

MEMORANDUM OF LAW

DATE: April 29, 1987

TO: Claire Single, Auditor's Office

FROM: City Attorney

SUBJECT: Collection of Costs

You recently inquired of this office as to whether the City can compel a resident of Santa Barbara to appear for a debtor's examination to pursue collection of a judgment in favor of the City.

A resident of Santa Barbara cannot be compelled to appear in San Diego for a debtor's examination. Rather the debtor's examination may be held in the county of the debtor's residence.

. 708.160. Venue for examination

(a) Except as otherwise provided in this section, the proper court for examination of a person under this article is the court in which the money judgment is entered.

(b) A person sought to be examined may not be required to attend an examination before a court located outside the county in which the person resides or has a place of business unless the distance from the persons' place of residence or place of business to the place of examination is less than 150 miles.

(c) If a person sought to be examined does not reside or have a place of business in the county where the judgment is entered, a court of similar jurisdiction in the county where the person resides or has a place of business is a proper court for examination of the person. If there is no court of similar jurisdiction in the county, a court of higher jurisdiction is a proper court.

(d) If the judgment creditor seeks an examination of a person before a court other

than the court in which the judgment is entered, the judgment creditor shall do all of the following:

(1) File with the court from which the order is sought an abstract of judgment in the form prescribed by Section 674.

(2) Present to the court an affidavit in

support of the application for the order stating the place of residence or place of business of the person sought to be examined.

(3) Make any necessary affidavit or showing for the examination as required by Section 708.110 or 708.120.

(4) At the time of filing the abstract of judgment, pay a filing fee of twelve dollars (\$12). No law library fee shall be charged.

California Civil Code of Procedure,  
section 708.160 Emphasis added.

Short of such an examination, the Code of Civil Procedure does allow for the submittal of written interrogatories without regard to residence to ascertain the nature and location of assets. Section 708.020. Hence it is suggested this method be utilized to determine the nature and location of assets that could be pursued to satisfy the judgment.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

TB:js:040.2(x043.2)

cc Gene Gordon, Chief Deputy

ML-87-43