

SCA ✓

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. ROY S. MAHON

Justice

MICHAEL ISRAEL,

Plaintiff(s),
Judgment Creditor,

- against -

TRIAL/IAS PART 9

INDEX NO. 7742/06 & 7744/06

MOTION SEQUENCE
NO. 6

SURINDER S. CHABRA,

Defendant(s).
Judgment Debtor.

MOTION SUBMISSION
DATE: October 9, 2008

STEVEN ISRAEL,

Plaintiff and
Judgment Creditor,

- against -

INDEX NOs. 7743 & 7746

SURINDER S. CHABRA,

Defendant and
Judgment Debtor.

The following papers read on this motion:

Notice of Motion	X
Affirmation in Opposition	X
Reply Affirmation	X

Upon the foregoing papers, the motion by the Defendant/Judgment Debtor Surinder S. Chabra and the non-party Malladi R. Shastry for an Order pursuant to CPLR 2304, 3101 and 5240 quashing and vacating plaintiffs' deposition subpoena duces tecum addressed to defendant and Judgment Debtor Surinder S. Chabra ("Chabra") and the information subpoena addressed to Malladi R. Shastry ("Shastry") (the "Challenged Subpoenas") upon the grounds that the Challenged Subpoenas are defective, improper, abusive and prejudicial in the circumstances because, inter alia, the purported federal court money judgments sought to be enforced have been determined on appeal by the United State Court of Appeals for the Second Circuit to be faulty and based on erroneous rulings of the District Court and must be vacated,

is determined as hereinafter provided:

The Defendant/Judgment Debtor seeks the instant relief in relation to certain information subpoenas dated August 8, 2008 in relation to certain judgments dated February 28, 2006 and April 17, 2006 in the United States District Court for the Southern District of New York.

The Defendant/Judgment Debtor premises the requested relief upon an August 5, 2008 determination by the United States Court of Appeals, Second Circuit in the action **Israel v Chabra**, ___F3d___, 2008 WL 296 7071. Contrary to the Defendant/Judgment Debtor's contention that the Court's determination therein vacated the respective Judgments in issue, a reading of the Second Circuit's Decision and Order does not vacate nor stay enforcement of the respective judgments which are the subject of the information subpoena. As such, to the extent that the Defendant/Judgment Debtor seeks to vacate the information subpoena served upon Surinder S. Chabra, said application is **denied**.

As to the non-party Malladi R. Shastry contrary to the non-party's contentions, the plaintiff has set for special circumstances for the issue of the subpoena upon Malladi R. Shastry by the certification required by CPLR §5224 appearing upon the face of the subpoena. The Court further observes that there is no requirement set forth in Article 52 of the CPLR requiring service of the information subpoena upon the Judgment Debtor's counsel.

Based upon all of the foregoing, the motion by the Defendant/Judgment Debtor and the non-party Malladi R. Shastry for an Order pursuant to CPLR 2304, 3101 and 5240 quashing and vacating plaintiffs' deposition subpoena duces tecum addressed to defendant and Judgment Debtor Surinder S. Chabra ("Chabra") and the information subpoena addressed to Malladi R. Shastry ("Shastry") (the "Challenged Subpoenas") upon the grounds that the Challenged Subpoenas are defective, improper, abusive and prejudicial in the circumstances because, inter alia, the purported federal court money judgments sought to be enforced have been determined on appeal by the United State Court of Appeals for the Second Circuit to be faulty and based on erroneous rulings of the District Court and must be vacated, is **denied**.

SO ORDERED.

DATED: 12/9/2008

.....*Raeys. Walton*.....
J.S.C.

ENTERED

DEC 12 2008

**NASSAU COUNTY
COUNTY CLERK'S OFFICE**