

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

GARY PRATO; JOANNE C. MCMURRAY,

Plaintiffs,

-vs-

Case No. 2:08-cv-883-FtM-29SPC

HACIENDA DEL MAR, LLC a Florida Limited  
Liability Company,

Defendant,

And

BERNTSSON, ITTERSAGEN, GUNDERSON  
WAKSLER & WIDEIKIS, LP, TRUST  
ACCOUNT,

Garnishee.

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**ORDER**

This matter comes before the Court on Defendant, Hacienda Del Mar, LLC.'s Motion For Issuance of Writ of Garnishment After Judgment (Doc. #153) filed on June 17, 2011. The Defendant received a favorable judgment against the Plaintiffs, Gray Prato and JoAnne C. McMurray, in the amount of \$353,549.00. On March 14, 2011, judgment was entered against the Plaintiff. In an attempt to collect on the judgment, the Defendant now moves for a writ of garnishment against the named garnishees Berntsson, Ittersagen, Gunderson Waksler & Wideikis, LP.

On April 14, 2011, the Plaintiff filed a Motion to Stay Execution of Judgment. (Doc. #142). The Motion to Stay Execution of Judgment contained a Fed. R. Civ. P. Rule 50, Rule 59, and Rule 60 request. Pursuant to Rule 62(b), a court "may stay the execution of a judgment - or any

proceedings to enforce it - pending disposition” of such Motions. Fed. R. Civ. P. 62(b). In this instance, the Defendant’s Motion for a Writ of Garnishment is contingent on the District Court’s ruling on the Post-Judgment Motion to Stay Execution of Judgement (Doc. #142). Therefore, the Court cannot grant the requested relief until the District Court resolves the outstanding Motion for Stay of Execution.

Accordingly, it is now

**ORDERED:**

Motion For Issuance of Writ of Garnishment After Judgment (Doc. #153) is **DENIED without prejudice.**

**DONE AND ORDERED** at Fort Myers, Florida, this 22nd day of June, 2011.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES MAGISTRATE JUDGE**

Copies: Defendants Counsel