

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 99-8364-CIV-HURLEY/LYNCH

JUAN ROMAGOZA ARCE, NERIS GONZALEZ,
AND CARLOS MAURICIO,

Plaintiffs/ Judgment Creditors,

v.

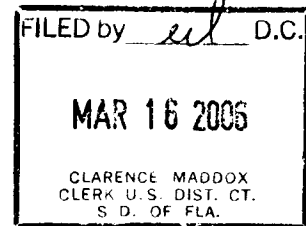
CARLOS EUGENIO VIDES CASANOVA,

Defendant/ Judgment Debtor,

and

MARIA GEMA VIDES MELENDEZ, MARTA
DEL CARMEN VIDES DEMMER, GERALDO
VIDES MELENDEZ, CLARA MARIA REIGITO,
GERALDO DEMMER a/k/a JUAN CARLOS
DEMMER, AND ROBERTO VIDES CASANOVA,

Third-Party Defendants.



ORDER ON MOTION TO ENFORCE JUDGMENT OF GARNISHMENT (DE 323)

THIS CAUSE comes before this Court upon an Order of Reference (DE 324) from the Honorable Daniel T. K. Hurley and the above Motion. Having reviewed the Motion, noting that it is unopposed, this Court finds as follows:

1. By Order dated August 29, 2003 the District Court granted the Plaintiff's Motion for Issuance of Writ of Garnishment.
2. The District Court also granted Final Judgment in Garnishment in the Plaintiff's favor with respect to specified

accounts held by Merrill Lynch and directing Merrill Lynch to deliver those funds to the Plaintiff's attorney.

3. The Plaintiff now complains that Merrill Lynch has declined to release the funds, necessitating an additional order compelling its compliance. Evidently Merrill Lynch told the Plaintiff that the Defendant account holder intended to continue his appeal of the underlying merits judgment. The Court file indicates however that the Eleventh Circuit has already issued its mandate. Moreover the Defendant has not filed a response in opposition to the Motion or otherwise placed in the record any intention to continue with his appeal.

Based on the foregoing, it is hereby,

ORDERED AND ADJUDGED that the Motion is **GRANTED**. Merrill Lynch shall liquidate the garnished accounts and remit the resulting funds to counsel for Plaintiff, Juan Romagoza Arce, within **fourteen (14) days** of the date of this Order.

DONE AND ORDERED in Chambers at Fort Pierce, Florida, this

16 day of March, 2006.


FRANK J. LYNCH, JR.
UNITED STATES MAGISTRATE JUDGE

cc: John A. Thornton, Esq.
James K. Green, Esq.
Kurt R. Klaus, Jr., Esq.
Amy Eisenhardt, Esq.

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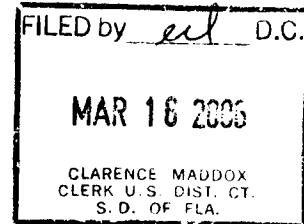
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Third-Party Defendants.



REPORT AND RECOMMENDATION ON PLAINTIFFS' MOTION FOR PROCEEDINGS
SUPPLEMENTARY (DE 307)

THIS CAUSE comes before this Court upon an Order of Reference (DE 316) from the Honorable Daniel T. K. Hurley. Having reviewed the case file, noting that the Judgment in the Plaintiffs' favor has been re-instated, this Court finds as follows:

1. The underlying Motion relevant to this Order is the Plaintiffs' Motion for Proceedings Supplementary and for Leave to File Complaint for Fraudulent Transfer Impleading Third Party

Defendants (DE 307), which the District Court has already granted along with the Plaintiffs' request to depose Mr. Casanova pursuant to § 56.29(2), Fla. Stat.

2. Upon the Motion's referral, this Court entered a series of Orders (DE 317, 319 & 320) to initiate various proceedings necessary to its resolution. These Orders appointed a Special Master, scheduled the deposition, and directed notification of the proceedings to the Third-Party Defendants. Soon afterward but before any of those Orders could be carried out, the Plaintiffs' Judgment was overturned, and the supplementary proceedings ceased.

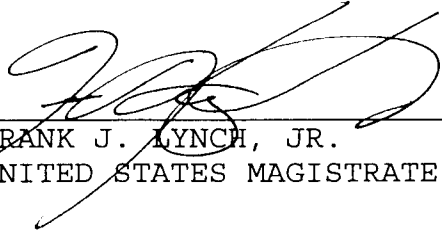
3. As noted above, that Judgment has since been reinstated, see Arce v. Garcia, 434 F.3d 1254 (11th Cir. 2006), and the supplementary complaint is again at issue. It appears, however, that the Plaintiffs have not resumed their discovery and the notification process in accordance with those previous Orders.

ACCORDINGLY, this Court recommends that the Plaintiffs' Motion for Proceedings Supplementary be **DENIED**, but without prejudice to refile when the Plaintiffs are ready to proceed on their claim for relief.

The parties shall have ten (10) days from the date of this Report and Recommendation within which to file objections, if any, with the Honorable Daniel T. K. Hurley, the United States

District Judge assigned to this case.

DONE AND SUBMITTED in Chambers at Fort Pierce, Florida, this
16 day of March, 2006.



FRANK J. LYNCH, JR.
UNITED STATES MAGISTRATE JUDGE

cc: Hon. Daniel T. K. Hurley
John A. Thornton, Esq.
James K. Green, Esq.
Kurt R. Klaus, Jr., Esq.