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THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

LAWANDA JOHNSON,

Defendant/Judgment Debtor,

and

CALSTRS,

Garnishee.

NO. MC12-5028-RBL

(CR09-5703-RBL-2)

**ORDER FOR A CONTINUING
GARNISHMENT FOR NON-
WAGES**

A Writ of Continuing Garnishment, directed to Garnishee, CALSTRS, has been duly issued and served upon the Garnishee. Pursuant to the Writ of Continuing Garnishment, the Garnishee filed an Answer on or about July 23, 2012, stating that at the time of service of the Writ it had in its possession, custody or control personal property belonging to and due the Defendant/Judgment Debtor, Lawanda Johnson, and that Garnishee was indebted to the Defendant/Judgment Debtor. The interest is comprised of an account under the "Public Employee Pension, CA Education Code Section 22000 *et seq.*"

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1 On or about June 20, 2012, the United States Attorney's Office mailed to the
2 Defendant/Judgment Debtor Lawanda Johnson at her last known address, by Certified
3 Mail/Return Receipt Requested and First Class Mail, the following documents:

- 4 1. Application for Writ of Continuing Garnishment;
- 5 2. Order to Issue a Writ of Continuing Garnishment;
- 6 3. Writ of Continuing Garnishment;
- 7 4. Notice to Judgment Debtor from Clerk, United States District Court, with Request
8 for Hearing Form; Notice to Defendant Debtor on How to Claim Exemptions Form; and
9 Claim for Exemption Form; and
5. United States Attorney's Office Notice to Judgment Debtor of Garnishment, with
Instructions to File an Objection to Garnishee's Answer and Request for Hearing

10 Docket at 5.

11 The Defendant/Judgment Debtor Johnson, on July 3, 2012, filed a Motion to Vacate
12 Order, Request for Hearing and Request for Transportation to Seattle. Docket at 6. The United
13 States filed its "Response to Defendant/Judgment Debtor Lawanda Johnson's Motion to Vacate
14 and Motion for Hearing" on August 24, 2012. Docket at 11. Thereafter, the
15 Defendant/Judgment Debtor Johnson filed three further pleadings. Docket at 13, 14, and 15.

17 On October 12, 2012, this Court after having given due consideration to the entirety of
18 the file and record, issued an Order denying Defendant/Judgment Debtor Lawanda Johnson's
19 Motion to Vacate and denying Defendant's Motion for Hearing. Docket at 16.

20 The Defendant/Judgment Debtor Lawanda Johnson was sentenced in *United States v.*
21 *Lawanda Johnson.*, CR09-5703-RBL-2, United States District Court for the Western District of
22 Washington (March 29, 2012), to pay a Special Assessment of \$3,000.00 and \$1,227,746.34 in
23 Restitution. The remaining balance is \$1,230,721.34. The restitution was entered in the
24 Judgment in a Criminal Case, pursuant to the Mandatory Victims Restitution Act ("MVRA"),
25 18 U.S.C. Section 3663 *et. seq.*

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1 IT IS THEREFORE ORDERED as follows.

2 That the Judgment in a Criminal Case entered against Defendant Lawanda Johnson is a
3 “judgment” under the Federal Debt Collection Procedures Act (“FDCPA”), creating a debt in
4 behalf of the United States. *See* 28 U.S.C. Section 3002(8). The process and procedures of the
5 FDCPA are applicable, including 28 U.S.C. Section 3205, Garnishment. *U. S. v. Mays*, 430
6 F.3d 963, 965 (9th Cir. 2005) (holding that the FDCPA’s civil procedures for recovery may be
7 applied to enforce restitution judgments under the MVRA).
8

9 That the restitution ordered pursuant to the criminal judgment in *United States v.*
10 *Lawanda Johnson*, CR09-5703-RBL-2, United States District Court for the Western District of
11 Washington (March 29, 2012), is a lien under 18 U.S.C. Section 3616(c) and (f), on
12 Defendant/Judgment Debtor Johnson’s interest in the “Public Employee Pension, CA
13 Education Code Section 22000 *et seq.*,” and that Defendant/Judgment Debtor Johnson is
14 restricted from taking loans against or otherwise encumbering the account in any manner that
15 will adversely impact the amount, herein ordered to be garnished.
16

17 That the Garnishee immediately begin paying the non-exempt proceeds, on a monthly
18 basis or at the time when the Defendant/Debtor Lawanda Johnson is entitled to such proceeds,
19 from the “Public Employee Pension, CA Education Code Section 22000 *et seq.*,” that the
20 Defendant/Judgment Debtor has an interest in, to the United States District Court, Western
21 District of Washington, as directed herein, and until the debt of the Defendant/Judgment Debtor
22 Lawanda Johnson is paid in full or until the Garnishee no longer has possession, custody or
23 control, of any personal property belonging to the Defendant/Judgment Debtor or until further
24 order of this Court. This is inclusive of all monies previously withheld by the Garnishee, in
25 accordance with the Writ of Continuing Garnishment; and
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1 That the Garnishee withhold and pay to the United States District Court for the Western
2 District of Washington such proceeds from the "Public Employee Pension, CA Education Code
3 Section 22000 *et seq.*," that the Defendant/Judgment Debtor has a substantial nonexempt
4 interest, in accordance with the limitations set forth in 15 U.S.C. Section 1673(a), the
5 Consumer Credit Protection Act. 15 U.S.C. Section 1673(a) specifies that the Garnishee shall
6 withhold and retain the lesser of:
7

- 8 1. Twenty-five percent (25%) of his [a judgment defendant's] disposable
9 earnings for that week, or
- 10 2. The amount by which his [judgment defendant] disposable earnings
11 for that week exceed thirty times the federal minimum hourly wage... in
12 effect at the time the earnings are payable.

13 In the case of earnings for any pay period other than a week, the Secretary of
14 Labor shall by regulation prescribe a multiple of the Fair minimum hourly wage
15 equivalent in effect to that set forth in paragraph (2)..

16 15 U.S.C. Section 1672(b) defines "disposable earnings" as "that part of the earnings of any
17 individual remaining after the deduction from those earnings of any amounts required by law to
18 be withheld." To calculate disposable earnings the following are examples of categories of
19 possible deductions that may be required to be subtracted from wages, commissions, and
20 income:

- 21 1. Federal Income Tax;
- 22 2. Federal Social Security Tax;
- 23 3. State Income Tax (if any);
- 24 4. County Tax (if any); and

25 That the payment(s) shall be made out to the United States District Court, Western
26 District of Washington, referencing Case No. MC12-5028-RBL and CR09-5703-2, and
27 delivered either personally or by First Class Mail to:

28 United States District Court
Western District of Washington

