

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

SMS FINANCIAL J, LLC,

Plaintiff,

v.

Case No: 2:18-mc-19-FtM-29CM

CUSTOM PLUMBING OF LEE
COUNTY, INC.,

Defendant.

ORDER

This matter comes before the Court upon review of Plaintiff's Motion for Writ of Garnishment After Judgment filed on October 31, 2018. Doc. 2. For the reasons stated below, the motion is granted.

On November 16, 2010, the United States Bankruptcy Court for the Northern District of Illinois granted a default judgment in favor of KHI Liquidation Trust ("KHI") against Defendant Custom Plumbing of Lee County, Inc. ("Custom Plumbing"), and entered judgment in the amount of \$103,607 "plus interest from the date of . . . March 19, 2010, at the Illinois statutory rate of five (5) percent"¹ and post-judgment interest. Doc. 1-2; Doc. 1-3 at 1-2. On April 29, 2016, KHI assigned the judgment to Plaintiff SMS Financial J, LLC ("SMS"), authorizing SMS to "collect,

¹ The United States Bankruptcy Court for the Northern District of Illinois revived the judgment on September 18, 2018, in the amount of \$107,040.98, apparently determining that to be the amount of the principal plus interest from March 19, 2010 to the date of the original judgment, November 16, 2010. See Doc. 1-1. The proposed Writ of Garnishment lists \$107,040.98 as the amount of the judgment as revived. Doc. 2 at 1.

compromise, settle and enforce” the judgment. Doc. 1-3 at 3-4. SMS registered the foreign judgment with this Court on October 23, 2018. Doc. 1. SMS states that Custom Plumbing is not in possession of “property on which a levy can be made sufficient to satisfy the judgment” and it believes Garnishee, Wells Fargo Bank, N.A., is indebted to Custom Plumbing or has tangible or intangible property of Custom Plumbing in its possession or control. Doc. 2 at 1-2.

Pursuant to Rule 69 of the Federal Rules of Civil Procedure, enforcement of a judgment shall be through writ of execution unless the court directs otherwise. Fed. R. Civ. P. 69(a)(1). The court may order other remedies that accord with the procedure of the state where the court is located. *Id.* Florida law provides for the remedy of garnishment pursuant to Fla. Stat. § 77.01 *et seq.* Under the applicable Florida statute, notice is provided to a defendant after service of the writ of garnishment. *See* Fla. Stat. § 77.041. Here, judgment has been entered against Custom Plumbing in the Northern District of Illinois, and the Court finds good cause to grant the motion. SMS must continue to follow all provisions, including notice requirements.

ACCORDINGLY, it is

ORDERED:

Plaintiff's Motion for Writ of Garnishment After Judgment (Doc. 2) is **GRANTED**. The Clerk is directed to issue the writ of garnishment submitted with the motion (Doc. 2 at 10-11).

DONE and **ORDERED** in Fort Myers, Florida on this 1st day of November,
2018.


CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record