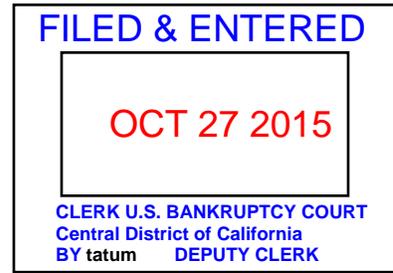


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Bankruptcy Resource Management Inc.



CHANGES MADE BY COURT

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re)	Case No.: 2:15-16208-RK
HECTOR R ROBLES-TOVAR)	Chapter 7
JESSICA CARRASCO)	ORDER DENYING MOTION TO
)	COMPEL APPEARANCE AT
Debtor(s))	EXAMINATION AND TO POSTPONE
)	OR SET ASIDE GRANTING OF
)	DISCHARGE

On October 7, 2015, Bankruptcy Resource Management, Inc. (“BRM”) filed the instant “Motion to Compel Appearance at Examination and to Postpone or Set Aside Granting of Discharge.” In its moving papers, BRM alleges that this court issued an order entered on September 2, 2015, directing Debtor Hector R. Robles-Tovar (the “Debtor”) to appear for an examination under Rule 2004 of the Federal Rules of Bankruptcy Procedure on October 1, 2015, at 2:00 p.m., at the law office of BRM’s counsel, Richard W. Snyder, and that Debtor failed to appear at the Rule 2004 examination as ordered. By its motion, BRM seeks an order compelling Debtor to appear for a rescheduled Rule 2004 examination on November 19, 2015, at 3:00 p.m., and delaying entry of the Debtors (Hector R. Robles-Tovar and Jessica Carrasco) Chapter 7 bankruptcy discharge and the closing of their bankruptcy case for at least 60

1 days following entry of an order compelling attendance at the FRBP 2004 examination, citing Rule
2 7006 of the Federal Rules of Bankruptcy Procedure regarding enlargement of time. On October 26,
3 2015, BRM filed a declaration of non-opposition to the motion pursuant to Local Bankruptcy Rule
4 9013-1(o).

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6 Having considered the moving papers, the court denies the motion without prejudice for
7 the following reasons:

8
9 1. The court does not see that the instant motion to compel compliance with its prior Rule
10 2004 examination of September 2, 2015 is the appropriate remedy for Debtor's alleged
11 noncompliance (or "defiance" as described in the moving papers) with such order. The
12 appropriate order for noncompliance with a court order is a motion for contempt under Local
13 Bankruptcy Rule 9020-1. In its moving papers, BRM cites Rule 2004 of the Federal Rules of
14 Bankruptcy Procedure, specifically citing in turn Rule 9016 of the Federal Rules of Bankruptcy
15 Procedure, as its authorities to compel attendance of a witness for a Rule 2004 examination. But
16 the court has already issued its September 2, 2015 order for Rule 2004 examination which
17 satisfies the requirements of Rules 2004 and 9016, the latter of which refers to issuance of
18 subpoenas under Rule 45 of the Federal Rules of Civil Procedure, because the Rule 2004
19 examination order has the effect of a subpoena as court process to compel attendance of a witness.
20 At this point, the appropriate remedy for willful noncompliance with a court order, such as the
21 Rule 2004 examination order, is a contempt proceeding which is governed by Local Bankruptcy
22 Rule 9020-1. The instant motion does not comply with the procedures of Local Bankruptcy Rule
23 9020-1 for holding Debtor in contempt.

24
25 2. If by the instant motion, BRM merely intended to reschedule a Rule 2004 examination
26 without moving for contempt, then this would not be a motion to compel examination, but a motion
27 to reschedule the examination, which could be requested under Local Bankruptcy Rule 2004-1
28 and 9013-1(p) without hearing or the need to follow the negative notice procedures of Local

1 Bankruptcy Rule 9013-1(o). However, the court is not sure that this is what BRM wants because
2 the motion is not clear about this in that it said that it sought to compel Debtor's attendance at a
3 Rule 2004 examination, which has already been compelled by the prior Rule 2004 examination
4 order and would be redundant and unnecessary in the court's view.

5
6 3. However, BRM's request to compel Debtor's attendance is also coupled with a request for
7 sanctions that the court delay the Debtors' Chapter 7 bankruptcy discharge and closing of their
8 bankruptcy case. In support of this request, BRM cites Rule 7006 of the Federal Rules of
9 Bankruptcy Procedure, which is a rule that does not exist. It appears that BRM meant Rule 9006 of
10 the Federal Rules of Bankruptcy Procedure based on the quoted language of that rule in the
11 motion as the reference to Rule 7006 was only one of several typographical errors in the
12 moving papers. Contrary to BRM's arguments, Rule 9006 by itself is not adequate legal
13 authority for the court to impose sanctions against Debtors to delay entry of their discharge and the
14 closing of their bankruptcy case. It would seem to this court that the court would have to first
15 hold them in contempt before imposing such sanctions against them, which are not properly
16 before the court on this motion. Moreover, in any event, the motion to delay discharge is also moot
17 because the discharge of debtors was entered in this case on August 3, 2015.

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19 **4. Debtor is not required to appear at the Law Office of Richard W. Snyder located at**
20 **18002 Irvine Blvd., Suite 165, Tustin, CA 92780 on November 19, 2015, at 3:00 p.m., as**
21 **proposed in the lodged [proposed] order. However, upon a proper motion, Debtor may be**
22 **ordered to appear for a Rule 2004 examination at a future date and time.**

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1 **5.** Accordingly, the “Motion to Compel Appearance at Examination and to Postpone or Set
2 Aside Granting of Discharge” is DENIED WITHOUT PREJUDICE.

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24 Date: October 27, 2015



25 _____
26 Robert Kwan
27 United States Bankruptcy Judge
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