

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

NASHVILLE ASSOCIATION
OF MUSICIANS,
Plaintiff,

Case No. 1:14-mc-67
Barrett, J.
Litkovitz, M.J.

vs.

TOMMY L. SIMS
d/b/a POSITIVE MOVEMENT,
Defendant.

ORDER

This matter is before the Court on (1) plaintiff Nashville Association of Musicians' Motion for Garnishment (Doc. 2), which is unopposed, and (2) defendant Tommy L. Sims d/b/a Positive Movement's motion to transfer this matter to the United States District Court for the Middle District of Tennessee (Doc. 3), which plaintiff opposes (Doc. 4).

I. Background

On December 10, 2014, plaintiff registered with this Court a foreign judgment in the amount of \$354,913.77 which it had obtained against defendant in the United States District Court for the Middle District of Tennessee. (Doc. 1). Plaintiff subsequently filed its Motion for Garnishment, together with a declaration of counsel and the following attachments: a blank "Answer of Garnishee" form; a proposed "Clerk's Notice of Garnishment"; and a proposed Order granting the Motion for Garnishment. (Doc. 2). Defendant thereafter filed his motion requesting that the case be transferred. (Doc. 3).

II. Motion to transfer

Defendant's motion to transfer this matter is not well-taken. Federal law provides that a party may register a judgment by filing a certified copy "in any other district," and the judgment "shall have the same effect as a judgment of the district court of the district where registered and

may be enforced in like manner.” 28 U.S.C. § 1963. Plaintiff has registered its judgment in this district. (Doc. 1). Defendant has not stated any reason why plaintiff cannot enforce the judgment in this district. The motion to transfer is therefore denied.

III. Motion for Garnishment

Plaintiff’s motion for garnishment will be denied without prejudice to resubmission and reconsideration by the Court. When a party seeks to enforce a money judgment in federal court pursuant to a writ of garnishment, state procedures generally govern. Fed. R. Civ. P. 69(a)(1). Rule 69 states:


A money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution--and in proceedings supplementary to and in aid of judgment or execution--must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies.

Id. Plaintiff’s motion does not address whether state procedures or federal statutes govern these garnishment proceedings. In fact, the motion does not cite any legal authority in support of plaintiff’s request for a writ of garnishment. Further, it is not clear whether the forms plaintiff has attached to its motion comply with the governing law. It appears that at least some of the forms plaintiff has submitted are not appropriate for this case. For instance, although there is no indication that the United States is a party to this lawsuit, the “Clerk’s Notice of Garnishment” form attached to plaintiff’s motion references a judgment “being taken by the United States of America which has a judgment in” this case. (*See* Doc. 2-3 at 1). The “Notice to Defendant Debtor on How to Claim Exemptions” directs defendant to deliver the form to “counsel for the United States” if he claims an exemption. (*Id.* at 7). Plaintiff must therefore resubmit its motion for garnishment with supporting legal authority and the appropriate forms attached before the Court will take the motion under consideration.

IT IS THEREFORE ORDERED THAT:

1. Defendant's motion to transfer this matter to the United States District Court for the Middle District of Tennessee is **DENIED**.
2. Plaintiff's motion for garnishment is **DENIED** without prejudice to resubmission and reconsideration by the Court.

Date: 2/25/15


Karen L. Litkovitz
United States Magistrate Judge