

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

COPPER SANDS HOMEOWNERS ASSOCIATION, et al.,

Plaintiff(s),

v.

COPPER SANDS REALTY, LLC, et al.,

Defendant(s).

Case No. 2:10-cv-00510-GMN-NJK
ORDER
(Docket Nos. 905, 908)

Pending before the Court is Defendant Cannon’s motion for judgment debtor examination. Docket No. 905. Plaintiff HOA filed an untimely response in opposition, Docket No. 906,¹ and Cannon filed a reply, Docket No. 909. Plaintiff also filed a motion to stay the examination pending resolution of its motion to amend judgment. Docket No. 908; *see also* Docket No. 897 (motion to amend judgment). The Court finds the motions properly resolved without a hearing. *See* Local Rule 78-1. For the reasons discussed below, the motion to stay is **DENIED** as moot, and the motion for judgment debtor examination is **GRANTED in part** and **DENIED in part without prejudice**.

¹ As the motion was filed on September 7, 2017, the response was due September 21, 2017. *See* Local Rule 7-2(b) (creating 14-day deadline to respond to all motions other than those seeking summary judgment); *see also* Fed. R. Civ. P. 6(d) (2016 amendment, removing service by electronic means as a type of service triggering an additional three days being added to deadlines). Plaintiff filed its response in the late afternoon of September 22, 2017. *See* Docket No. 906 (notice of electronic filing). Despite the untimeliness of Plaintiff’s response, the Court will exercise its discretion to consider it.

1 **I. MOTION TO STAY**

2 Plaintiff has moved to stay the judgment debtor examination in light of its pending motion to amend
3 judgment. Docket No. 908; *see also* Docket No. 897 (motion to amend judgment).² Chief United States
4 District Judge Gloria M. Navarro has since denied the underlying motion to amend judgment. Docket No.
5 910. Accordingly, the motion to stay is **DENIED** as moot.

6 **II. MOTION FOR JUDGMENT DEBTOR EXAMINATION**

7 Cannon’s motion for judgment debtor examination seeks both an order requiring Plaintiff to appear
8 for a judgment debtor examination and an order to produce documents. *See* Docket No. 905 at 5-8. Aside
9 from its arguments regarding a stay, Plaintiff does not meaningfully oppose the motion. *See* Docket No.
10 906. Nonetheless, the Court will review in this instance the arguments presented by Cannon.

11 With respect to Cannon’s request for Plaintiff to appear for a judgment debtor examination, the
12 Court agrees that Cannon is entitled to a judgment debtor examination as a general matter. The Court
13 denies without prejudice, however, Cannon’s request that the judgment debtor examination be held before
14 a judge. *See* Docket No. 905 at 5 (requesting order that Plaintiff “appear before the Court to undergo
15 examination”). Nevada statute permits the setting of a judgment debtor examination to occur either before
16 a judge or before an attorney in a manner akin to the taking of a deposition. NRS 21.270. It appears
17 Cannon is seeking that the judgment debtor examination be held before a judge so that Cannon can orally
18 request follow-up relief at the examination. *See* Docket No. 905 at 8. Generally speaking, parties should
19 submit requests for relief by filing a written request on the docket, and Cannon fails to explain why the
20 Court should issue writs orally from the bench. Moreover, Cannon fails to explain why it cannot seek any
21 appropriate writs from the Court following the completion of a judgment debtor examination taken before
22 an attorney.³ For these reasons, the Court agrees that Cannon is entitled to a judgment debtor examination

24 ² The motion eludes to the potential that Plaintiff will file an appeal. Docket No. 908 at 6. The
25 instant motion seeks a stay pending this Court’s ruling on the motion to amend. *See, e.g., id.* at 3 (asserting
26 that there should be a stay “**PENDING THE COURT’S FINAL DECISION**” (emphasis in original)). To
27 the extent Plaintiff was attempting to seek a stay pending appeal, that relief was not sought in a clear manner
28 in its motion and, therefore, it is not properly before the Court at this time.

³ The Court’s calendar is full for some time. From a practical standpoint, having an attorney
conduct the judgment debtor examination will invariably result in it happening sooner.

1 of Plaintiff, but declines at this time to issue an order that the judgment debtor examination be held before
2 a judge.

3 With respect to Cannon’s request for an order that Plaintiff produce documents, that Court also
4 declines to order such relief at this time. “[A]bsent a showing that the judgment debtor failed to comply
5 with [previous] requests for production, courts generally do not issue an order compelling the production
6 of those documents.” *See, e.g., Bd. Of Trustees v. FF&E Logistical, Inc.*, 2017 U.S. Dist. Lexis 121264,
7 at *2 (D. Nev. Aug. 1, 2017) (citing *Lozovskyy v. Vassilli Oxenuk*, 2012 U.S. Dist. Lexis 178708, *4 (D.
8 Nev. Dec. 18, 2012)). “Instead, the mechanism for seeking such documents is to serve a request for
9 production in accordance with Rule 34 of the Federal Rules of Civil Procedure.” *See, e.g., id.* (collecting
10 cases). Here, Cannon has provided no reason why a Court order is needed, rather than seeking production
11 of documents through serving a request.

12 In short, the motion for judgment debtor examination is **GRANTED in part** and **DENIED in part**
13 **without prejudice**. More particularly, the Court finds that Cannon is entitled to a judgment debtor
14 examination of Plaintiff generally. To the extent Cannon would like to have an attorney conduct that
15 examination and itself seek the production of documents as outlined above, it may file a proposed order
16 identifying a particular time and place for the judgment debtor examination to occur. To the extent Cannon
17 continues to seek either that the judgment debtor examination occur before a judge or that the Court order
18 production of documents, then Cannon must file a renewed motion for judgment debtor examination
19 addressing the concerns outlined above.

20 **III. CONCLUSION**

21 For the reasons discussed above, the motion to stay is **DENIED** as moot, and the motion for
22 judgment debtor examination is **GRANTED in part** and **DENIED in part without prejudice**.

23 IT IS SO ORDERED.

24 Dated: October 2, 2017

25
26 
27 _____
28 NANCY J. KOPPE
UNITED STATES MAGISTRATE JUDGE