

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 was served a Subpoena in a Civil Case, executed on February 10, 2009 (Docket No. 41, filed February 18, 2009). The subpoena commanded defendant Edra D. Blixseth a/k/a Edra D. Crocker to appear at a hearing set for February 18, 2009 in this courtroom, as a Judgment Debtor for exam under Fed. R. Civ. P. 69. The hearing was set by a Minute Order entered February 5, 2009 (Docket No. 20).
- (2) A hearing was held in this court for the purpose of a Judgment Debtor Exam of Edra D. Blixseth on February 18, 2009. Counsel for the plaintiff appeared. Defendant Blixseth did not appear. On the representation of plaintiff's counsel, the Court was informed Blixseth's California attorney that Ms. Blixseth would not be attending the hearing and that a bankruptcy filing was imminent.

Plaintiff's counsel further represented that as of the date of the hearing, There were no bankruptcy filings located for Ms. Blixseth as having been filed in the most logical and relevant jurisdictions, including a check in both Montana and California.

- (3) Counsel for plaintiff, as judgment creditor, moved the court to order that a bench warrant, with nationwide jurisdictional reach be issued for arrest of the judgment debtor. A brief in support of the court's exercise of nationwide warrant jurisdiction was filed later in the day on February 18, 2009. (Docket No. 42).
- (4) The Court finds that Defendant Edra D. Blixseth was properly served with notice of the hearing, and willfully and deliberately failed to appear. The Court grants the plaintiff/judgment creditor's motion to the extent it seeks the issuance of a bench warrant for the arrest of Edra D. Blixseth. The Court denies the request that the warrant contain a provision for nationwide execution.
- (5) 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.
- (6) The Court finds defendant/judgment debtor Edra D. Blixseth has disobeyed this Court's order to appear, issued through subpoena pursuant to Fed. R. Civ. P. 45 and thereby finds her 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 Edra D. Blixseth 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 Blixseth and to henceforth bring her 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 20th day of February, 2009, *nunc pro tunc* to February 18, 2009..

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge