

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DEBORAH D. PETERSON,	)	
Personal Representative of	)	
the Estate of James C.	)	No. 08-80030 MISC JSW (BZ)
Knipple (Dec.), et al.,	)	
	)	
Plaintiff(s),	)	
	)	<b>ORDER COMPELLING DISCOVERY</b>
v.	)	
	)	
ISLAMIC REPUBLIC OF IRAN,	)	
et al.,	)	
	)	
Defendant(s).	)	

---

Plaintiffs have moved to compel Iran to answer interrogatories and produce documents in response to discovery requests they had earlier propounded.

While there is language in Judge White's Order rejecting an earlier report and recommendation which may be read as holding that this court has no jurisdiction over Iran, I read the Order more narrowly as holding that because plaintiffs had failed to establish that the assets they were seeking to have assigned were not immune from execution, there was no jurisdiction to issue the proposed assignment order. In

1 granting plaintiffs a default judgment, Judge Lamberth found  
2 that there was jurisdiction over Iran, that it was not immune  
3 and that it had properly been served. Peterson v. Islamic  
4 Republic of Iran, 264 F.Supp.2d 46, 48, 59-60 (D.D.C. 2003).  
5 Moreover, Judge Lamberth has continued to exercise  
6 jurisdiction over ancillary proceedings after the repeal of §  
7 1605(a)(7) and the other recent FSIA amendments. Because the  
8 proceedings in this court are merely ancillary proceedings in  
9 aid of efforts to execute on the judgment that Judge Lamberth  
10 issued, such jurisdiction continues. See Peacock v. Thomas,  
11 516 U.S. 349, 355-56 (1996). Furthermore, the Ninth Circuit  
12 has ruled a judgment creditor is entitled to discovery to help  
13 locate assets that may not be immune from execution. Richmark  
14 Corp. v. Timber Falling Consultants, 959 F.2d 1468, 1477-1478  
15 (9th Cir. 1992).

16 Judge White's Order also questions whether "Plaintiffs  
17 have complied with the service requirements set forth in 28  
18 U.S.C. § 1608." I read § 1608 as setting forth the  
19 requirements for service of summons and complaint. Once  
20 again, Judge Lamberth has found that Iran was properly served  
21 with process. Once a party defaults, F.R. Civ. P. 5(a)(2)  
22 does not require further service on defaulting party and Rule  
23 5(b)(2)(C) permits service by mail. The California statutes  
24 which provide for post-judgment discovery against a judgment  
25 debtor do not require that the debtor be personally served  
26 with the discovery. Rather, the statutes state that discovery  
27 shall be taken in the same manner as discovery in an ordinary  
28 case, which is satisfied with service by mail. See Frates v.

1 Treder, 249 Cal. App. 2d 199, 201 (1967). Here, plaintiffs  
2 have been serving Iran by mail, which I deem adequate under  
3 the circumstances at least for purposes of taking discovery.

4 **IT IS THEREFORE ORDERED** that by no later than **January 30,**  
5 **2009**, Iran shall answer the post-judgment interrogatories and  
6 produce the requested documents, except that Iran need not  
7 provide discovery with respect to any asset which is valued at  
8 less than \$10,000. All objections to the propounded discovery  
9 are deemed **WAIVED**. Plaintiffs' request for sanctions is  
10 **DENIED** without prejudice to being renewed if Iran does not  
11 answer.

12 Dated: December 17, 2008

13   
14 Bernard Zimmerman  
United States Magistrate Judge

15 G:\BZALL\REFS\PETERSON v. ISLAMIC REPUBLIC OF IRAN\Order Compelling  
16 Discovery FINAL.wpd  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28