

RULE 45 – EXAMINATION IN AID OF EXECUTION

Examination of debtor

- (1) Where a judgment creditor is entitled to a writ of execution upon, or otherwise enforce, an order of the court, the creditor may examine the judgment debtor for discovery as to:
 - (a) any matter pertinent to the enforcement of the order;
 - (b) the reason for non-payment or non-performance of the order;
 - (c) the income and property of the debtor;
 - (d) the debts owed to and by the debtor;
 - (e) the disposal the debtor has made of any property either before or after the making of the order;
 - (f) the means the debtor has, or has had, or in future may have, of satisfying the order; and
 - (g) whether the debtor intends to obey the order or has any reason for not doing so.

Examination of corporate, partnership or firm debtor

- (2) An officer or director of a corporate judgment debtor, or a person liable to execution upon the order in the case of a partnership or firm judgment debtor, may, without an order, be examined for discovery upon the matters set out in subrule (1).

Limitation

- (3) Unless the court otherwise orders, a person examined under subrule (1) or (2) shall not be further examined in the same proceeding for a year.

Examination of person other than debtor

- (4) Upon being satisfied that any other person may have knowledge of the matters set out in subrule (1) the court may order the person to be examined for discovery concerning the person's knowledge.

Order in certain cases

- (5) Where a difficulty arises in or about the execution or enforcement of an order the court may make any order for the attendance and examination of a party or person it thinks just.

Application of examination for discovery rules

- (6) The provisions of Rule 27 apply, with such modifications as may be required, to an examination under this rule.

Use of examination

- (7) Any part of an examination for discovery under this rule may be given in evidence in the same or any subsequent proceeding between the parties to the proceeding or between the judgment creditor and the person examined for discovery.

Costs

- (8) Unless the court otherwise orders, the party conducting an examination under this rule is entitled to recover the costs of the examination from the debtor.