

MEMORANDUM

FROM: 2ND CIRCUIT

TO: INTERESTED PARTIES

RE: COLLECTION ACTIONS (JUDGMENT DEBTOR EXAMINATIONS)

Upon review of SDCL 15-20-1, the circuit judges shall discontinue signing orders setting debtor examinations other than before a circuit judge. Please review the statute below.

15-20-1. Supplementary proceedings - Order to judgment debtor to appear and answer after execution returned unsatisfied.

When an execution upon a judgment for twenty-five dollars or more, exclusive of costs and disbursements, against property of the judgment debtor, or of any one of several debtors in the same judgment, issued to the sheriff of the county where such debtor resides or has a place of business, or if he does not reside in this state or has no place of business therein, to the sheriff of the county where such judgment was obtained, is returned unsatisfied in whole or in part, the judgment creditor at any time after such return is entitled to an order from a judge of the circuit court within the county to which the execution was issued, requiring such judgment debtor to appear and answer concerning his property before such judge, within such county, at a time and place specified in the order.

The chapter does provide for a referee that you are free to use.

15-20-6. Supplementary proceedings - Appointment of referee.

A referee may be appointed in the discretion of the judge upon stipulation of the parties or upon the initiative of the judge at any time.

15-20-7. Supplementary proceedings - Attendance of witnesses required - Examination certified by referee.

Witnesses may be required to appear and testify on any proceeding under this chapter, in the same manner as upon the trial of any issue. The party or witness may be required to appear before the judge or a

referee appointed by the court or judge. If the examination is taken before a referee, it shall be certified by such referee to the judge.

We do not find authority in the chapter to continue the present practice of ordering documents brought with the debtor. If you wish documentation, you must issue a subpoena.