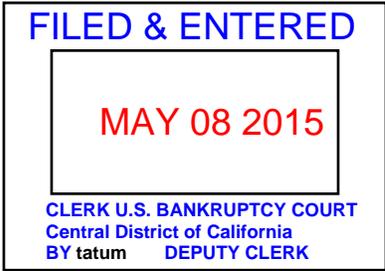


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ORDER NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:
MARK LEBENS,
Debtor.

Case No. 2:11-bk-19111-RK
Chapter 11

**ORDER DENYING SECOND REQUEST
FOR SPECIAL APPOINTMENT TO
SERVE PROCESS**

On May 7, 2015, the Law Offices of Steven R. Fox filed the Request for Order Appointing a Registered Process Server (the "Second Request")(Docket No. 524).

Having reviewed and considered the Second Request, the court hereby denies it without prejudice because: (1) the Request does not cite to the rules applicable to this court, i.e., Local Bankruptcy Rule 7064-1 (the citation in the Request to "Local Rule 64-2" does not identify the applicable court and is not to a rule of this court); (2) in seeking an order of the court, the Request is a motion within the meaning of Rule 9013 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 9013-1, the latter of which requires that factual contentions involved in any motion be presented, heard and determined upon declarations and other evidence, and the factual contentions in the Request (i.e., the process servers are competent and not less than 18 years of age, they are not and will not be parties to this action, they are California process servers duly

1 registered in all counties in California, and granting this request will effect substantial
2 savings in time and travel fees) are not supported by a declaration under penalty of
3 perjury pursuant to 28 U.S.C. § 1746(2) as required by Local Bankruptcy Rule 9013-1(i);
4 (3) aside from it being problematic that the factual contentions of the Request are only
5 the unsworn representations of counsel and not meeting the standard for a declaration
6 under penalty of perjury pursuant to 28 U.S.C. § 1746(2), there is no showing that
7 counsel has the requisite personal knowledge to make such representations under Rule
8 602 of the Federal Rules of Evidence only permitting testimony upon personal knowledge
9 of the witness; and (4) the Request fails to explain the role of the process servers in that
10 it appears that the relief sought is to allow them to serve writs of execution or alias writs
11 of execution as opposed to executing levies upon such writs, which is a matter left
12 unclear by the Request and which should be clarified in order for the court to determine
13 the proper scope of any order issued pursuant to a future request.

14 Since this is second time that the court is denying the request by signing counsel
15 and that the court had identified the problems with the First Request at a prior hearing,
16 which have not been cured, the court strongly recommends that signing counsel seek
17 guidance and instruction from his supervising partner on how to draft and file a proper
18 request under the applicable rule, Local Bankruptcy Rule 7064-1.

19 IT IS SO ORDERED.

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24 Date: May 8, 2015

25 _____
26 Robert Kwan
27 United States Bankruptcy Judge
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