6-13/100.00 Order for Examination of Debtor of Defendant

The plaintiff in a writ of attachment case may obtain an Order to Appear for Examination (AT-138/EJ-125) to examine a third party in possession of the defendant's property. The order may be issued ex parte upon application of the plaintiff with proof to the satisfaction of the court that the third person has possession or control of property in which the defendant has an interest or is indebted to the defendant in an amount exceeding $250.

The third party may be charged with contempt for failure to appear. The defendant must also be served (personally or by mail.) (CCP 491.110) An order for examination of a corporation, partnership or other organization may be directed to a specified individual or the organization. (CCP 491.140)

The defendant may file a claim of exemption in response to the order. The claim must be in writing and filed with the court (not the Sheriff's Department) and personally serve a copy on the plaintiff. Except to facilitate the examination of a third person, a defendant under a writ of attachment cannot be required to be examined to aid the plaintiff in locating assets. (CCP 491.120) (Ex Parte Rickleton, 51 C 316)

Since failure to appear may result in arrest for contempt, service may not be made on the attorney of record. If the debtor of defendant is out of the state or avoiding service, the court may make an order directing service on the defendant's attorney of record. (CCP 1016 and In re Meyer, 131 CA 41)