

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02707-CMA-KMT

WESTERN CAPITAL PARTNERS LLC,

Plaintiffs,

v.

EDRA D. BLIXSETH,
MATTHEW R. CROCKER,

Defendants.

ORDER FOR ARREST OF JUDGMENT DEBTOR FOR FAILURE TO APPEAR

Pursuant to 28 U.S.C. § 636(B)(3) and (4), D.C.COLO.LCivR 72.1(B)(4) and Fed. R. Civ. P. 69, I find and order as follows:

- (1) Defendant Matthew R. Crocker was served a Waiver and Acceptance of Service of Process and of Subpoenas in a Civil Case, executed on February 3, 2009 (Docket No. 25, filed February 10, 2009). The subpoena commanded defendant Crocker to appear at a hearing set for this date, February 12, 2009 in this courtroom, as a Judgment Debtor exam under Fed. R. Civ. P. 69. The hearing was set by a Minute Order entered January 28, 2009 (Docket No. 17).
- (2) A hearing was held in this court for the purpose of a Judgment Debtor Exam of Matthew R. Crocker on February 12, 2009. Counsel for the plaintiff appeared. Defendant Crocker did not appear. On the representation of plaintiff's counsel, the Court was informed that defendant Crocker's attorney communicated to plaintiff's counsel that Mr. Crocker was aware of the hearing, that he had been

advised of the penalties associated with non-appearance, but nevertheless would not be present at the hearing. Counsel for plaintiff, as judgment creditor, moved the court to order that a bench warrant be issued for arrest of the judgment debtor.

- (3) The Court finds that Defendant Matthew R. Crocker was properly served with notice of the hearing, and willfully and deliberately failed to appear. The Court grants the plaintiff/judgment creditor's motion.
- (4) The Court is obligated under Fed. R. Civ. P. 69(a)(2) to follow the execution and discovery procedures for collection of a judgment established by state law. Accordingly, this Court commenced the execution procedures established under Colorado Rule of Civil Procedure 69. Under the Colorado rule, for failure of a judgment debtor to appear after being properly served, and upon motion of the judgment creditor, the court shall issue a bench warrant commanding a sheriff to arrest and bring the judgment debtor forthwith to the court for proceedings under the rule.
- (5) The Court finds defendant/judgment debtor Matthew R. Crocker has disobeyed this Court's order to appear, issued through subpoena pursuant to Fed. R. Civ. P. 45 and thereby finds him in CONTEMPT of the Court command and order to appear. Fed. R. Civ. P. 45(e) As this matter is a case or controversy arising under federal law, the proper arresting authority is the United States Marshal's Service.

Accordingly, the Court hereby **ORDERS** that:

- (1) Defendant/judgment debtor Matthew R. Crocker has been found in CONTEMPT of this Court's order and authority.
- (2) A warrant for arrest shall be issued by the Clerk of the Court, citing CONTEMPT

of court as the violation of law, and commanding the United States Marshal's Service to LOCATE, ARREST and DETAIN IN CUSTODY defendant Crocker and to henceforth bring him to the Court for proceedings under Fed. R. Civ. P. 69.

- (3) Execution of the warrant for arrest shall be limited to the confines of the State and District of Colorado.

Dated this 12th day of February, 2009.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge