 time.” [*Id.*] Enaiter’s argument is therefore inapposite. In a similar vein, as no third-party
15 examination was ordered pursuant to section 708.120, no lien was entered pursuant to
16 section 708.120(c). Even assuming Enaiter has standing to challenge the third-party
17 examination,² it fails to articulate how the Court’s order simply permitting the third-party
18 examination would cause any financial harm to Mirama.

19 Finally, Enaiter also makes passing reference to a third-party examination (referred
20 to as a citation) involving a different Enaiter client, Instant Brand Appliances (“IB
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23 ¹ Though Enaiter moves to stay under Federal Rule of Civil Procedure 62(b), it also cites
24 California Civil Procedure Code section 918.5 without any explanation of how this section
25 purportedly applies to the miscellaneous federal action for third-party post-judgment
26 discovery. To the extent Enaiter seeks to have this Court stay the enforcement of a
27 judgment entered by the Northern District of Illinois while a motion for reconsideration is
28 pending before the Northern District of Illinois, Enaiter fails to provide any authority for
this Court to take such a drastic action. *See Arnaudov*, 2022 WL 1224259, at *2.

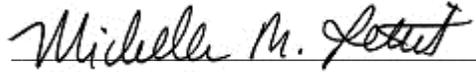
² Mirama has not objected to or opposed the Court’s Order Granting Application for
Appearance and Examination of Third Party.

1 Appliances”). The citation at issue was of a wholly different nature, as it “prohibit[ed] IB
2 Appliances from paying Enaiter for goods which Enaiter is IB Appliance’s sole supplier.”
3 [See *NuWave LLC v. Guangdong Enaiter Electr. Appliances Co.*, Case No. 23-cv-3176,
4 ECF No. 49 at 1 (N.D. Ill. Nov. 4, 2024).] Moreover, IB Appliances produced documents
5 and information and “certified that it possessed assets totaling \$150.00 that it believed was
6 the property of Enaiter and that IB Appliances did not possess any additional property of
7 Enaiter’s that could be applied to satisfy the default judgment against Enaiter.” [See *id.* at
8 ¶ 6.] This is precisely the type of financial information NuWave seeks to discover from
9 Mirama in the examination. Thus, if anything, Enaiter’s reliance on IB Appliances
10 undercuts, rather than supports, a stay.

11 Enaiter fails to raise a legitimate basis to stay the third-party examination of Mirama;
12 accordingly, the Court **DENIES** the motion to stay.

13 **IT IS SO ORDERED.**

14 Dated: March 7, 2025


15 HON. MICHELLE M. PETTIT
16 United States Magistrate Judge
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