

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

KAITLYN GILL, LAUREN GILL, and *
DANIEL VAN GASKEN,

Plaintiffs, *

vs. *

CASE NO. 4:12-CV-77 (CDL)

LOREN GILL and ELM LEASING, *

Defendants. *

O R D E R

The clerk previously entered judgment in favor of Plaintiff Daniel Van Gasken and against Defendant Elm Leasing, LLC in the amount of \$2,984,214.05. J., ECF No. 284; Am. J., ECF No. 288. Van Gasken filed an Application for Writ of Garnishment (ECF No. 299). Under Georgia law, garnishment proceedings are "ancillary to the original action determining a debt between a plaintiff/creditor and defendant/debtor." *TBF Fin., LLC v. Houston*, 298 Ga. App. 657, 657, 680 S.E.2d 662, 664 (2009). "A garnishment proceeding is a distinct suit against a separate party, and for an entirely new cause of action. . . . It involves different parties, different issues, and a different cause of action; it requires a special place on the docket, and a separate trial on the merits. . . ." *Id.* at 658, 680 S.E.2d at 664 (internal quotation marks omitted).

Given that a garnishment proceeding under Georgia law is generally separate from the underlying action giving rise to the debt, the Court declines to grant the application unless Van Gasken demonstrates that it is properly before the Court. Van Gasken's Application does not disclose a federal statutory basis for maintaining this proceeding in this Court and does not provide any authority supporting jurisdiction over this proceeding in this Court.

The Court does, at this time, approve the Affidavit of Garnishment submitted by Van Gasken (ECF No. 299-2). See O.C.G.A. § 18-4-61(2) (stating that garnishment affidavit "may be made before and approved by a judge of the court that rendered the judgment upon which the garnishment is based").

IT IS SO ORDERED, this 25th day of November, 2014.

S/Clay D. Land

CLAY D. LAND
CHIEF U.S. DISTRICT COURT JUDGE
MIDDLE DISTRICT OF GEORGIA