

**HOW TO TAKE AN EFFECTIVE POST-JUDGMENT DEPOSITION
AND FINDING ASSETS VIA TECHNOLOGY**

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CHAPTER 13

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HOW TO TAKE AN EFFECTIVE POST-JUDGMENT DEPOSITION AND FINDING ASSETS VIA TECHNOLOGY

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I. INTRODUCTION.

A. Post Judgment Discovery, generally. Post-Judgment discovery tools include any discovery proceedings authorized for pre-trial matters, the most common of which are interrogatories, depositions and requests for production of documents. Rule 621a, T.R.C.P. (All “Rule” references are to T.R.C.P.) Some practitioners also utilize requests for admissions to prove up elements to support relief under the turnover statute. Others like the ease of interrogatories which do not have a number limit post judgment. Rule 190.b. The preferred discovery tool is a deposition by tape-recording via a notice duces tecum or a subpoena duces tecum. Or, if the documents requested are expected to be voluminous, a request for production is sent first to provide an opportunity to review the documents ahead of the deposition date.

Post-judgment depositions with documents production offer much more information on the debtor’s assets than interrogatories. They do not give the debtor the same opportunity to form vague and un-useful answers often given to interrogatories with the follow-up necessity of a motion to compel. Further, depositions are often the first time the creditor’s attorney and the debtor come face to face. This may be enough to create the reality necessary for the debtor to understand that he must deal with the debt. Depositions by tape-recording can also be less expensive in the long run in that questions in the deposition process can be easily individualized to the debtor’s situation. When documents are also requested and reviewed at the deposition, the debtor is available to be examined and sometimes have his testimony impeached with the documents in hand. The practitioner should also do his/her homework by performing the searches discussed below to more effectively examine the debtor.

This paper will serve as a practical guide for taking a deposition including forms for notices and pleadings to enforce the taking of the deposition, a discussion of areas of examination and uses of documents production to get the full picture of the debtor’s financial situation, and a checklist for examination. It will also provide a guide to the methodology of using technology to discover assets and better equip the practitioner to evaluate collectability of claims without formal discovery.

B. An Historical Perspective. This paper was originally drafted in 1992 and updated in 1995. The earlier paper’s brief statement about preparing for the deposition tells us how very different the collections practice was in 1995:

“At the very least, one should examine all information in the client’s file that pertains to the debtor’s finances, which could include the credit application and any historical financial statements. To go further, you may consider reviewing the taxing authority’s records for any ownership of real or personal property subject to taxation. The Secretary of State records are also available for the debtor’s associations with various corporations and UCC-1 Financing Statements. The client may request you to even go so far as to employ a private investigator to obtain information on the debtor’s assets and business activities.”

When last updated in 2014, much had changed. Today’s practice is made much more efficient and effective with the vast resources we now have for accessing public records online and obtaining reasonably priced asset searches from providers such as Accurint and TLO. As a matter of practice, the need to take post judgment depositions had diminished over the years as information on the judgment debtor’s assets is so readily available. When informal discovery does not reveal assets available for seizure, the deposition provides the best means for securing information that can support the use of post judgment remedies. And the deposition process may encourage the debtor to set up a payment plan or otherwise satisfy the judgment.

C. Initial and Interim Asset Searches. Asset searches should be done at the onset of the claim analysis to determine whether investing in a lawsuit makes economic sense. Additionally searches often reveal information on potentially liable parties and provide a snapshot of the available assets for satisfaction of the judgment. A periodic update of the search may also provide a red flag if assets are moved during the course of the litigation. If pre-judgment remedies are warranted, the initial search and follow up searches may prove useful. An analysis of pre-judgment remedies is beyond the scope of this article, but remedies such as attachment require discovery of property subject to attachment. See Civ. Prac. & Rem. Code Chapter 61.

D. Pre-Suit Discovery for Punitive Damages. Net worth is discoverable by statute to prove up exemplary damages for cases governed by Chapter 41 of the Civil Practices and Remedies Code. Prior to recent amendments to §41.011 the ability to discover the potential debtor’s assets and liabilities at the early stages of the case provided a great opportunity to determine collectability of the claim very early on. For cases filed on or after September 1, 2015, discovery of the defendant’s net worth is only allowed on motion after notice and hearing by “written order that the claimant has demonstrated a substantial likelihood of success on the merits of a claim for exemplary damages.” S.B.No. 735.

E. Use of Investigator. In addition to basic searches that can be performed online or at the local courthouse, one may want to consider obtaining an asset search by a qualified investigator if the amount of the claim justifies the expense.

Many private investigators have access to numerous search services and databases beyond the basics. A really good investigator will ask you questions about your judgment debtor's background (as you should your client) as well as the nature of the case (for example, a suit for fraud in real estate may lead the investigator to delve into searches for real estate transactions, law suits, real estate license information and real estate related news). A good investigator will assist in analyzing and summarizing the data found – instead of merely furnishing a raw printout from the investigator's database searches.

II. TECHNOLOGY TOOLS.

A. Begin with your Client. It takes more than a subscription to a computer search service to evaluate the collectability of a claim or judgment. This section incorporates tips for developing a methodology for asset searches. Obtaining information from the prospective client and their files is key to getting off on the right foot in the race for assets. The client knows the defendant, perhaps personally or through business dealings gone awry. The client may have a credit file with credit applications, historical financials, copies of checks, location information, sales tax numbers and perhaps a guaranty agreement that adds a potential defendant to the mix. The client will be able to tell you if the defendant has talked about where his family is from, hobbies like boating, RV'ing, hunting, or ownership of rental properties, vacation homes or family farms. Always ask: Tell me what you know about the defendant and his/its assets.

B. Identify the Defendant. This should be done before suit, with attention paid to the name in which the defendant holds property or does business. For example Terrance Debtor may be known as Terry Debtor, or may do business as Terry's Tires, either with a formal assumed name filing, or informally. Property may be held in one or more of the names. When the Constable goes out to levy it is an easier process if the defendant has been sued as: Terrance Debtor aka Terry Debtor dba Terry's Tires. The same is true for the entity debtor. TD, Inc. that does business as Terry's Tires should be sued as TD, Inc. dba Terry's Tires, especially if, perhaps, the business personal property of the entity is listed on the appraisal district as Terry's Tires. Identifying the individual defendant can be as easy as reviewing the client's credit application on file, but may take a bit more effort if you start just with the name Terry's Tires.

Even with a credit application, I often verify information about the debtor by checking Publicdata.com for driver's license information and running an Accurint report based on the debtor's name and date of birth or social security number. An entity doing business as Terry's Tires, may have T.D. Inc. listed as the owner of the business personal property (BPP) using the assumed name Terry's Tires. An appraisal district search for Terry's Tires for BPP may lead you to the

entity. Or, you may check the Comptroller's website for sales tax permit information on the location name Terry's Tires, which would lead to the taxable entity, T.D., Inc. An entity's website may include its formal name in the "About Us" tab, or at the bottom of the webpage where it may say: © T.D., Inc. 2016, for example. If a name search of appraisal district information does not provide a lead, searching the address of your defendant, if known, may provide identity information. Another method to identify the entity debtor may be a quick entity search on the Comptroller's website. For example, if Terry's Tires is short for Terry's Tires, Inc. or Terry's Tires, LLC, a search of Terry's Tires will get you quickly to the entity name. Additional entity information can then be found at Secretary of State Direct. Proper identification allows you to bring suit in the name necessary to levy on the debtor's assets in its legal name and its formal and informal assumed names. It also provides the springboard for additional searches. See discussion of Publicdata.com, Accurint, Appraisal District, Public Records searches, and SOS Direct below.

C. Search Tools at your Fingertips. In the process of identifying the defendants, location information is gained, or perhaps confirmed. At the beginning of the suit, it is important for service of process. At the beginning and end of the suit, the debtor's location, and perhaps former locations, can lead to discovery of assets. Search tools used most often by this author are discussed below, but this is by no means an exhaustive list.

1. Publicdata.com. Publicdata requires registration and is a fee based service. This search service is helpful in locating the defendant through driver's license and property tax renditions. One can also discover motor vehicle information. The driver's license information may be current, or a little outdated. Even if outdated, it can provide where a defendant formerly lived – a residence that now is a rental property, or a lead on the defendant's family farm. While you think of a debtor as being primarily associated with a particular county, the tax rendition may clue you in to property in another county. Vehicles can be searched by the title holder's name. Or, if your client or process server has a license plate number for the defendant's vehicles – one vehicle identified can lead to others registered at the same address. Even outdated registrations can result in findings of fraudulent transfers when vehicles formerly registered to the debtor are now in the name of a family member or LLC – serving as a 'garage' for the classic car collection! Plus, the searches can provide leads to vehicle ownership that can be verified with a request sent to the DMV. Pubilcdata.com also has search capabilities to access criminal records, some county court records, a marriage license and divorce index, professional licenses, voter registration and the SSAA Death Master file, among others.

2. Accurint. Accurint.com requires registration and is a fee based service. Once the individual is

identified, an Accurant report will provide multiple opportunities to investigate a defendant's assets. While some of the information may prove outdated, it can lead to a history of addresses that serve as a basis for examination in a post judgment deposition; land records associated with the debtor's address history (which should be verified on the more current appraisal district and public records searches described below), UCC information that lists assets, vehicle information (which can be verified on Publicdata.com and more precisely confirmed by DMV searches described below), judgment and bankruptcy filing information, vehicle ownership history, boat ownership (verified by Texas Parks and Wildlife online at tpwd.state.tx.us) and even criminal histories. The Accurant report is cheap, about \$17, and provides lots of information that will lead you to other primary sources for verification and latest update. Accurant searches on entities are available as well.

3. Appraisal District Searches. These were mentioned with debtor identification. They are also very useful to verify property ownership, both real and business personal property. Don't limit the search to the current tax year. If possible search prior years for property ownership – this could lead to discovery of conveyances that might not be otherwise available in public record searches. Counties with online appraisal district records sometimes do not have their real property records online. And, if your search for the debtor's name comes up empty, be sure to search by known addresses, and any aliases or assumed names. These searches may alert you to fraudulent transfers, even perhaps the name of the defendant's new LLC that was set up to own the rental property! Property valuations can be useful in determining value – in Travis County home values are pretty accurate, but commercial property may be less than true market. And some counties value property significantly below market. The appraisal district records will also provide some evidence of which property the debtor claims as homestead.

4. Real Property Records. If available online, these records can tell the debtor's story at your fingertips. Search the debtor's legal name, assumed name and any aliases, both as grantor and grantee. Nasty federal tax liens may show up, abstracts of judgment from other litigation (sometimes this gives you a much needed address on the front end for service of process), transfers of property to and from the defendant, lien information on the defendant's property, foreclosures, and even lis pendens regarding court suits affecting the title to defendant's property. A dozen unreleased abstracts says a lot – either that there are a lot of unsatisfied judgment creditors, or that the defendant likes to leave liens in place to discourage new judgment creditors! Actual copies of the real estate records can also assist in verifying signatures, learning where the debtor was located when a document was notarized, an address to which a document was returned upon filing, a favorite lender or banking institution of the defendant, 'gift' deeds that signal fraud, and entity grantees that should be investigated as insiders. Whether or not you'll

need to pay for unofficial copies varies from county to county.

5. Texas Comptroller's Website. Searches on the Texas Comptroller's website (comptroller.texas.gov) are free. I often do a quick verification of an entity name at the tab "Franchise Tax Account Status". Many entity names are easily found this way, as a precursor to searches on SOS Direct. Sole proprietor information may be found if the defendant is in a business that pays sales tax. The tab "Sales Taxpayer Search" will help verify location of the debtor by location name, for example Terry's Tires, or by name of the individual by searching the debtor's legal name.

6. Secretary of State Direct. For a nominal charge, one can access corporate filings with the Secretary of State of Texas through www.sos.state.tx.us. While one can use this site to gather information on an entity debtor's formation and filing history, it can also be used to determine whether the individual debtor is an officer or registered agent of any filing entity. This allows you to locate other entities that may be holding assets of the debtor or which might be recipients of fraudulent transfers and intercompany transfers. Additionally, if the debtor utilized a particular accountant, attorney or employee to serve as its registered agent or other officer, debtor entities may be found by searching that person's identity under registered agent and officer searches. Some individuals may even have a naming scheme for their entities, for example Donna Brown may have DGB Law, Inc. for commercial investigative services and DGB Spouse, Inc. for her entity that does family law investigations. A search for entities beginning with "DGB" may reveal DGB Properties, Inc. and DGB Holdings, Co. Knowing about these entities before suit could multiply your defendants. Knowing about them post judgment could also help find potential assets held by entities owned by the judgment debtor.

The entity documents can tell you the history of the business, its ownership in some instances, updated as well as historical address information, and even a good phone number for the person filing the officer reports with the comptroller that are available among the records.

7. Google it! A simple search of the defendant's name as well as the defendant's alias, informal or assumed name can reveal property ownership, news articles, other litigation, family relationships (try searching for example, survived by Terry Debtor to discovery names of parents and in-laws), LinkedIn listings (showing previous as well as current business associations), websites, Facebook pages, engagement announcements – the list is endless. "Googling" the debtor's address, both physical and P.O. Box, can lead to additional business endeavors using the same location or P.O. Box and real estate listings and valuations associated with the physical address. Searching a known business number can sometimes reveal new businesses of the debtor.

8. URL. Most businesses have some kind of web presence, even if only a simple Facebook page. More expansive websites can yield a wealth of information. It is advisable to print out the pages of informative website pages for future reference – since they can be so easily changed or even taken down. Key personnel reflected on websites can be a source for officer searches on SOS Direct and LinkedIn searches for related and current business associations. Locations and associated entities are also often found on websites. Photos of equipment, descriptions of major projects and recent ‘deals’ are also disclosed. Sometimes an email sent by the defendant will reveal a business association by just the URL portion of the defendant’s email address. One can determine the entity behind the business, sometimes by the © notation at the bottom of each page. Other times you may search whois.net for the URL to learn the registrant’s name.

9. Pacer and local court information. Sometimes a Google search of a defendant will reveal court cases reported in Justia. Other times, a search on PACER could reveal bankruptcy and Federal Court litigation involving the defendant. The information of the local courts may or may not be available online. Perhaps only the docket sheet is available and one must order pleadings from the court clerk. Other times, pleadings can be accessed online. Think in terms of who else is suing the defendant, is there a race to the courthouse, is a divorce decree with property division available, or even where can this guy be served!

10. UCC Searches. For the most part UCC searches are done through Secretary of State Direct. An exception would be a fixturing filing that would be on file in the real property records of the county where the fixtures are located. The “debtor” search in a UCC search is one in the name of the individual or entity pledging his or its assets. While the borrower obligor is often a debtor as well, one should be aware of article 9’s terminology. That said, if your defendant is a ‘debtor’, and has pledged assets, the UCC will be on file in the Secretary of State’s office of the defendant debtor’s residence. For individuals, it is often clear. For filing entities one must search the Secretary of State’s records where the defendant is organized. Hence, a defendant organized in Delaware, though doing business in Texas, would have UCC’s filed against it in Delaware. This all said, creditors don’t know the UCC. They will file UCC’s where their borrower resides and where their borrower does business. So a thorough UCC search should be done in the records of the county where the defendant resides and/or does business and in the Secretary of State’s office where the defendant and anyone pledging assets does business.

So what do you get with UCC searches? If the assets are pledged, they may not have any equity. They still can be subject to levy. (See discussion in Post Judgment Remedies paper at dbrownlaw.com). Knowing the debtor’s assets and liabilities is important. One may decide against a garnishment if the debtor has debt to his or its bank – to avoid an offset. At a minimum, knowledge of the debtor’s assets and entity

relationships can provide a springboard for post judgment discovery in terms of documents requests and lines of questioning.

11. TLO and other sites. TLO requires registration. It is a very cheap source of location information (tlo.com), including utility hookups by name and address. One can also obtain social security number information from TLO. The collection attorney taking a fair amount of default judgments against individuals will find it useful to obtain a SSN for purposes of running a Department of Defense search to confirm the defendant’s military status. Bank account location services should be utilized with extreme caution. If the information has been gained by false pretenses, you could open yourself up to criminal penalties pursuant to the Fraudulent Access to Financial Information portion of the Gramm-Leach-Bliley Act, 15 U.S.C 6821, et seq. There are many other paid services and miscellaneous government sites for agencies that license or regulate industries, but the ones discussed in this paper are the go-to favorites of the author.

12. Out of state searches. Many states have online database information similar to those in Texas, most notably the Secretary of State websites for entity and officer searches. Property records, appraisal district records, and court records vary widely from jurisdiction to jurisdiction (as they do within the Texas’s 254 counties). Some require more ‘hoops’ to jump through than others and various fee structures to navigate.

D. Search Tools Beyond Your Keyboard. Sometimes public records are not at your fingertips. Information is still available, but it might make you get out of your chair! Or at least use the phone, your email or snail mail.

1. A walk to the courthouse. Some court records are not accessible on the internet. An old fashioned walk to the courthouse may be in order. If the searches take you to several counties, hiring a private investigator to do the legwork may make economic sense.

2. Owner & Lien searches. Title companies will often provide owner and lien searches from their database of public records to examine a property’s ownership record and liens. This is especially useful when the records are not readily available online. At an average of \$125 per search, including plain copies of the records results, this can be cost efficient and useful in evaluating the property’s history for possible equity and possible fraudulent transfers.

3. The drive-by. Yes, sometimes driving by the debtor’s home or business address can be enlightening. A “going out of business” or “for rent” or “for sale” sign can mean the need for urgent action. A fancy vehicle with a license plate can also take you down the path to assets. Or, a new business name over the old sign could lead to a serial

incorporator and the need to add that entity to your suit or post judgment radar screen.

4. DMV Searches. Vehicle ownership status and history can be verified with a request sent to TXDMV, form VTR-275. The form can be obtained online at www.txdmv.gov/forms.

III. FORMS AND PROCEDURE FOR THE TAKING AND ENFORCEMENT OF THE DEPOSITION.

A. Initial Notice or Subpoena. Attached at the end of this paper are notices for deposition and the subpoena duces tecum. The notice is forwarded to a party’s attorney of record and has the effect of a subpoena with enforcement by contempt. Rule 199.3. No one seems to agree on when representation ends in a collections matter. Some say it ends when a judgment is taken and others when a formal withdrawal is filed. A call to the judgment debtor’s attorney is a good practice tip. If the debtor then complies with the deposition notice, the cost of service of a subpoena is saved.

Some practitioners take the position that a pro se defendant can be served with a notice for deposition and that it has the same effect as a subpoena. This author reads Rule 199.3 more narrowly and thus subpoenas all pro se defendants or, in the case of an unrepresented entity defendant their principal, when seeking a post judgment deposition. When dealing with a corporate debtor, serving a subpoena on a particular individual who has knowledge of the corporation’s assets eliminates the argument that the person is not ‘subject to the control of a party’. See In re Reaud, 286 S.W.3d 574(Tex.App.—Beaumont 2009, orig. proceeding). Additionally, this allows the use of the contempt powers of the Court against the individual and thus secures better cooperation.

Form #1 is a standard deposition notice for an individual debtor. It includes a short list of general financial information. If you anticipate that the debtor may have been involved in numerous transfers in fraud or has extensive property interests that must be examined, Form #2 may be more useful. The documents requests can be altered based on informal discovery of the judgment debtor’s assets. And, the documents lists can be pasted into a request for production if reviewing the documents before the deposition is preferred. Note that Rule 190.6 excludes post-judgment discovery from discovery rules limitations so long form interrogatories are once again the norm as are periodic depositions. However, information sought in post-judgment discovery must be reasonably calculated to lead to the discovery of material evidence and material evidence in turn includes information that would aid in enforcement of the judgment. Blankenship v. Brown, 399 S.W.3d 303,312 (Tex. App.—Dallas 2013, pet. denied).

Form #3 is the subpoena form used to subpoena a pro se judgment debtor or to depose a particular individual of the pro

se corporate judgment debtor. This subpoena form could also be used in the event that you find it necessary to depose an individual who is not a party to the lawsuit. If deposing a nonparty, notice of the deposition must be given to the party pursuant to Rule 205.2.

When the discovery rules were largely rewritten in 1998, provisions for subpoenas for trial and discovery were combined in Rule 176. Note the provision of Rule 176.1(g), which states that the subpoena must state the text of Rule 176.8(a). See that text in the bold Contempt paragraph in Form #3 which warns the witness that failure to obey the subpoena may be a contempt of court. This warning in the subpoena is likely necessary for an unrepresented party or a non-party who is not otherwise represented by counsel and supports the reading of Rule 199.3 discussed above. Note also Rule 176.8(b), which states that a person served with a subpoena cannot be attached for failure to comply without proof by affidavit of the party requesting the subpoena or the party’s attorney of record that all fees due the witness by law were paid or tendered. See optional affidavit to Form #7 Motion for Contempt. So, what are those fees? Civil Practice and Remedies Code Sec. 22.001 provides for \$10 per day for each day the witness ‘attends court’ and Sec. 22.004 provides for \$1 for production of documents. [Attorney General Opinion No. DM-342 dated April 7, 1995 held Sec. 22.001 to apply to subpoenas for depositions]. These fees need to be paid when the subpoena is served (see Sec. 22.001(b)) so the typical procedure is to attach \$11 in cash to the subpoena.

Notice that all the forms provide for taking the deposition by non-stenographic means via tape-recording, allowed under Rule 199.1(c). The subpoena can be issued by the judgment creditor’s attorney. Rule 176.4(b). A notary in the attorney’s office can administer the oath. Tex. Gov’t Code 602.002(5).

B. The Uncooperative Debtor and the Contempt Process.

If the debtor who is noticed for the deposition through the party’s attorney or the debtor who is subpoenaed for the deposition fails to show up for the deposition you can proceed under Rule 215 to request the Court to hold the individual in contempt. In some counties, the judges will require that you file a Motion to Compel the deponent to give the deposition and obtain an order compelling the deposition, prior to going forward with contempt. The forms are drafted accordingly. It does give the deponent one more chance to comply without the expense of personal service of the show cause discussed below. Attached to this paper as Forms numbered 4 and 5 are suggested forms for the Motion and Order to Compel. Attached as Form 6 is a letter to the deponent forwarding the Court’s order compelling the deposition.

In order to ensure due process in the contempt process, the individual should be personally served with notice of the contempt proceeding. Attached hereto as Form 7 is a contempt motion. This form is geared for various discovery options, Option 3 being the option for an individual party’s failure to

give a deposition after being properly noticed, and Option 4 being an individual's failure to give a deposition after being subpoenaed. Form 8 is a letter for filing the Motion with the clerk and Form 9 is the Order to Show Cause.

The exact procedure for presenting the Motion to the Court will vary from county to county. In Travis County the movant presents the Motion to the Court at uncontested docket and has the Court sign the Show Cause Order, which has already been set with the Clerk and which is generally set two to three weeks from the signing of the Order. This will allow ample time for personal service. The time allowed for service will vary depending on the difficulty anticipated in serving the debtor with the Show Cause Notice. The Clerk will issue the Show Cause Notice which will have attached a copy of the Motion and Order. To meet the burden of proof of notice, it should be personally served on the debtor.

Often, because the Motion contains a request for jail time, the deponent will arrange to give the deposition as previously requested. Unfortunately, the offer to give the deposition often comes on the eve of the Show Cause hearing. Attached as Form 10 is a letter which can be signed by the debtor agreeing to give his or her deposition and agreeing to a resetting of the Show Cause hearing without personal service in the event that the debtor fails to show up for the deposition. This will eliminate the need for re-serving the debtor with a show cause notice personally if he fails to show up at the rescheduled time. An alternative means for handling this would be to require that the debtor show up at the Show Cause hearing and announce to the Court that the debtor has agreed to give the deposition at a given time. You would then need to have the Court continue the Show Cause hearing to a later date to ensure compliance by the debtor.

If the debtor fails to give his deposition prior to the Show Cause hearing, the Show Cause hearing is held. At that hearing, if the debtor shows up, the Court is likely to:

1. find the debtor in contempt and possibly send him to jail (unlikely unless the deponent shows a flagrant disregard for the law and the judge), or
2. reset the show cause hearing with the requirement that the deponent give his deposition before the new setting.

If the debtor fails to show up at the Show Cause hearing, the Court will sign an Order for Writ of Attachment which, along with the Writ, will be forwarded to the constable. Attached as Forms 11 and 12 are an Order for Writ of Attachment and Writ of Attachment. The Order is presented to the Court at the Show Cause hearing for signature and the clerk issues the Writ. After the Writ of Attachment is issued it is forwarded to the constable for service. Form 13 is a letter forwarding the Writ to the Constable. The forms for attachment included in this paper provide alternatively for an

instant hearing or for a bond. If you anticipate difficulty with attaching the debtor at a time when a court hearing can be held in a matter of hours, you may want to include the provision for a bond. Movant's counsel should closely coordinate with the constable's office when the debtor is anticipated to be attached so that an attorney can be available for an immediate hearing.

The Constable will physically attach the deponent and bring him to Court so that the deponent can show cause why he should not be held in contempt of Court. At the hearing, the Court will take one of the two actions described above.

If the debtor is held in contempt the Court must sign a contempt judgment and must include in the judgment, or separate pleading, an order for commitment. See Ex Parte, Hernandez, 827 S.W. 2d 858 (Tex. 1992):

It is well established that both a written judgment of contempt and a written order of commitment are required by due process to imprison a person for civil constructive contempt... A commitment order is the warrant, process or order by which a court directs a ministerial officer to take custody of a person. The order containing this directive need not take a particular form and may be a separate order issued by the court, an attachment or order issued by the clerk at the court's direction or included in the contempt judgment.

Attached as Form 14 is the Contempt Judgment. Attached as Form 15 is the Writ of Attachment and Commitment in Contempt which allows the Constable or Sheriff to seize and jail the deponent. The Contempt Judgment holds the deponent in contempt, orders him confined, and directs issuance of necessary writs. The writ is issued per the court's direction.

The forms provide for not only coercive contempt, that is the debtor being held in contempt until he gives his deposition, but they also provide for criminal contempt in which the debtor serves time regardless of whether he gives the deposition. The Court is unlikely to assess jail time to the debtor without a method of purging himself of contempt unless the debtor is extremely rude or shows a total disregard for the judicial system. If this occurs, the debtor must be afforded the opportunity to be represented by counsel.

In ExParte Dolenz, 893 S.W.2d 677 (Tex.Civ.App. – Dallas 1995, orig. proceeding), the court held that collection of attorney's fees by contempt is not allowed and constitutes imprisonment for debt. The contempt judgment can provide for recovery of attorney's fees but should not provide for payment as a condition of release.

IV. PROPERTY AVAILABLE TO SATISFY THE JUDGMENT.

The obvious purpose of the post-judgment deposition is to locate non-exempt assets available to satisfy the judgment and

therefore the creditor's attorney must be armed with knowledge of property exemptions. Even if all of the debtor's property is exempt, the deposition process will provide information to allow the creditor's attorney to monitor bank accounts for garnishment and possibly obtain interests in future property via the turnover order. Further, it also provides an opportunity for the creditor's attorney to discuss with the debtor his ability to make payments toward the judgment out of cash flow or perhaps through the voluntary liquidation of exempt assets. See Post Judgment Remedies article at dbrownlaw.com, which includes a discussion of exempt property.

V. AREAS OF EXAMINATION.

A. Introduction. The areas of examination in a deposition should be framed with two major ideas in mind, the issue of exempt versus non-exempt property and the remedies available to secure collection from the non-exempt property. The filing of abstracts of judgment and the use of executions, garnishments and turnovers are the most used remedies in collecting judgments.

The creditor may also be interested in learning information about the debtor's homestead interest, identity of all the debtor's creditors and possible preferential payments for the purposes of possibly filing an involuntary bankruptcy or being prepared to challenge the contents of the debtor's bankruptcy filing in the future.

Attached hereto as Form 16 is an Areas of Examination Checklist. Caution: This checklist should only be used as a starting point for the deposition examination. If one relies on this checklist exclusively, the deposition taken will have the same shortfall as a structured set of interrogatories. [See also the sample post-judgment interrogatories in the Texas Collection Manual 4th ed, State Bar of Texas) which is a helpful guide for examination.]

B. Preparing for the Deposition. Preparation for the post-judgment deposition will vary from case to case depending on the size of the debt and the client's budget for post-judgment collections. Many of the searches on the internet for public records and other news about the debtor's assets and activities should have been done at the inception of the collections case. Updated searches may be necessary. In addition to the internet we've grown so fond of, one should still examine all information in the client's file that pertains to the debtor's finances, which could include the credit application and any historical financial statements. Cheap and available asset searches should also be considered, such as Accurant and TLO. Private investigators can still be a good use of client funds if a site view of the debtor's business location is needed, or if the debtor has activities in counties whose records are not so readily available.

Knowing as much about the debtor as you can going into the deposition can be useful in determining if the debtor is in

fact telling the truth as to other matters that are not as easily verified. Also, information from prior financial statements and property transfer records can be useful in determining possible transfers in fraud.

C. Areas of Examination Discussed. An explanation of the uses of the information on the checklist along with suggestions for documents production to supplement the testimony follows:

1. **Debtor Identification.** Identifying information on the debtor is useful because the need to relocate the debtor may become necessary. Additionally, one may need to be able to distinguish the debtor from someone with the same or similar name. The creditor's attorney should obtain the debtor's full legal name, the name the debtor usually uses, any aliases, the debtor's social security number, driver's license number, and date of birth. The current home address and phone number (including cell numbers) is also useful. It is also useful to obtain the names and addresses of the debtor's immediate family members for subsequent debtor location efforts and to fully examine possible transfers in fraud. The debtor's email address and websites owned can also help to keep track and in touch with the debtor's activities going forward.

2. **The Debtor's Employment.** The identity of the debtor's employer, along with the nature of the debtor's compensation, is of prime importance. Even if the debtor works for wages, it is useful to know where he works for purposes of subsequent debtor location. If a professional license is required, the licensing boards often maintain current address information. Even though current wages are exempt, the debtor's cash flow can be discussed during the deposition process and, through working out a cash flow analysis, the debtor can sometimes be encouraged to enter into a voluntary payout agreement after realizing that a payment plan is possible. The timing of receipt of pay checks, and whether the debtor has direct deposit, can prove important for garnishment purposes. If the debtor's 'contract of employment' reveals that the debtor is an independent contractor, then the debtor's receipts would be subject to turnover since they are not wages. See Post Judgment Remedies article at dbrownlaw.com for a discussion of wages v. independent contract receipts and other exempt property issues.

3. **Real Property.**

a. **Leasehold Interests:** As part of the debtor identification, the attorney should obtain the debtor's current home address and phone number. Even if this is a leased location, this information can be important in subsequent debtor location efforts. Further, it may be useful to determine the debtor's landlord for purposes of subsequent debtor location and possibly a third-party deposition or action by a receiver to determine the manner of payment of the rent.

b. **Homestead:** Debtors often answer no to the question "do you own any real property," because they are making

payments to the mortgage company and they do not own the property free and clear. Depending on the sophistication of the debtor, it is useful to phrase the question “are you purchasing any real property.” If the debtor does own real property you should inquire what property the debtor claims as his homestead. Just because a debtor claims property as homestead, one should not stop there. Information should be obtained to determine whether the homestead is rural or urban, whether the homestead is occupied or abandoned and a proper description of the property. It is possible that the debtor’s property is urban and exceeds ten acres, or perhaps has excess acreage for a rural homestead. Further, the debtor may have abandoned the homestead and lost the homestead exemption. Even though the homestead is exempt, it is a good idea to file the abstract of judgment in the county where the homestead is located so that subsequent abandonment of the homestead, i.e. by turning it into rental property, will allow the lien to attach. Further, some title companies will not insure title in the sale of a homestead unless judgment liens are released. This will alert the judgment creditor to a sale of the property and possible relocation of the debtor.

A full treatment of bankruptcy implications relating to homesteads is beyond the scope of this article. However, it is important to be familiar with 11 U.S.C. Sec. 522 (o) which provide for a 10 year look back on payments in fraud of creditors made toward a homestead and (p) which places limits on a homestead acquired within 1,215 days of filing of a bankruptcy petition. The debtor in a post-judgment deposition is obviously not in bankruptcy or the deposition would not be taking place. However, the creditor may want to consider an involuntary bankruptcy filing if the homestead was acquired within basically 3 years and 4 months of the deposition and large sums of the debtor’s cash has found its way into the homestead. Or, even if large sums were paid into the homestead in the preceding 10 years. Informal discovery of the debtor’s homestead can usually be done on the internet via a search of the appraisal district records. From there, a search of the real property records is also likely available on line. If the debtor’s homestead appears to have been acquired less than 1,215 days ago, or if a lien securing a 30 year note is released much sooner than 30 years, a study of Section 522 (o) and (p) prior to the deposition is in order.

c. Non-homestead Property. Any real property not qualifying as a homestead is of course non-exempt and an abstract of judgment should be filed in the county where that property is located. Again obtaining the property description and location is important. Mortgage information on the property is also very important to determine if the non-exempt property has any equity and would pass the cost benefit analysis test in proceeding with execution. Rental income from non-exempt real property could be subject to a turnover and therefore the amount of income along with the identity of the renters of the property is important. Finally, if the debtor stands to inherit an interest in real property, the abstract of judgment

should be filed in the county where the land is located, so always ask where the debtor’s family lives.

d. Miscellaneous Property Interests: In some instances the debtor owns miscellaneous property interest in the form of an undivided interest in real property, oil, gas and mineral interests, or perhaps an interest in a partnership or corporation that owns real property. It is important to obtain the description of the property, the liens, and income from the property. An abstract of judgment should be filed in the county where any of that property is located. Funds received from oil, gas, and mineral interests are subject to garnishment and/or turnover and therefore the identity and addresses of the entities making lease payments, etc., should be obtained. Some creditors are discouraged when the debtor owns undivided real property interests because the creditor does not want to become a co-owner with the other interest holders. However, seizing or attempting to seize the debtor’s interest in an undivided real property tract can be useful in that the co-owners of the property may be in a position to either put pressure on the debtor to pay the judgment or buy the debtor out and therefore put funds in the hands of the judgment creditor. The judgment lien of an individual debtor does not actually attach to the property owned by an entity in which the judgment debtor has ownership, but there is a good chance that the title company will make it an exception to title if the property is sold and thus alert the judgment creditor to the ongoing business activities of the judgment debtor.

4. Personal Property. A review of the personal property laundry list of exemptions is a good practice to prepare for taking a post-judgment deposition. Even if all of the debtor’s property fails within the exempt categories, it is important to review that property with the debtor to determine if the monetary value of the aggregate personal property exceeds the \$50,000(individual)/100,000(family) limitation. Following the areas of examination checklist at p. 43, the following personal property issues should be examined:

a. Vehicles. The debtor is entitled to one vehicle for each licensed driver in the household along with one vehicle for every unlicensed driver that needs to be transported. Vehicle information can be obtained informally via Accurant and Publicdata.com reports. It is good to have that information in hand at the deposition just in case the debtor needs reminding what is stored in the garage! While obtaining the information regarding each individual vehicle including purchase price, payments, lienholders, etc., may seem tedious, the information regarding vehicles owned by the debtor could reveal the debtor’s true ability to pay the debt and will contribute to reaching the dollar limit on the aggregate exemptions. Further, debtors have often obtained the urge to purchase vehicles for cash on the eve of a post-judgment deposition. Recall that conversions of non-exempt property to exempt property can be challenged. Finally, since corporations have no exempt property all corporate vehicles are subject to execution. If the debtor is an entity with numerous vehicles and the judgment is

small, a deputy armed with a writ of execution and a tow truck can make collection pretty efficient.

b. Accounts and Cash. The obvious reason for locating bank accounts, savings accounts and other forms of cash is for purposes of garnishment and for use by turnover receivers. In order to be most effective in the garnishment process one must not only know the institution where the debtor banks, but also the account numbers and the names of the signatories on the account. A review of the debtor's bank statements along with cancelled checks produced at the deposition will help determine when the best time of the month would be for garnishment. Information on direct deposits of payroll and other checks to the accounts will help in timing a garnishment action.

In addition to accounts with banks and C.D.'s, do not overlook safety deposit boxes at those institutions. While the scope of the writ of garnishment clearly inquires as to money or effects of the debtor, it is useful to identify safety deposit boxes to put the bank on notice in a garnishment action that the bank should also freeze the box.

If the debtor has a habit of handling large sums of cash or cash equivalents, the sums are subject to seizure at execution and therefore the debtor's cash handling habits should be a subject of inquiry. Ask, "do you have any cash or cash equivalent?"

c. Stocks, Bonds and Securities. Stocks, bonds and securities are not exempt. The location of the stock certificates and/or stock accounts should be determined. Certificates can be reached by execution and accounts can be reached by garnishment. Since stock is often collateral for loans, also inquire as to any pledges of the securities to anticipate controversies with prior lienholders upon seizure of the securities. If a turnover receiver is appointed, this information will be useful to the receiver as well.

d. Boats, Recreational Vehicles and Motor Homes. Boats, when not used in the debtor's trade or business, are not exempt. Recreational vehicles may not be exempt, depending on if the court finds that they fall within the general four-wheel motor vehicle category and can be included in the vehicle exemptions. Motor homes may well not be exempt as 'vehicles'. A complete description and location will be useful for the constable for purposes of seizing these items on execution.

e. Airplanes. Airplanes are not exempt and therefore their complete description and location is important to determine during the deposition process. A cost benefit analysis should precede seizure of equipment such as airplanes in that the lien on the equipment may far exceed the value of the plane. Further, the seizure of the plane could be a costly procedure.

f. Claims Against Third Parties. Intangibles such as accounts receivable, notes receivable, causes of action and judgments are all subject to seizure as non-exempt property. Details on the individual intangible sought to be seized are important in determining the proper remedy to use. For example, small accounts receivables and notes receivable payments would be most susceptible to a turnover proceeding, whereas large past-due accounts receivable and notes receivable could be more easily garnished. You may even seek to seize the note itself and sell it at execution to sell all rights in the note.

Lawsuits and causes of action can be more of a problem to turn into cash. The creditor may not want to actually seize the cause of action but instead obtain a turnover of proceeds from any settlement or recovery received in the lawsuit. This could be done by asking the court to require the debtor to execute an assignment of the proceeds in the event of a successful action and then have these assigned rights sold at execution or applied to the judgment.

Whether something is currently owed is important for purposes of garnishment, but future interests can also be seized via the turnover statute. Pending contracts could result in sums due and owing to the judgment debtor. Additional rights may be acquired by the debtor via inheritances. (The inheritances can also be important to discuss in relation to real property interests so that abstracts of judgment can be in place in the counties where the debtor may obtain an interest in real property.) A broad question should always be asked in summary, "Does anyone owe you money now or do you expect anyone to owe you money in the future?"

g. Collections. In inquiring as to ownership of personal property, one should also ask the debtor if he owns any collections, i.e., stamps, guns, coins, etc. Collections in and of themselves are not exempt, unless the items in the collection fall under one of the categories of exempt property. Recall that the debtor is only entitled to two firearms and therefore any firearms in excess of two, which may or may not be considered a "collection", would be non-exempt. Stamps and coins should be the subject of inquiry because of their value for liquidation purposes. The seizure of these objects of desire could put just the right pressure on the debtor to come up with the funds needed. Collections can be seized by execution or turnover, or perhaps garnishment if held by a third party.

h. Additional Exempt Property Information. As discussed earlier, even information on exempt property is important because of the limitations on the value of the exempt property and the number of exempt property items that the debtor is entitled to claim as exempt. If the creditor determines in the deposition that the value of the personal property claimed by the debtor as exempt exceeds the dollar limits or the number limits of items failing within the exempt categories, one can request the debtor to make designations under oath in the context of the deposition as to what items he may claim as

exempt and which items he would claim as excess and therefore not exempt. If the debtor refuses to do this, obtain as much information as possible about the various items and then proceed with a court hearing to request the court to order the debtor to designate, or the court will designate, the property that will be subject to execution.

i. Insurance. The life insurance exemption is virtually limitless. However, a debtor who suddenly loads up on life insurance on the eve of a lawsuit or the eve of a post-judgment deposition could be subject to scrutiny under the prohibition on payment of premiums in fraud of creditors. Any large purchase of insurance should be looked at very carefully in those circumstances.

j. Retirement Accounts and IRAs. Most retirement accounts and IRAs are exempt. The statute pertaining to this exemption has been revised almost every session since it was enacted. If the debtor has substantial sums in IRAs or retirement plans, further detailed discovery may be necessary along with consultation with an ERISA attorney. Tex. Prop. Code 42.0021. Finally, in reviewing the debtor's ownership in retirement plans and IRAs, one should inquire as to the capability of the debtor to borrow from his or her retirement plan. This could prove a voluntary source of funds for payment of the debt.

k. Trust. Some creditors and attorneys upon seeing the word "trust" will assume that the trust is a spendthrift trust and therefore not subject to creditor attack. A good rule of thumb is to examine all trust documents and trust transactions that one uncovers in which the debtor is involved. Many times the trusts are not in fact spendthrift trusts and their corpus can be attached, or at the very least attacked as a fraudulent transfer.

l. Other Intangibles. Patents, trade-marks, copyrights, and other "rights" are subject to levy via the turnover statute and should not be overlooked. Even country club memberships may be subject to a creative turnover proceeding.

m. Business Interests. The debtor's business interests, whether they be in a sole proprietorship, partnership, LLC or a corporation should be examined with the same particularity as one would examine the business, partnership, LLC, or corporation if that organization or entity was the judgment debtor.

Obviously, sole proprietorships are one and the same as examining the debtor. Unlike corporations the debtor's ability to claim some of the property used in the business as exempt property is a consideration. However, unlike a debtor who is employed for wages, income received by a debtor's sole proprietorship business is subject to turnover. If the debtor is operating a business, he should be required to produce for examination not only his personal banking account and

financial records, but also his "business" financial records and statements.

A debtor's interest in partnerships and LLC's are subject to charging orders. Here again the debtor's partners will be useful in putting pressure on the debtor to take care of his debts so that they do not have to deal with a judgment creditor's charging actions. Closely review partnership documents to determine if in fact it is a partnership entity or if there is an undivided ownership interest in the "partnership" property which could be subject to execution without the necessity of going through a charging order proceeding.

A debtor's interest in corporations of course is subject to seizure in that stock is not exempt. Often debtors own 100% in small corporations and therefore it should be made clear to them in the deposition process that the entire business is subject to seizure by seizing the corporate stock. The practical side of this threat and seizure is that often a small corporation solely owned by a shareholder who is now a judgment debtor has debts of its own and therefore may have little equity for purposes of the cost benefit analysis in seizing the stock and liquidating the corporation.

n. Transfers, Conversions, Third Parties. The debtor should also be questioned about previously owned non-exempt property that has been transferred to someone else or converted to exempt property. The transfers to third parties should be inquired about within the previous four years (and in some instances extended under discoverability showing). Conversions of non-exempt property should be inquired about within the last two years. Property conversions can be detected, for example, when the debtor has a new model vehicle that has no lien. In that instance it is likely that the debtor took non-exempt cash and purchased the vehicle on the eve of the suit or deposition in order to protect the assets. Reviewing historical financial statements can be useful in determining both fraudulent transfers and fraudulent conversions. Property indexes are available on line for many counties and a simple grantor/grantee search of the debtor's name can provide a guide to questioning.

If there is property held by third parties, the facts surrounding the transfer and the debtor's rights to obtain the property from that third party must be determined. Spousal transfers should be most closely scrutinized and one should inquire as to pre and post-nuptial property agreements along with partitions of property between spouses.

Closely held companies that have closed should not be considered dead deals. If the amount of the judgment is sufficient to warrant costs and fees to examine the debtor, special attention should be focused on assets that were transferred to insiders for antecedent debts, loans to shareholders and affiliates that were left uncollected, loans from shareholders that were paid in the last year of operation (when other creditors were not!), and assets, including phone

numbers and customer lists, that have found their way into a new business enterprise. Run officer searches on SOS Direct to determine if the principals of the closed debtor have formed a new entity. The phone number can be called to see how the phone is answered. Sometimes the same website address is used for the 'new' company. The entity's last year's worth of tax returns, bank statements and financials provide a treasure trove of information on 'what happened to the assets'.

o. Debts. The debtor's debt structure can be important for a number of reasons. First of all, if the debtor owes the bank at which the debtor's banking accounts are located, garnishments could be hampered by the bank's rights of offset. The debtor's ability to make payment arrangements can best be judged by looking at the debt structure and the status of the various debts owed. The necessity for quick action may be determined by the status of the other debts. The likelihood of bankruptcy and the advisability of a quick settlement can also be useful from a review of the debts. Finally, if an involuntary bankruptcy is being considered because of known or suspected preferences or the desire to challenge the extent of the debtor's homestead protections in the bankruptcy context, the amounts and identity of the debtor's creditors is needed to determine the number of creditors needed to file the involuntary petition and to learn the identity of those who might join in the filing.

p. Other Income and Sources of Cash. In addition to the debtor's paychecks from his employment or income from his business, other sources of income should be questioned. The debtor should be asked if he anticipates any tax refunds so that a turnover order can be put in place prior to receipt of the refund. Expected inheritances can also be the subject of inquiry by asking where they are from, if their parents still live there, and whether they expect any inheritances. Some debtors will be very forthcoming with this information. One should always ask the blanket question "do you expect to receive sums of money or property from any source?"

q. Cash Flow Analysis and Payment Proposal. Since in many instances much of the property of most individual debtors is exempt under Texas law, the post-judgment deposition can be most useful as a means of working with the debtor to review the debtor's monthly income and expenses and work out a payment plan. Again, the face-to-face reality meeting that the debtor has with the judgment creditor's attorney in the post-judgment deposition can be the most useful tool in collecting the debt. The debtor may not have the current ability to pay all of his debts as they become due, but he can certainly be encouraged to prioritize the payment of the debt which is being actively sought for collection. The debtor's overall debt structure should be analyzed in order to determine the probability of bankruptcy.

r. The Corporate Debtor. Recall that corporations have no exempt property. When examining a corporate debtor look at the overall corporate structure to determine not only the

corporation's ability to pay but if there are any grounds for personal liability on the part of the shareholders and directors of the corporation. There also seems to be a temptation on the part of some individual debtors to transfer assets between the corporation and the individual debtor depending on whether the individual debtor or the corporation is being attacked. These transfers should be looked at closely as grounds for possible fraudulent transfer actions or personal liability on the part of the officers involved in the transactions. See also the discussion of transfers above.

5. Documents. Documents requested in the notice duces tecum and subpoena duces tecum are useful in not only verifying the debtor's testimony but also getting a real handle on the debtor's financial situation, a handle which the debtor may not have himself.

a. Banking records are obviously useful in determining a cash flow analysis of the debtor's business and can reveal garnishment opportunities. At least spot check several months of cancelled checks to determine possible payments on assets that have not been disclosed, payments by the debtor on assets owned by third parties which could in fact be available to satisfy the judgment debt if fraud is involved, and of course obvious fraudulent disbursements of corporate funds to individual non-judgment debtors. Bank records also reveal identity of accounts to which wire transfers and ACH transfers are made—giving cause for an inquiry about the identity of the recipient. If the debtor's business is 'closed', the last year's worth of activity should be closely examined for payments to insiders.

b. Financial Statements can be useful in also verifying asset ownership. If the financial statement has been given for purposes of obtaining a loan, the debtor is more likely to have disclosed all of the assets to the creditor for whom the financial statement has been furnished. Further, fraudulent transfers are often identified by reviewing historical financials. If the debtor's business is 'closed', one should closely look at changes in the balance sheets. Were shareholders paid back on loans or past due wages? If so, there may be a basis for a fraudulent transfer. Are there loans to shareholders and affiliates that remain outstanding? If so, these loans could be subject to turnover and in turn collected.

c. Tax Returns are also good indicators of undisclosed assets in the event there is interest or dividends reported on the tax returns on investments not disclosed in the testimony. Further, tax returns can be useful to show the debtor's ability to pay the debt and thus appeal to the discretion of the court in various turnover proceedings of independent contractor income and sole proprietorship income.

Corporate returns are useful in that they include balance sheets for beginning and end of year. Focus on changes from first of year figures to yearend figures to discover payments to insiders and inquire 'what happened to this asset?'. See

discussion of financial statements above. When the debtor claims to be ‘operating at a loss’, review the amount of depreciation that is claimed to determine real cash available.

d. Records of claims and debts owed to the debtor reveal details for garnishment and turnover opportunities.

e. Insurance documents can reveal fraudulent premium payments if huge cash values are found in life insurance policies. Property insurance policies can provide impeachment material on asset valuations (the mink coat insured for \$5,000 that the debtor garage sale values at \$200) and will often list specific equipment and vehicles identified with coverage.

f. Documents evidencing the debtor’s ownership of real and personal property supplement the debtor’s testimony with much needed details when proceeding with post-judgment remedies requiring good identification of the assets to be seized.

g. Documents evidencing transfers of real or personal property will also provide much needed detail when proceeding with fraudulent transfer or conversion actions.

h. Recent property appraisals will also be useful in overcoming “garage sale” valuations.

i. Partnership, LLC and corporate documentation also supplement the debtor’s testimony concerning business interests owned.

j. Trust documents are a must to evaluate collectability from the trust corpus or distributions and determine if the trust has an enforceable spendthrift provision.

k. Divorce documents provide information on the debtor’s property at a given point in time and could be useful in detecting transfers in fraud.

l. Marital property agreements and partition agreements can reveal possible transfers in fraud.

Form 1

NO. _____

VS.

§ IN THE _____ COURT OF
§ TRAVIS COUNTY, TEXAS AT LAW
§ NO. _____ OF _____ JUDICIAL
§ DISTRICT TRAVIS COUNTY,
§ TEXAS

NOTICE FOR ORAL DEPOSITION IN AID OF JUDGMENT

TO: _____, Defendant in the above-referenced cause:

Pursuant to Texas Rules of Civil Procedure, you are notified that you are required to give your oral deposition in the captioned cause at the offices of DONNA BROWN, P.C., 1250 S. Capital of Texas Hwy, Building I, Suite 320, Austin, Texas 78746, on _____, at 9:00 o'clock a.m. The deposition will be tape-recorded. You are ordered and directed to bring and produce at such time and place, as fully as if a subpoena duces tecum were otherwise served upon you, all of the following:

1. All canceled checks, bank statements, check stub records, and other banking records pertaining to your financial affairs and those of your spouse, or for any account upon which you have had signatory authority, within the last two years.
2. Copies of all books, records, and financial statements kept or issued by you for the last two years.
3. Copies of your income tax returns and those of your spouse, with all attachments, for the last two years.
4. All papers and records pertaining to debts owed you by others, and ANY OTHER PAPERS OF ANY SORT PERTAINING TO YOUR BUSINESS OR FINANCIAL AFFAIRS FOR THE PERIOD OF TWO YEARS IMMEDIATELY PRECEDING DATE HEREOF, including but not limited to any and all certificates of title to vehicles, share certificates, deeds or contracts concerning real estate, or other indications of ownership of real or personal property.

Respectfully submitted,

DONNA BROWN, P.C.
1250 S. Capital of Texas Highway
Building I, Suite 320
Austin, Texas 78746
(512) 732-2376 (Telephone)
(512) 732-2518 (Telecopier)
dbrown@dbrownlaw.com (E-mail)

By: _____
DONNA BROWN
Bar No. 03113400
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

This is to certify that the foregoing Notice for Oral Deposition in Aid of Judgment has been served by _____, on _____ at _____ on the _____ day of _____.

DONNA BROWN

NOTE: This form is for individual defendants and would need to be modified if used for a corporate defendant. For closely held corporate defendants address the notice to as specific person 'as representative of defendant' and this will usually be acceptable to opposing counsel.

FORM 2

NO. _____

VS.

§
§
§
§
§

IN THE _____ COURT OF
TRAVIS COUNTY, TEXAS AT LAW
NO. _____ OF _____ JUDICIAL
DISTRICT TRAVIS COUNTY,
TEXAS

NOTICE FOR ORAL DEPOSITION IN AID OF JUDGMENT

TO: _____, Defendant in the above-referenced cause:

Pursuant to the Texas Rules of Civil Procedure, you are notified that you are required to give your oral deposition in the captioned cause at the offices of DONNA BROWN, P.C., 1250 S. Capital of Texas Hwy., Building I, Suite 320, Austin, Texas 78746, on _____ at 2:00 o'clock p.m. The deposition will be tape-recorded. You are ordered and directed to bring and produce at such time and place, as fully as if a subpoena duces tecum were otherwise served upon you, all of the following:

1. All income tax returns filed by the Defendant for the previous four (4) years.
2. All documents referred to in any way, directly or indirectly, in any and all income tax returns filed by Defendant for the previous four (4) years.
3. All documents that constitute or refer in any way, directly or indirectly, to any and all books, records, or other memoranda of business or financial conduct, activities, status or income of Defendant for the past four (4) years.
4. All documents that constitute or refer in any way, directly or indirectly, to any and all deeds, records, or other documents which relate to assets in the name of Defendant.
5. All documents that constitute or refer in any way, directly or indirectly, to any records of salaries, commissions, bonuses, income from employment, allowances, expenses, or any other sums of money paid to Defendant or by Defendant within the previous four (4) years.
6. All documents that contain or refer in any way, directly or indirectly, to the name(s) and address(es) of the person or persons who have custody of records of salaries, commissions, bonuses, allowances, expenses, or any other sums of money paid to or by Defendant within the last four (4) years.
7. All documents referring in any way, directly or indirectly, to any items of personal property in which Defendant owns or claims any interest.
8. All documents, items, and things referring in any way, directly or indirectly, to any and all accounts (business or personal bank, checking, savings, credit union, or retirement accounts) in which Defendant has an interest.
9. All documents referring in any way, directly or indirectly, to the name and address of persons or entities to whom Defendant has given a financial statement in the last two (2) years.

10. All documents that constitute or refer in any way, directly or indirectly, to financial statements prepared by Defendant in the last four (4) years.
11. All documents containing or referring in any way, directly or indirectly, to the names and addresses of persons who have served as bookkeepers or financial advisers for the Defendant during the last four (4) years.
12. All documents referring in any way, directly or indirectly, to each person or entity to whom Defendant has paid, given, or conveyed any real or personal property of a value more than \$200.00 in the last four (4) years, not in the regular course of business.
13. All documents referring in any way, directly or indirectly, to any personal or real property which the Defendant has sold, given, paid, or otherwise conveyed during the last four (4) years.
14. All documents referring in any way, directly or indirectly, to any and all motorized vehicles (including automobiles, trucks, watercraft, aircraft, and motorcycles) in which the Defendant claims an interest.
15. All documents referring in any way, directly or indirectly, to any and all persons or entities who have appraised any real or personal property for the Defendant during the last two (2) years.
16. All documents that constitute or refer in any way, directly or indirectly, to any appraisal of any real or personal property prepared for Defendant during the last two (2) years.
17. All documents that evidence or refer in any way, directly or indirectly, to the amount of money owed to the Defendant by any person or entity.
18. All documents referring in any way, directly or indirectly, to any legal cause of action, either real or anticipated, by or against the Defendant.
19. All documents referring in any way, directly or indirectly, to the anticipated amount of recovery in any legal cause of action, either real or anticipated, by Defendant.
20. All documents referring in any way, directly or indirectly, to each person or entity who has served as the bank for Defendant during the last two (2) years.
21. All documents referring in any way, directly or indirectly, to any cash on hand for Defendant as of the date of the deposition.
22. All documents referring in any way, directly or indirectly, to any and all cash in any account owned or claimed by Defendant held or deposited with any bank or other financial institution(s).
23. All documents referring in any way, directly or indirectly, to any accounts payable owed by Defendant.
24. All documents that constitute or refer in any way, directly or indirectly, to any accounts receivable owed to Defendant.
25. All documents that constitute or refer in any way, directly or indirectly, to notes receivable held by Defendant or in which Defendant claims an interest.
26. All documents referring in any way, directly or indirectly, to shares of stock owned by the Defendant or in which the Defendant claims an interest.
27. All documents referring in any way, directly or indirectly, to bonds owned by the Defendant in which the Defendant claims an interest.

28. All documents referring in any way, directly or indirectly, to real estate that the Defendant owns or in which the Defendant claims an interest (including homestead).
29. All documents referring in any way, directly or indirectly, to property that the Defendant claims as homestead property.
30. All documents referring in any way, directly or indirectly, to any and all businesses in which Defendant is a partner, officer, or principal owner.
31. All documents referring in any way, directly or indirectly, to any interest the Defendant may have in any businesses, partnerships, corporations, or joint ventures.
32. All documents referring in any way, directly or indirectly, to any equipment that the Defendant owns or in which the Defendant claims an interest.
33. All documents referring in any way, directly or indirectly, to mortgage(s) upon which Defendant is liable.
34. All documents referring in any way, directly or indirectly, to accounts payable by the Defendant, including account name(s), original amount, person or entity to whom due, balance owing, payments, maturity and collateral.
35. All documents referring in any way, directly or indirectly, to accounts payable by the Defendant or in which the Defendant claims an interest.
36. All documents referring in any way, directly or indirectly, to any other unpaid taxes for which the Defendant is liable except for those already listed with regard to real estate.
37. All documents referring in any way, directly or indirectly, to any assets held in trust, in an estate, or in any other name or capacity in which the Defendant claims or has an interest.
38. All documents referring in any way, directly or indirectly, to any assets that were owned or claimed by the Defendant's spouse before marriage, acquired by the Defendant's spouse during marriage by gift or inheritance, or recovered for personal injuries sustained by the Defendant's spouse during marriage or received in any settlement or judgment pertaining to divorce.
39. All documents referring in any way, directly or indirectly, to assets, except real estate, that are securing any debt for which the Defendant is liable.
40. All documents referring in any way, directly or indirectly, to the Defendant's obligations to pay the leases, notes, or other debts of any other person or entity.
41. All documents referring in any way, directly or indirectly, to any unsatisfied judgments against the Defendant or for which the Defendant is liable.
42. All documents referring in any way, directly or indirectly, to any filing in bankruptcy by the Defendant or any assignment by the Defendant for the benefit of creditors.
43. All documents referring in any way, directly or indirectly, to any dividends payable to the Defendant or in which Defendant claims an interest.
44. All documents referring in any way, directly or indirectly, to any interest payable to the Defendant or in which the Defendant claims an interest.
45. All documents referring in any way, directly or indirectly, to any royalties payable to the Defendant or in which the Defendant claims an interest.

- 46. All documents referring in any way, directly or indirectly, to any personal or business expense of Defendant (management, rent, household, etc.).
- 47. All documents referring in any way, directly or indirectly, to any insurance payments Defendant may have or any insurance payments due to Defendant.
- 48. All documents referring in any way, directly or indirectly, to any other assets not already divulged by Defendant pursuant to this document request.
- 49. All documents referring in any way, directly or indirectly, to any other liabilities not already divulged pursuant to this document request.
- 50. All documents referring in any way, directly or indirectly, to any outstanding contracts for which Defendant is entitled to receive a commission, and/or upon which Defendant claims a right to receive a commission, whether a partial commission or complete commission.
- 51. Any will executed but not revoked in writing by Defendant.
- 52. All documents referring to any divorce of Defendant within the last four (4) years.
- 53. All documents evidencing safety deposit boxes, lock boxes, and storage facilities of any kind to which Respondent has access.
- 54. All check stubs, cancelled checks and bank statements for the previous two (2) years for accounts in which Defendant claims an interest.
- 55. All documents evidencing any trusts and the assets contained therein for trusts of which Defendant is a grantor, a beneficiary, or trustee.

[fillin Option A] (1) Respondent’s stock certificates evidencing his ownership in _____ and all corporate records of said corporation.

[fillin Optin B] (1) All documents evidencing Respondent's ownership interest in the limited partnership known as _____.

Respectfully submitted,

DONNA BROWN, P.C.
 1250 S. Capital of Texas Highway
 Building I, Suite 320
 Austin, Texas 78746
 (512) 732-2376 (Telephone)
 (512) 732-2518 (Telecopier)
dbrown@dbrownlaw.com (Email)

By: _____
 DONNA BROWN
 Bar No. 03113400
 Attorneys for Plaintiff

CERTIFICATE OF SERVICE

This is to certify that the foregoing Notice for Oral Deposition in Aid of Judgment has been served by _____, on _____ at _____ on the _____ day of _____.

 DONNA BROWN

FORM 3

THE STATE OF TEXAS

TO any Sheriff or Constable or any authorized person within the State of Texas:

You are commanded that you serve by delivering a copy of this subpoena to _____ at _____, and thereby to summon such witness to appear before the undersigned, at the offices of DONNA BROWN, P.C., 1250 S. Capital of Texas Hwy, Building I, Suite 320, Austin, Texas 78746, on _____, _____, at _____ o'clock __.m., to testify being summoned at the instance of Plaintiff in Cause No. _____ now docketed in the County Court at Law No. __, of Travis County, Texas, styled “_____,” which testimony will be tape-recorded and that he continue his attendance until discharged by the Court or by the Plaintiff; and that he diligently search, examine, and inquire, and bring with him and produce all of the following:

1. All canceled checks, bank statements, check stub records, and other banking records pertaining to the financial affairs of [judgment debtor’s name in this and all blanks in 1-4] or for any account pertaining to _____, within the last two years.
2. Copies of all books, records, and financial statements kept or issued by _____ for the last two years.
3. Copies of the income tax returns of _____, with all attachments, for the last two years.
4. All papers and records pertaining to debts owed to _____ by others, and ANY OTHER PAPERS OF ANY SORT PERTAINING TO THE BUSINESS OR FINANCIAL AFFAIRS OF _____ FOR THE PERIOD OF TWO YEARS IMMEDIATELY PRECEDING DATE HEREOF, including but not limited to any and all certificates of title to vehicles, share certificates, deeds or contracts concerning real estate, or other indications of ownership of real or personal property.

[option 1]Any and all documents evidencing the identity and location of _____.

[option 2]Any and all documents evidencing the assets of _____.

Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

This subpoena shall constitute notice to [judgment debtor’s name] of Plaintiff’s intent to take the deposition of [deponent’s name] as provided herein.

Herein fail not, but make lawful return upon this writ, showing how you have executed the same.

DATED and issued _____, _____.

Donna Brown
Texas Bar No. 03113400

RETURN

Came to hand this ____ day of _____, _____, at _____ o'clock ____m., and executed in Travis County on the ____ day of _____, _____, by delivering a copy hereof to said witness.

Return made this ____ day of _____, _____, and mailed to DONNA BROWN, Attorney, 1250 S. Capital of Texas Hwy, Bldg. I, Suite 320, Austin, Texas 78746.

Travis County, Texas

By: _____

Note: If the person subpoenaed is not also the judgment debtor, it is necessary to send a copy of this subpoena to the other parties to the suit under Rule 205.2 and file a copy with the court along with a notice per Rules 191.4(b)(1),191.5.

FORM 4

NO. _____

| | | |
|-------|---|-------------------------|
| _____ | § | IN THE _____ COURT |
| VS. | § | OF TRAVIS COUNTY, TEXAS |
| _____ | § | AT LAW NO. _____ OF |
| | § | _____ JUDICIAL DISTRICT |
| | § | TRAVIS COUNTY, TEXAS |

**MOTION TO COMPEL [name of person being compelled]
TO GIVE DEPOSITION IN AID OF JUDGMENT**

1. Service of Subpoena Duces Tecum. Respondent, [name of person being compelled], was personally served with a subpoena duces tecum to appear for deposition and to produce certain documents at such time. OR 1. Service of Notice for Oral Deposition in Aid of Judgment. Respondent, [name of person being compelled] was given notice to appear for deposition and produce certain documents at such time.

2. Failure to Depose. Respondent failed to appear for the deposition and produce the documents required by the subpoena. OR notice.

3. Request for Orders. Plaintiff asks that upon hearing Respondent, [name of person being compelled], be ordered to:

- 3.1 Produce all documents described in the subpoena duces tecum OR notice, which was served on Respondent at the offices of Donna Brown, P.C., 1250 S. Cap. of Texas Hwy, Building I, Suite 320, Austin, Travis County, Texas 78746;
- 3.2 Give deposition in aid of judgment to Plaintiff’s attorneys; and,
- 3.3 Pay reasonable attorney’s fees of at least \$500.00 for legal services in obtaining such order

Respectfully submitted,

DONNA BROWN, P.C.
1250 S. Capital of Texas Highway
Building I, Suite 320
Austin, Texas 78746
(512) 732-2376 (Telephone)
(512) 732-2518 (Telecopier)
dbrown@dbrown.com (E-Mail)

By: _____
DONNA BROWN
Bar No. 03113400
Attorneys for Plaintiff

NOTICE OF HEARING

Hearing on the foregoing Motion to Compel is set for _____, _____ at _____ o'clock p.m. on the central docket for the [Travis]County Courts at LawDistrict Court at the Travis County Courthouse, Austin, Texas.

CERTIFICATE OF SERVICE

This is to certify that the foregoing Motion To Compel [name of person being compelled] to Give Deposition in Aid of Judgment has been served by _____, to _____, at _____, on the ____ day of _____, ____.

DONNA BROWN

FORM 5

NO. _____

| | | |
|-------|---|-----------------------------|
| _____ | § | IN THE _____ COURT OF |
| | § | TRAVIS COUNTY, TEXAS AT LAW |
| VS. | § | NO. _____ OF _____ JUDICIAL |
| | § | DISTRICT TRAVIS COUNTY, |
| _____ | § | TEXAS |

**ORDER COMPELLING [NAME OF RESPONDENT]
TO GIVE DEPOSITION IN AID OF JUDGMENT**

On this day come on to be heard Plaintiff’s Motion to Compel [name of respondent] to Give Deposition in Aid of Judgment, and Plaintiff having appeared by and through its attorney of record, and the Respondent having had notice of such hearing but having wholly failed to appear, and the Court having considered such Motion and the evidence, and being of the opinion that same should be granted:

It is therefore, ORDERED that Respondent, _____, appear at the offices of Donna Brown, P.C., 1250 S. Capital of Texas Hwy, Building I, Suite 320, Austin, Travis County, Texas on _____, _____, at 9:00 o’clock a.m., and at such time, Respondent is ordered to:

- (a) Produce the following documents [or such documents as listed in the original notice or subpoena]:
 1. All canceled checks, bank statements, check stub records, and other banking records pertaining to Defendant’s financial affairs and those of his spouse, or for any account upon which Defendant has had signatory authority within the last two years.
 2. Copies of all books, records and financial statements kept or issued by Defendant for the last two years.
 3. Copies of Defendant’s income tax returns and those of his spouse, for the last two years.
 4. All papers and records pertaining to debts owed Defendant by others, and ANY OTHER PAPERS OF ANY SORT PERTAINING TO DEFENDANT’S BUSINESS OR FINANCIAL AFFAIRS FOR THE PERIOD OF TWO YEARS IMMEDIATELY PRECEDING DATE HEREOF, including but not limited to any and all certificates of title to vehicles, share certificates, deeds or contracts concerning real estate, or other indications of ownership of real or personal property.
- (b) Give deposition to Plaintiff’s attorneys at that time.

It is further ORDERED that Plaintiff recover reasonable attorney’s fees in the sum of \$500.00 against Respondent and that such fees be taxed as costs of court.

SIGNED this the ____ day of _____, _____.

JUDGE PRESIDING

[Name]
[Address]
[City, State, Zip]

OPTIONAL [CERTIFIED MAIL
NO.
RETURN RECEIPT REQUESTED
AND] FIRST CLASS MAIL
ADDRESS SERVICE REQUESTED

RE: Cause No. _____

Dear _____:

Enclosed is a copy of the court order signed by the judge at the hearing on the Motion to Compel Deposition.

Please be sure you appear at our offices on the date indicated. If you fail to do so, we have no alternative but to ask the Court to hold you in contempt.

[if consumer debt]This office is attempting to collect the above-described indebtedness from you and any information obtained will be used for that purpose.

Sincerely,

DONNA BROWN

DB:_____
Enclosures

FORM 7

NO. _____

VS.

§ IN THE _____ COURT OF
§ TRAVIS COUNTY, TEXAS AT LAW
§ NO. _____ OF _____ JUDICIAL
§ DISTRICT TRAVIS COUNTY,
§ TEXAS

MOTION TO HOLD [RESPONDENT] IN CONTEMPT

TO THE HONORABLE JUDGE OF SAID COURT:

PARTIES. Movant is [Movant name], owner of the judgment in this cause, who moves that [option a]Respondent, [Respondent name], Defendant and judgment debtor in this cause, be held in contempt of court for [end option a]

[option b]Respondent, [Respondent name], as representative of Defendant and judgment debtor, [Debtor Name], in this cause, be held in contempt of court for

[use w/ option 1]disobeying this Court’s order to answer interrogatories. Respondent may be served with process at _____.

[use w/ option 2]disobeying this Court’s order to appear and give hisher deposition and produce certain documents. Respondent may be served with process at _____.

[option 1]I.

FACTS. On _____, _____, this Court ordered Respondent to answer on or before _____, Movant’s interrogatories in aid of judgment that were addressed to Respondent and served on _____, and to deliver to Movant’s attorney of record a complete copy of the answers, and that Movant recover reasonable attorney’s fees in the sum of \$500.00 against such Respondent, a copy of which is attached hereto.

The Respondent, although having had proper notice of such order of the Court, has willfully failed and refused to obey the lawful orders of this Court. Respondent has failed to deliver a complete copy of the answers to Movant’s interrogatories to Movant’s attorney of record. Further, no attorney’s fees have been paid by said Respondent as ordered.[end option 1]

[option 2]I.

FACTS. On _____, this Court ordered Respondent to appear and give a deposition and produce certain documents at the offices of Donna Brown, P.C., 1250 S. Capital of Texas Hwy., Bldg. 1, Suite 320, in Austin,

Travis County, Texas, on _____, at 9:00 o'clock a.m., and that Movant recover reasonable attorney's fees in the sum of \$500.00 against such Respondent, a copy of which is attached hereto.

The Respondent, although having had proper notice of such order of the Court, has willfully failed and refused to obey the lawful orders of this Court. The Respondent failed to appear at the offices of Movant's attorneys, produce the requested documents, and give a deposition at the time ordered to do so and has not contacted Movant's attorneys to schedule another time agreeable to the parties to give the deposition and produce the requested documents. Further, no attorney's fees have been paid by said Respondent as ordered.[end option 2]

II.

GROUNDS. Under Rule 215, Texas Rules of Civil Procedure, Respondent's refusal to comply with this Court's order is a contempt of court. Respondent should be punished for contempt and jailed thereafter until Respondent complies with this Court's order.

III.

ATTORNEY'S FEES. As a result of Respondent's failure to obey the order of this Court described above, Movant has brought this Motion to Hold _____ in Contempt. Under Rule 215, Texas Rules of Civil Procedure, Movant is entitled to reasonable expenses and attorney's fees incurred in bringing this Motion. A reasonable attorney's fee for the services rendered in this matter is at least \$500.00.

PRAYER

Movant prays that:

1. The Court set this matter for hearing;

[option 1]2. Respondent be ordered to appear and show cause why Respondent should not be held in contempt of court for refusing to comply with the Court's order compelling answers to interrogatories in aid of judgment;

[option 2]2. Respondent be ordered to appear and show cause why Respondent should not be held in contempt of court for refusing to comply with the Court's order compelling Respondent to appear and give a deposition and to produce certain documents;

3. Respondent, after notice and hearing, be held in contempt of court;

4. A writ of attachment be issued for Respondent;

5. Respondent be fined \$500.00;

6. Respondent be confined in jail for three days and thereafter until Respondent purges Respondent of contempt by complying with the orders of this Court;

7. Respondent be required to post bond payable to Movant to insure Respondent's appearance if released from confinement;

8. Respondent be ordered to pay all court costs of this proceeding;

9. Respondent be required to pay \$100.00 as reasonable expenses incurred by Movant in making this Motion and obtaining an order for contempt;

10. Respondent be required to pay at least \$500.00 as reasonable attorney's fees incurred by Movant in making this Motion and obtaining an order for contempt; and

11. Movant be granted such other and further relief, special or general, legal or equitable, as may be shown that Movant is justly entitled to receive.

Respectfully submitted,

DONNA BROWN, P.C.
1250 S. Capital of Texas Highway
Building I, Suite 320
Austin, Texas 78746
(512) 732-2376 (Telephone)
(512) 732-2518 (Fax)

By: _____
DONNA BROWN
Bar No. 03113400
Attorneys for Movant

[option 3: add when contempt for failing to obey subpoena]

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared Donna Brown, who, being by me duly sworn, did upon oath state:

I am over the age of twenty-one years, have never been convicted of a criminal offense, and am competent to testify. I am the attorney of record for [Plaintiff] and have personal knowledge of the facts in this affidavit and they are true and correct. All fees due [witness name of person subpoenaed], as a witness, by law were paid or tendered.

Donna Brown

SUBSCRIBED AND SWORN to before me on _____, _____.

Notary Public-State of Texas

[Option]Mr. David Ferris, Supervisor
Travis County Clerk's Office
P.O. Box 149325
Austin, Texas 78701

via e-filing

[Option]Ms. Amalia Rodriguez-Mendoza
District Clerk
Travis County Courthouse
1000 Guadalupe
Austin, Texas 78701

Re: Cause No. _____; _____ vs. _____;

Dear Mr. FerrisMs. Rodriquez-Mendoza:

[use for show cause notice]Enclosed is our Motion to Hold _____ in Contempt. We will obtain the Court's signature on an Order to Show Cause at uncontested docket and provide it and a Show Cause Notice at that time.

Please call if you have any questions.

Sincerely,

Legal Assistant to DONNA BROWN

DB:
Enclosures

Note: Electronic filing requirements and local procedures will vary on how the payperwork is handled.

FORM 9

NO. _____

VS.

§
§
§
§
§

IN THE _____ COURT OF
TRAVIS COUNTY, TEXAS AT LAW
NO. _____ OF _____ JUDICIAL
DISTRICT TRAVIS COUNTY,
TEXAS

ORDER TO SHOW CAUSE

It is ORDERED that the Clerk will issue notice to Respondent, [respondent name], to appear, and Respondent is hereby ordered to appear, before this Court on the central docket of the Travis County District Courts at Law on _____, _____, at 0:00 o'clock a.m., to show cause why Respondent should not be held in contempt for disobedience of this Court's order as alleged in the Motion to Hold _____ in Contempt filed in this cause, a copy of the Motion and this Order to be served along with said Notice.

SIGNED on _____, _____.

JUDGE PRESIDING

[name]
[address]
[City, State, Zip]

Re:

Dear _____ :

This letter is to confirm our conversation today, wherein we will agree to reschedule the contempt hearing set on [original date and time of hearing], _____ at 9:00 a.m. for [new date and time], _____ at 9:00 a.m. This is to further confirm that you will agree to waive personal service of a Show Cause Notice resetting the hearing on our motion to hold you in contempt. This is further to confirm that if you produce the documents requested in the deposition notice and give your deposition on [deposition date and time], _____, at _____m. in our offices, we will cancel the hearing.

Should this letter set out our agreement as you understand it, please sign below where indicated and return a signed copy to me no later than 5:00 p.m. on _____, _____. [Option A] Our client will accept the sum of \$_____ as settlement in full for this debt and will waive the deposition, provided that the full \$_____ is paid by _____, _____ at 5:00 p.m. by cash or cashier's check. The check should be payable to Donna Brown, P.C. and be forwarded to my attention at 1250 S. Capital of Texas Hwy., Building I, Suite 320, Austin, Texas 78746. [End Option A]

Thank you.

Sincerely,

DONNA BROWN

DB: _____
Enclosure

APPROVED AND AGREED

[name]

cc: [client]

FORM 11

NO. _____

VS.

§ IN THE _____ COURT OF
§ TRAVIS COUNTY, TEXAS AT LAW
§ NO. _____ OF _____ JUDICIAL
§ DISTRICT TRAVIS COUNTY,
§ TEXAS

ORDER FOR WRIT OF ATTACHMENT

On [hearing date], a hearing was held on the motion of [Plaintiff], Movant, to hold [Respondent], Respondent, in contempt of court for refusing to obey this Court’s order to [option1 1]answer interrogatories [option 2]appear and give his deposition and produce certain documents.

Movant appeared by attorney. The Court finds that Respondent, although having been personally served with a copy of the Motion to Hold [Respondent] in Contempt, the Show-Cause Order, and the Show-Cause Notice on [date], failed to appear.

The Court finds that on [MTC hearing date], this Court ordered [Respondent], Respondent, [option 1]to answer Plaintiff’s Interrogatories in Aid of Judgment, to serve Movant’s attorney of record on or before [date] such sworn, signed answers[end option 1] [option 2]to appear and give his deposition and produce certain documents, at the offices of Movant’s attorney of record on or before [date][end option 2] and that Movant recover reasonable attorney’s fees in the sum of \$500.00 against Respondent.

The Court further finds that Respondent did not [option 1]deliver a complete copy of answers to Movant’s interrogatories[end option 1] [option 2]appear and give his deposition and produce certain documents[end option 2] to Movant’s attorney of record and did not pay the attorney’s fees as ordered.

As it appears to the Court that Respondent may have committed contumacious acts by Respondent’s refusal to obey this Court’s order [option 1]to answer interrogatories[end option 1] [option 2]to appear and give his deposition and produce certain documents[end option 2]:

It is therefore ORDERED that a writ of attachment be issued and served on Respondent; that Respondent be personally attached; and that the attaching officer be directed to notify the Court and Movant’s attorney immediately on attaching Respondent so that a hearing may be immediately scheduled for the purpose of Respondent’s showing cause why he should not be held in contempt for refusing to obey this Court’s order [option 1]to answer interrogatories and to serve Movant’s attorney of record on or before [date] such sworn, signed

answers[end option 1] [option 2]to appear and give his deposition and produce certain documents to Movant's attorney of record on or before [date][end option 2].

Option 1, no bond: It is further ORDERED that in no event shall the writ of attachment be served so as to require Respondent to be detained overnight before the show-cause hearing. [end option]

Option 2, bond: It is further ORDERED that in lieu of detainment in the custody of the officer executing this writ, Respondent may be released on posting a bond in the sum of \$_____, payable to Movant, with two or more good and sufficient sureties, to be approved by the Court, conditioned that on [next contested hearing date], _____, at 2:00 o'clock p.m. Respondent appear before the Court and remain in attendance until discharged by the Court. Personal recognizance in lieu of bond will not be permitted. [end option]

SIGNED on _____, _____.

JUDGE PRESIDING

WRIT OF ATTACHMENT

THE STATE OF TEXAS

To any sheriff or any constable of the State of Texas:

_____, Respondent, although personally served with notice, did not appear on _____, _____, for a hearing held on the Motion of Plaintiff to hold _____ in contempt of court in the Travis County Court at Law No. ____ Travis County District Courts in cause number _____, styled “_____ vs. _____.” Therefore in obedience to an order of this Court made and entered on [show cause hearing date]:

You are hereby COMMANDED to take into your custody and bring before the said Court, instanter, the said _____, Respondent, for the purposes of the Respondent showing cause why heshe should not be held in contempt for [option 1]refusing to obey this Court’s order to answer interrogatories. [use w/ option 2]refusing to obey this Court’s order to appear and give hisher deposition.

The attaching officer is directed to notify the Court and Movant’s attorney immediately upon attaching Respondent so that an instanter hearing may be scheduled. [option 1]In no event shall the Writ of Attachment be served as to require Respondent to be detained overnight prior to the show cause hearing.[end option1][option 2]In lieu of detainment, Respondent may be released on posting a bond in the amount of \$_____, payable to Movant, with two or more good and sufficient sureties, to be approved by the Court, conditioned that on [date], Respondent appear before the Court and remain in attendance until discharged by the Court. Personal recognizance in lieu of bond will not be permitted.[end option]

HEREIN FAIL NOT, but make due return of this writ, showing how you have executed it.

WITNESS my hand and seal of office at Austin, Travis County, Texas, on _____, _____.

Dana DeBeauvoir, County Clerk
Travis County, Texas

By: _____
Deputy

OFFICER'S RETURN

CAME TO HAND at _____ o'clock __.m. on the _____ day of _____, _____, and
executed at _____ o'clock __.m. on the _____ day of _____, _____, at _____, _____ County, Texas,
by _____.

The distance actually traveled by me in execution of this process was _____ miles and my fees are
\$_____.

Returned on _____, _____.

_____ County, Texas

By _____
Deputy

Constable _____

Austin, TX

Re: Cause No.; _____; _____

Dear Constable _____:

Enclosed is a Writ of Attachment in the above-referenced case. Also enclosed is your service fee in the amount of \$ _____. The address that we have for [person to be served] is [home address]. His [option a-business address] business address is _____. [option b-relatives address] If you can not locate him at either of these addresses, his [fillin relative, son, etc.] address is [relative's address].

Please let us know when you plan to pick up [person to be served] so that we can coordinate a time to appear before the Judge without _____ being placed in jail before the hearing.

Thank you for your help.

Sincerely,

DONNA BROWN

DB: _____
Enclosures

cc: [client]

FORM 14

NO. _____

VS.

§
§
§
§
§

IN THE _____ COURT OF
TRAVIS COUNTY, TEXAS AT LAW
NO. _____ OF _____ JUDICIAL
DISTRICT TRAVIS COUNTY,
TEXAS

CONTEMPT JUDGMENT

On [date of contempt judgment hearing], a hearing was held on the Motion of _____, Movant, to hold [respondent name], Respondent, in contempt of court for [option 1]refusing to obey this Court’s order to answer interrogatories.

[use w/ option 2]refusing to obey this Court’s order to appear and give hisher deposition.

Movant appeared by attorney.

____ Respondent appeared in person and by attorney.

____ Respondent appeared in person.

The Court considered the pleadings and official records on file in this cause and the evidence and argument of counsel.

[option 1]The Court finds that on [date of Motion to Compel hearing], this Court ordered [respondent name], Respondent, to answer on or before [date from Motion to Hold in Comtempt - FACTS], a complete, sworn set of written answers to the interrogatories in aid of judgment that Movant addressed to Respondent and served on [date interrogatories were served on respondent], and to deliver to Movant’s attorney of record a complete copy of the answers at the same time, and that Movant recover reasonable attorney’s fees in the sum of \$500.00 against such Respondent.

The Court further finds that Respondent did not deliver any answers to interrogatories to Movant’s attorney of record as ordered.

The Court further finds that Respondent’s refusal to comply with this Court’s order was without substantial justification[end option 1]

[option 2]The Court finds on [date of Motion to Compel hearing], this Court ordered [respondent name], Respondent, to appear and give hisher deposition and produce certain documents at the law offices of Donna Brown, P.C., 1250 S. Capital of Texas Highway, Building I, Suite 320, in Austin, Travis County, Texas, on [date of depo],

_____, at 9:00 o'clock a.m., and that Plaintiff recover reasonable attorney's fees in the sum of \$500.00 against such Respondent.

The Court further finds that Respondent did not appear and give hisher deposition and did not produce certain documents as ordered.

The Court further finds that Respondent's refusal to comply with this Court's order was without substantial justification.[end option 2]

The Court further finds that, under Rule 215, Texas Rules of Civil Procedure, Respondent's refusal to comply with this Court's order is a contempt of court and that Respondent should be punished for contempt and jailed until Respondent complies with this Court's order.

The Court further finds that Respondent should pay all court costs of this proceeding.

It is accordingly ADJUDGED that [Respondent's name], Respondent, is in contempt of this Court.

It is ORDERED that Respondent be fined \$_____ and confined in the county jail of Travis County, Texas, for a period of _____.

It is further ORDERED that Respondent thereafter be further confined in said jail until Respondent has fully purged himselfherself of such contempt by:

[option 1]1. answering the interrogatories in aid of judgment that Movant addressed to Respondent and served on _____, _____, and at the same time;

2. delivering to [movant's atty], Movant's attorney of record, at 1250 S. Capital of Texas Highway, Building I, Suite 320, Austin, Texas 78746, a complete copy of the answers[end option 1]

[option 2]1. giving hisher deposition to Plaintiff's attorneys at a time agreed upon by Plaintiff's attorney between the hours of 8:00 o'clock a.m and 5:30 o'clock p.m., on any Monday, Tuesday, Wednesday, Thursday, or Friday, said deposition to take place within 72 hours of notification of Plaintiff's attorneys of Respondent's desire to give said deposition. Respondent may orally notify Plaintiff's attorney by telephone between the hours of 8:00 o'clock a.m. and 5:30 o'clock p.m. at (512) 732-2376 by speaking with or leaving a message for Donna Brown or Kyley Schwartz. Respondent may notify Plaintiff's attorneys in writing by mail at 1250 S. Capital of Texas Highway, Building I, Suite 320, Austin, Texas 78746, with notice to Donna Brown or Kyley Schwartz;

2. delivering to Donna Brown, P.C., Movant's attorney of record, at 1250 S. Capital of Texas Highway, Bldg. 1, Suite 320, Austin, Texas 78746, the following documents:

[must match list for subpoena or depo notice]

1. All cancelled checks, bank statements, check stub records, and other banking records pertaining to the financial affairs of _____ and his/her spouse or for any account upon which _____ had signatory authority within the last two years.
2. Copies of all books, records, and financial statements kept or issued by _____ for the last two years.
3. Copies of the income tax returns of _____, and his/her spouse with all attachments, for the last two years.
4. All papers and records pertaining to debts owed _____ by others, and ANY OTHER PAPERS OF ANY SORT PERTAINING TO THE BUSINESS OR FINANCIAL AFFAIRS OF _____ FOR THE PERIOD OF TWO YEARS IMMEDIATELY PRECEDING DATE HEREOF, including but not limited to any and all certificates of title to vehicles, share certificates, deeds or contracts concerning real estate, or other indications of ownership of real or personal property[end option 2]

It is further ORDERED that [respondent], Respondent:

1. pay to the Clerk of this Court all costs of this proceeding; and
2. pay to Movant \$_____ as attorney's fees and \$_____ as expenses incurred by Movant in bringing this proceeding.

It is further ORDERED that [respondent], Respondent, be committed to the custody of the Sheriff of Travis County, Texas, as herein ordered.

It is further ORDERED that Respondent may be released on execution of a surety bond in the amount of \$_____ executed by a corporate surety licensed to do business as such in the State of Texas, payable to [Plaintiff/Movant], and delivered to the officer executing the attachment, conditioned that on or before _____, _____, Respondent will comply with all requirements of this contempt judgment against Respondent, and that if Respondent does not do so Respondent's bond will be forfeited and Respondent will be arrested and jailed under this contempt judgment. Personal recognizance in lieu of bond shall not be permitted.

It is further ORDERED that all commitments, writs, attachments, and other process necessary for the enforcement of this order be issued.

A certified copy of this judgment is to be attached to the order of commitment to show the authority of the Clerk for such issuance.

SIGNED on _____, _____.

JUDGE PRESIDING

APPROVED AS TO FORM:

DONNA BROWN, P.C.
1250 S. Capital of Texas Highway
Building I, Suite 320
Austin, Texas 78746
(512) 732-2376 (Telephone)
(512) 732-2518 (Telecopier)
dbrown@dbrownlaw.com (E-mail)

By _____
DONNA BROWN
Bar No. 03113400
Attorneys for Plaintiff

[name]
Attorneys for Defendant

**WRIT OF ATTACHMENT
AND COMMITMENT IN CONTEMPT**

THE STATE OF TEXAS

To any sheriff or any constable of the State of Texas:

[respondent name], Respondent, was adjudged to be in contempt of court on _____,
_____, by the Travis County Court at Law No. ____ of Travis County District Courts in cause number
_____, styled " _____ vs. _____." Therefore in obedience to an order of
this Court made and entered on _____, _____:

You are hereby **COMMANDED** to take into your custody and commit to the jail of your county and safely
keep the said _____ until, as required by the contempt judgment, _____ has:

[option 1] 1. delivered to Donna Brown, Donna Brown, P.C., Movant's attorney of record at 1250 S. Capital of
Texas Hwy., Building I, Suite 320, Austin, Texas 78746 a complete, sworn set of written answers to
Plaintiff's interrogatories in aid of judgment that were addressed to Respondent and served on
_____, _____; [end option 1]

[option 2] 1. given hisher deposition at the set time as set out in the Contempt Judgment; and

2. delivered to Donna Brown, Donna Brown, P.C., Movant's attorney of record at 1250 S.
Capital of Texas Hwy., Building I, Suite 320, Austin, Texas 78746, the documents set out in the
Contempt Judgment; [end option 2]

___ or been otherwise legally ordered discharged.

It is **ORDERED** that Respondent may be released on execution of a surety bond executed by a corporate surety
licensed to do business as such in the state of Texas, in the amount of \$_____, payable to [name person and office
bond is to be delivered], conditioned that on or before _____, _____, Respondent will comply with
all requirements of the contempt judgment against Respondent signed by this Court on _____,
_____, and that if Respondent does not do so Respondent's bond will be forfeited and Respondent will be arrested
and jailed under the said contempt judgment. Personal recognizance in lieu of bond shall not be permitted.

HEREIN FAIL NOT, but make due return of this writ, showing how you have executed it.

WITNESS my hand and seal of office at _____, _____ County, Texas,

on _____, _____.

[name of clerk], [identification of clerk]
Travis County, Texas

By: _____
Deputy

OFFICER'S RETURN

CAME TO HAND at _____ o'clock __.m. on the _____ day of _____, _____, and
executed at _____ o'clock __.m. on the _____ day of _____, _____, at _____, _____ County, Texas,
by _____.

The distance actually traveled by me in execution of this process was _____ miles and my fees are
\$_____.

Returned on _____, _____.

_____ County, Texas

By _____
Deputy

AREAS OF EXAMINATION CHECKLIST**A. Identification**

1. Full legal name
2. Name debtor uses
3. Aliases
4. Social Security number
5. Driver's license number
6. Date of birth
7. Names of immediate family members (if divorced, obtain details of divorce(s) filing and property division)
8. Home address and phone number
9. email address and website URLs

B. Employment (for both debtor and spouse)

1. Employer and address
2. Manner of compensation - wages, commissions, independent contract
3. When paid, i.e., monthly, every Friday, etc.
4. When bonuses paid
5. Any ownership interest in the company
6. Job description, any licenses required

C. Real Property

1. Lease/Rent: landlord identification; monthly rent; any rent to own options
2. Ownership:
 - a. Homestead:
 - (1) address and property description
 - (2) when acquired, purchase price, monthly payments, status of payments, mortgagee, current balance.
 - (3) rural vs. urban homestead; acres; if urban, whether adjacent lots
 - (4) occupied or abandoned
 - (5) additional principal reductions; payments in fraud of creditors
 - (6) name(s) on title
 - (7) if the homestead was acquired less than 1215 days before the deposition, it is good practice to inquire about previous homestead ownership to gain information to analyze vulnerability of the homestead in the event of bankruptcy
 - b. Other Real Property:
 - (1) address and property description
 - (2) when acquired, purchase price, monthly payments, status of payments
 - (3) all liens, mortgagee, current balance
 - (4) rental income, identity of renters
 - (5) name(s) on title
 - c. Miscellaneous Real Property Interests:
 - (1) property owned by partnerships and corporation in which debtor has an interest
 - (2) oil, gas and mineral interests
 - (3) anticipated inheritances
 - (4) property which debtor owns an undivided interest (determine owners of remaining undivided interests)

D. Personal Property

1. Vehicles (including 2, 3 or 4-wheeled motor vehicles):
 - a. model
 - b. license plate number/V.I.N.
 - c. when acquired
 - d. purchase price
 - e. monthly payments
 - f. lienholder
 - g. name on title
 - h. number of individuals in family at home
 - i. usual location of vehicle

2. Bank/Savings Accounts/Safety Deposit Boxes/CD's/Cash:
 - a. the institution
 - b. account numbers
 - c. names on account and signatories
 - d. whether owe debt to the institution
 - e. review bank statements w/ cancelled checks
 - f. whether direct deposit of paycheck and when
 - g. contents of deposit boxes and ownership of contents
 - h. any cash or cash equivalent in hand not in the accounts

3. Stocks, Bonds, Securities
 - a. location of certificates or accounts
 - b. names on certificates or stock accounts
 - c. identity of securities
 - d. whether pledged
 - e. review monthly statement from securities accounts

4. Boats and RV's:
 - a. description
 - b. identification number
 - c. location
 - d. value
 - e. lien
 - f. whether boat used in debtor's business

5. Planes:
 - a. description
 - b. identification number
 - c. location
 - d. value
 - e. lien

6. Claims Against Third Parties:
 - a. does anyone owe you money? - accounts receivable, notes receivable - identify and determine status

- b. do you have any lawsuits or judgments against anyone?
 - c. do you have any claims that would make the basis for a lawsuit?
 - d. any expected claims in the future?
 - e. expected inheritances?
 - f. expected insurance proceeds?
7. Collections (i.e., stamp, gun, coin, etc.):
- a. description
 - b. value
 - c. location
 - d. liens
8. Additional Exempt Property Information: Get (1) description; (2) location; (3) value; (4) liens on:
- a. home furnishings (including art work)
 - b. farming and ranching vehicles and implements
 - c. tools, equipment, books and apparatus used in a trade or business
 - d. wearing apparel
 - e. jewelry
 - f. firearms (limit to 2 exempt)
 - g. athletic and sporting equipment
 - h. household pets
 - i. animals and forage for their consumption
 - (1) horses, mules and donkeys with bridles (limit two)
 - (2) cattle (limit 12)
 - (3) other livestock (limit 60)
 - (4) fowl (limit 120)
9. Insurance
- a. company issuing
 - b. policy number
 - c. date issued
 - d. type of insurance
 - e. beneficiary
 - f. capacity to borrower against policy
 - g. large premium payments made in fraud of creditors
10. Retirement Accounts and IRA's:
- a. review plan documents to determine if qualified
 - b. account value and history of contributions
 - c. capability to borrow from plan
11. Trusts:
- a. beneficiary or trustor
 - b. property held in the trust
 - c. whether trust is spendthrift (insist on review of trust documents)
 - d. trustee
 - e. schedules of anticipated distributions
12. Other Intangibles: patents, trademarks, licenses, franchises, etc.; country club memberships

E. Business Interests

1. Sole Proprietorships:
 - a. assets used in business
 - b. liens on assets
 - c. checking, savings, etc. accounts for business
 - d. cash flow analysis
2. Partnerships and LLCs:
 - a. assets used in business
 - b. liens on assets
 - c. checking, savings, etc. accounts for business
 - d. cash flow analysis
 - e. partners (members) and their percentage ownerships
 - f. review partnership(LLC) documents
3. Corporations:
 - a. assets used in business
 - b. liens on assets
 - c. checking, savings, etc. accounts for business
 - d. cash flow analysis
 - e. other shareholders and their share ownership
 - f. review corporate documentation

F. Transfers, Conversions, Third Parties

1. Property Transferred (within 4 years):
 - a. identify property transferred and current location
 - b. transferee
 - c. consideration given (or was it a gift)
 - d. date of transfer
 - e. review historical financial statements to detect transfers
2. Personal Property Converted from Non-exempt to Exempt:
 - a. exempt property purchased (or traded for) within 2 years
 - b. review historical financial statements to detect conversions
3. Property Held by Someone Else:
 - a. Real property
 - b. Personal property
 - c. Bank and savings accounts
 - d. other intangibles
4. Marital Property Agreements:
 - a. pre-/post-nuptial
 - b. partitions
5. Closely held business that have closed:

- a. who got assets, phone number, client lists
- b. payments to insiders for antecedent debts
- c. accounts and notes receivable

G. Debts

1. Name of creditor
2. amount owed
3. whether suit filed or judgment taken
4. collateral
5. when incurred
6. status of payments and if any extraordinary payments made
7. if judgment taken, what actions has the creditor taken to collect the judgment

H. Other Income/Sources of Cash

1. review tax returns for sources of income
2. tax refunds
3. anticipated inheritances

I. Cash Flow Analysis

1. monthly receipts and expenses

J. Payment Proposals

1. monthly
2. lump sum
3. bankruptcy - past filings, intent to file in future

K. Documents Review - go over documents requested in notice or subpoena duces tecum; go over any documents or information you acquired in your independent searches on the debtor and the debtor's assets

L. If Corporate Debtor (remember: corporations have no exempt property)

1. name, assumed names
2. incorporation date, whether \$1,000 paid in
3. shareholders, directors, officers
4. status of franchise tax payments
5. location(s) of business
6. nature of business
7. identify deponent (see A above)
8. review property issues (See C through K, above)

QUICK GUIDE
 ASSET SEARCHES VIA TECHNOLOGY
 Form 17

| TOOL | INDIVIDUAL | ENTITY |
|---|--|--|
| <p>Publicdata (requires registration and is fee based) publicdata.com</p> | <p>Driver's License information -Name -Date of Birth -Address Multi-State Secretary of State Professional License Criminal history Voter Registration Vehicle Ownership Property Tax Renditions</p> | <p>Vehicle Ownership Property Tax Renditions</p> |
| <p>Accurint (requires registration and is fee based) accurint.com</p> | <p>Address / Real Estate Driver's License / Date of Birth UCC's Officer / Entity Associations Judgments Phone Numbers Vehicles Criminal History Bankruptcy Filings</p> | <p>Has much of the same information as the report on individuals, plus TIN and associated businesses</p> |
| <p>TLO (requires registration and is fee based) tlo.com</p> | <p>Limited initial report provides: Name Social Security Number Driver's License Current Utilities Address Phone Numbers</p> <p>Comprehensive report has much of the same information as Accurint</p> | <p>Limited initial report provides: Entity name Address Phone Numbers Officers Employees</p> <p>Comprehensive report has much of the same information as Accurint</p> |
| <p>Texas Comptroller (free) comptroller.texas.gov</p> | <p>Sales Taxpayer Tab -for individuals who have a business subject to sales tax</p> | <p>Franchise Tax Account Status Tab -for entity name, address, franchise tax status and officer information</p> <p>Sales Taxpayer Tab also useful</p> |
| <p>Secretary of State Direct (requires registration and is fee based) sos.state.tx.us</p> | <p>Officer Searches -To locate other entities UCC Searches -Locate liens and pledged assets</p> | <p>Complete entity filing documents, plus officer reports filed with Comptroller The officer reports also state whether the entity is wholly owned, or owns other entities May want to run officer searches to locate other entities that may be related</p> <p>UCC Searches</p> |
| <p>Appraisal Districts</p> | <p>Search by debtor's name and known addresses Also search any assumed name May need to separately search business personal property May want to search by various years Look for homestead designation</p> | <p>The same searches for entities Business personal property is often most useful Obviously no homestead exemption If debtor's location is owned by another entity, investigate its ownership</p> |

| | | |
|---|--|--|
| <p>Public Records (County Clerk) (some require registration; some are fee based)</p> | <p>Search by: -Grantor / Grantee -Foreclosure Postings -Assumed Names -Tax Liens -Marriage Licenses</p> | <p>The same searches for entities and their officers and owners</p> |
| <p>Court Records Local (some require registration; some are fee based)</p> | <p>Varies from county to county on availability and whether docket sheet or full access to pleadings is available -Possible location information for service of process -Property divisions in divorce filings useful -Use to locate other creditors for potential involuntary bankruptcy -other lawsuits signal collectability issues</p> | <p>Varies from county to county on availability and whether docket sheet or full access to pleadings is available See uses for individual debtor as examples of uses of other litigation</p> |
| <p>PACER (requires registration and is fee based) pacer.psc.uscourts.gov</p> | <p>Search by name for bankruptcy filing and party to suits in Federal Court</p> | <p>Search by name for bankruptcy filing and party to suits in Federal Court</p> |
| <p>LinkedIn linkedin.com</p> | <p>Search debtor's name for current and past employment, possible business ownership, and to locate witnesses</p> | <p>Search owner and officer names for related entities, new entities and to locate potential witnesses Search business name to find potential current and former employees</p> |
| <p>Google It! google.com</p> | <p>Search by name, known address and phone numbers to locate: -personal websites -Facebook page -Tweets -property information -relatives, engagement announcements, obituaries (search: survived by <u>debtor's name</u>) -Numerous hits for miscellaneous fee based services -news reports -YouTube Videos</p> | <p>Search by name, known address and phone numbers to locate: -business websites -Facebook page -Tweets -property information -litigation -related businesses associated with officers -news reports -YouTube Videos -transactions with governmental entities -SEC filings</p> |
| <p>URL</p> | <p>Debtor's email address may lead to their place of employment or their own business website</p> | <p>Debtor's contacts' email address may lead to new entity URL Debtor's website may provide: -contact information -associated entities -news and financial information, including current projects -photos of assets</p> |

| | | |
|---|---|---|
| <p>DMV txdmv.gov/forms</p> | <p>Confirm vehicle ownership and history To obtain form VTR-275</p> | <p>Confirm vehicle ownership and history To obtain form VTR-275</p> <p>License information on moving companies</p> <p>Motor carrier lookup</p> |
| <p>Texas Parks & Wildlife tpwd.state.tx.us</p> | <p>Verify boat ownership online, but must have hull # etc., usually found in Accurant report</p> | |
| <p>Texas Railroad Commission rrc.state.tx.us</p> | <p>Oil and Gas well and lease information available at Online Research Queries tab (full discussion beyond scope of this paper)</p> | |
| <p>Texas Department of Transportation txdot.gov</p> | | <p>Business Tab</p> <ul style="list-style-type: none"> -determine if debtor is contracting with TXDOT -can obtain bonding information |