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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

GERALD HESTER,  
  
                                Plaintiff(s),  
vs.  
VISION AIRLINES, INC.,  
  
                                Defendant(s).

Case No. 2:09-cv-00117-RLH-NJK  
  
ORDER DENYING MOTION TO  
ADD BANK OF NEVADA AS A  
PARTY  
  
(Docket No. 370)

Pending before the Court is Plaintiff’s motion to add Bank of Nevada as a party for the purposes of garnishing Defendant’s bank accounts. Docket No. 370. That motion also attaches an application for a writ of garnishment for the bank account. *See* Docket No. 370-1. For the reasons discussed below, the motion to add a party is hereby **DENIED**.

In addressing the procedures for post-judgment writs of garnishment, other judges in this District have explained as follows:

Pursuant to Fed.R.Civ.P. 64, a writ of garnishment may be issued pre- or post-judgment in accordance with state law. Under Fed R. Civ. P. 69, any process issued to enforce a judgment for the payment of money is called a writ of execution. Thus, a writ issued by a federal district court in Nevada for enforcement of a judgment by garnishment is called a writ of execution, but the Marshal enforces the writ according to Nevada state procedures for garnishment. *See* Fed.R.Civ.P. 69(a)(1); *Mackey v. Lanier Collection Agency & Service, Inc.*, 486 U.S. 825, 834 (1988). In Nevada, garnishment proceedings are generally special proceedings governed by N.R.S. § 31. *Frank Settelmeyer & Sons, Inc. v. Smith & Harmer, LTD*, 197 P.3d 1051, 1056 (Nev.2008). Pursuant to Chapter 31, writs of garnishment are to be served in the same manner as a summons in a civil action, which gives the court jurisdiction to proceed against the “garnishee defendant.” N.R.S. § 31.270. Upon the Marshal's return showing service of a writ of garnishment, the garnishee formally becomes a party of record and is subject to the jurisdiction of the Court. N.R.S. § 31.280.

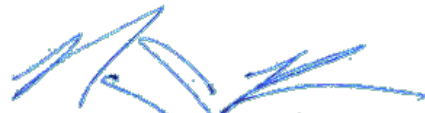
1                   When a writ of garnishment is served, the garnishee defendant then has 20  
2 days to answer statutorily specified interrogatories. N.R.S. §§ 31.260, 31.290. If a  
3 garnishee defendant admits that it has money or property belonging to the defendant  
4 (judgment debtor) “the court shall ... upon application of the plaintiff with written  
5 notice to the garnishee ... enter judgment in favor of the defendant for the use of the  
6 plaintiff against the garnishee for the amount of the indebtedness...” See N.R.S. §  
7 31.300; *Frank Settelmeyer & Sons, Inc.*, 197 P.3d at 1056 (Nev. 2008). Thus, the  
8 garnishee must not pay any of the money to the defendant and must instead retain the  
9 money in his possession or control or deliver it to the Marshal for subsequent delivery  
10 to the plaintiff. N.R.S. § 31.310.

11 *Henry v. Rizzolo*, 2012 WL 4867725, \*2-3 (D. Nev. Oct. 12, 2012) (quoting *Employee Painters*  
12 *Trust v. Riggio Bros. Constr., Inc.*, 2010 WL 3896148, \*2 (D. Nev. Sept. 29, 2010)). Moreover,  
13 judgment creditors do not need to apply to a judge of this Court for the issuance of a post-judgment  
14 writ of garnishment. See N.R.S. § 31.450 (judgment creditor “may, without application to the court,  
15 have a writ of garnishment issued [attaching the personal property] of the judgment debtor in the  
16 possession or under the control of any third person garnishee” (emphasis added)); see also *Trustees*  
17 *of the Constr. Indus. & Laborers Health & Welfare Trust v. JR Concrete Cutting, Inc.*, 2013 WL  
18 76221, \*1-3 (D. Nev. Jan. 2, 2013) (holding that post-judgment writs of garnishment do not require  
19 court order allowing their issuance). Because the applicable procedures allow the issuance of a writ  
20 of garnishment without application to the Court and add the garnishee as a party upon receipt of  
21 proof of service of the writ of garnishment, the pending motion to add a party is unnecessary.

22                   In addition, the Clerk’s Office has already issued a writ of execution to Plaintiff. Docket No.  
23 375.<sup>1</sup> That writ of execution instructs that: “Judgment Creditor/Plaintiff will identify to the U.S.  
24 Marshal or his representative assets that are to be seized to satisfy the judgment/order.” *Id.* at 2. As  
25 such, the Court has already provided Plaintiff with the means to seize Defendant’s money held by  
26 Bank of Nevada, making the pending motion (and attached application) moot.

27                   **IT IS SO ORDERED.**

28                   DATED: February 20, 2014

  
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NANCY J. KOPPE  
United States Magistrate Judge

<sup>1</sup> As noted above, a “writ of execution” is the federal equivalent of a “writ of garnishment.”