

11/9/79

## Memorandum 79-40

Subject: Study D-300 - Enforcement of Judgments (Satisfaction and Discharge of Judgments)

Attached is a draft of the provisions of the new enforcement of judgments statute relating to satisfaction and discharge of judgments. Also attached is a rough draft of the preliminary portion of the recommendation; this explains the significant changes the proposed law would make in existing law.

The Commission has not previously considered this aspect of the enforcement of judgments recommendation. Accordingly, you should read the attached material with care so you can raise for discussion at the meeting any matters of concern.

The significant policy issues presented by the attached material are outlined below:

(1) The proposed legislation changes the time limits for filing an acknowledgment of satisfaction of judgment and limits the applicability of the existing statutory sanction for failure to comply with various statutory requirements.

Existing law is somewhat unclear but appears to impose three duties on the judgment creditor:

(1) In any case where a judgment is satisfied other than pursuant to a writ of execution, the judgment creditor must file an acknowledgment of satisfaction of judgment with the court. The time within which this duty must be performed is not specified in the statute.

(2) In every case where an abstract of judgment has been recorded in any county, the judgment creditor must file with the court and deliver to the judgment debtor an acknowledgment of satisfaction of judgment within 30 days after the judgment is paid in full.

(3) Within 15 days after actual receipt of a demand from the judgment debtor or the owner of property upon which the judgment has become a lien, the judgment creditor must deliver an acknowledgment of judgment to the person making the demand.

In the last two cases listed above--but not in the first case--the existing statute provides that the judgment creditor who fails without just cause to comply with the statutory requirement is liable to the

judgment debtor or the owner of the property subject to the judgment lien for all damages resulting from the failure to comply and also forfeits to the injured person the sum of one hundred dollars.

The proposed law continues the three existing requirements, with some modifications in the times provided to comply, but limits the statutory sanction to the case where the judgment creditor fails to deliver the acknowledgment within 15 days after actual receipt of a demand in writing. The requirement that the judgment creditor must fail to comply with a demand before a sanction is imposed is consistent with the comparable provision of the small claims court law and will protect against imposition of the sanction where the judgment creditor inadvertently fails to file or deliver the acknowledgment. The proposed law contains a provision to make clear that the elimination of the statutory sanction where no demand has been made will not affect the right to recover any damages or penalty the injured person is entitled to recover under other provisions of law.

(2) The proposed law adds a new provision that permits a judgment debtor to make a demand for an acknowledgment of partial satisfaction of judgment. This permits determination of the amount unpaid on the judgment in a case where the judgment debtor or the owner of property subject to a judgment lien needs this information or where, for example, there is a dispute as to whether there has been a proper offset against the judgment. Although there is no existing statutory provision for a demand for an acknowledgment of partial satisfaction, the case law indicates that such a demand may be made and the issue determined by the court if necessary. The demand is required under the proposed law as a condition for obtaining a court determination of the matter. We do not believe that the new provision will provide the judgment debtor with an opportunity to harass the judgment creditor, but in recognition of this possibility and of the possibility of a bona fide dispute, we have not imposed any sanction for failure to comply with the demand.

(3) The proposed law continues existing law which provides that an acknowledgment of satisfaction of judgment be executed by "the judgment creditor or assignees of record." The small claims court law permits such acknowledgment to be executed by the judgment creditor or "assignee."

The staff has been unable to form a conclusion whether acknowledgments should be limited to assignees of record as distinguished from assignees or successors in interest. We need the assistance of knowledgeable persons on this question. After the draft is revised to reflect decisions at the meeting, we plan to send the revised draft to interested persons and organizations for comment on this question as well as on the policy issues presented by the draft.

Respectfully submitted,

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Executive Secretary

## SATISFACTION AND DISCHARGE OF JUDGMENTS

When a judgment is satisfied, the satisfaction must be brought to the attention of the court so that it can be noted in the court records. If the satisfaction is pursuant to a writ, the levying officer reports the satisfaction to the court when the writ is returned.<sup>1</sup> If the satisfaction is other than pursuant to a writ, the judgment creditor must file an acknowledgment of satisfaction with the court.<sup>2</sup> The proposed law continues this scheme.

In some cases an abstract of judgment will have been recorded with the county recorder to create a judgment lien on the judgment debtor's real property.<sup>3</sup> When the judgment is satisfied, the satisfaction needs to be made a matter of record with the county recorder in order to eliminate the cloud on title created by the judgment lien. For this reason, if an abstract of judgment has been recorded, existing law requires the judgment creditor to file with the court and deliver to the judgment debtor an acknowledgment of satisfaction within 30 days after satisfaction.<sup>4</sup> The acknowledgment lists the counties where an abstract has been recorded and advises the judgment debtor that the acknowledgment must be recorded in each such county in order to release the judgment lien.<sup>5</sup> The proposed law continues these provisions but requires the judgment creditor to file and deliver the acknowledgment immediately upon satisfaction rather than within 30 days.<sup>6</sup>

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1. See Code Civ. Proc. §§ 675(a), 683.

2. Code Civ. Proc. § 675(a).

3. Code Civ. Proc. § 674. See also Code Civ. Proc. §§ 674.5, 674.7.

4. Code Civ. Proc. § 675(b).

5. Code Civ. Proc. § 675(b).

6. This change is consistent with the comparable provision of the small claims court law. Code Civ. Proc. § 117.9 ("Immediately upon receipt of payment of the judgment, the judgment creditor or his assignee shall file with the court an acknowledgment of satisfaction of judgment.").

The existing law also includes a procedure that may be used where the judgment creditor fails or refuses to file or deliver an acknowledgment of satisfaction as required under the provisions outlined above.<sup>7</sup> Within 15 days after actual receipt of a demand from the judgment debtor or the owner of property upon which the judgment has become a lien, the judgment creditor must deliver an acknowledgment of satisfaction to the person making the demand.<sup>8</sup> The proposed law continues this provision and expands it to permit a demand that the judgment creditor file an acknowledgment of satisfaction with the court.

Existing law imposes a statutory sanction if the judgment creditor fails to comply with the demand within the 15 days allowed: The judgment creditor is liable to the person making the demand for all damages sustained by reason of the failure and also forfeits one hundred dollars to such person.<sup>9</sup> The same sanction also applies if the judgment creditor fails to file and deliver an acknowledgment of satisfaction as required in cases where an abstract of judgment has been recorded.<sup>10</sup> The proposed law limits the statutory sanction to the case where the judgment creditor fails to file or deliver the acknowledgment within 15 days after actual receipt of a demand in writing. The requirement that the judgment creditor must fail to comply with a demand before the sanction is imposed is consistent with the comparable provision of the small claims court law<sup>11</sup> and will protect against imposition of the

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7. The procedure may also be used when an acknowledgment of satisfaction is desired for any other reason.

8. Code Civ. Proc. § 675(c).

9. Code Civ. Proc. § 675(c).

10. Code Civ. Proc. § 675(b). No statutory sanction is imposed under existing law for failure to file an acknowledgment of satisfaction with the court clerk as required by statute in a case where no abstract of judgment has been recorded.

11. Code Civ. Proc. § 117.9.

sanction where the judgment creditor inadvertently fails to file or deliver the acknowledgment. The proposed law contains a provision to make clear that the elimination of the statutory sanction where no demand has been made will not affect the right to recover any damages or penalty the injured person is entitled to recover under other provisions of law.<sup>12</sup> The proposed law also adds a new requirement that the demand for the filing or delivery of an acknowledgment of satisfaction of judgment must contain a warning of the consequences of failure to comply with the demand.<sup>13</sup>

The proposed law adds a new provision to permit a demand for delivery of an acknowledgment of partial satisfaction of judgment and to obtain a court determination of the issue if necessary. This provision will be useful where there is uncertainty or a dispute as to the amount remaining unpaid on the judgment. Existing law contains no similar provision, but there is some recognition in the judicial decisions of the right of the judgment debtor to obtain an acknowledgment of partial satisfaction.<sup>14</sup>

The proposed law provides a method, drawn from existing law,<sup>15</sup> for obtaining an entry of record of the discharge of a judgment under the federal Bankruptcy Act.

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12. This provision is drawn from subdivision (h) of Code of Civil Procedure Section 675. The proposed law also continues the existing provision of subdivision (g) of Section 675 of the Code of Civil Procedure that the prevailing party is entitled to recover reasonable attorney's fees in a court proceeding brought to enforce the statutory requirements.

13. This warning will advise the judgment creditor that the law requires compliance with the demand within 15 days of receipt, that the judgment creditor will be required to pay the reasonable attorney's fees of the person making the demand if a court proceeding is necessary to compel compliance with the demand, and that the judgment creditor will be liable for all damages sustained by reason of the failure to comply and will also forfeit one hundred dollars if the judgment creditor fails without just cause to comply with the demand within the 15 days allowed.

14. See *Campbell v. Southern Pacific Co.*, 22 Cal.3d 51, 583 P.2d 121, 148 Cal. Rptr. 596 (1978); *Kaplan v. Hacker*, 113 Cal. App.2d 571, 248 P.2d 464 (1952).

15. See Code Civ. Proc. §§ 675b, 675c. Existing provisions that relate to the stay of enforcement of a judgment discharged in bankruptcy and to the effect of the entry of record of the discharge are not continued, these matters being governed by the federal Bankruptcy Act rather than by state law. See 11 U.S.C. § 514.

DIVISION 5. SATISFACTION AND DISCHARGE OF JUDGMENT

CHAPTER 1. SATISFACTION OF JUDGMENT

§ 724.010. Satisfaction of money judgment

724.010. A money judgment may be satisfied by payment of the full amount required to satisfy the judgment or by acceptance by the judgment creditor of a lesser sum in full satisfaction of the judgment.

Comment. Section 724.010 is drawn from language that was contained in subdivision (a) of former Section 675. See also Yost-Linn Lumber & Finance Co. v. Bennet, 116 Cal. App. 155, 2 P.2d 488 (1931) (part payment in full satisfaction); Schwartz v. California Claim Service, 52 Cal. App.2d 47, 125 P.2d 883 (1942) (part payment). The amount required to satisfy the judgment is determined under Section \_\_\_\_\_. Section 724.010 is not an exclusive statement of the methods for satisfying a money judgment. See, e.g., Section 431.70 and Murchison v. Murchison, 219 Cal. App.2d 600, 33 Cal. Rptr. 486 (1963) (use of judgment as set-off); George S. Nolte Consulting Civil Engineers, Inc. v. Magliocco, 93 Cal. App.3d 190, \_\_\_\_ Cal. Rptr. \_\_\_\_ (1979) (entry of satisfaction ordered where trial court determined that \$4,000 contingent liability could be disregarded since contingency would not occur); Yanchor v. Kagan, 22 Cal. App.3d 544, 99 Cal. Rptr. 367 (1971) (covenant not to enforce judgment).

CROSS-REFERENCES

Defined terms

Judgment creditor § \_\_\_\_\_  
 Money judgment § \_\_\_\_\_

405/409

§ 724.020. Entry of satisfaction of judgment

724.020. The court clerk shall enter satisfaction of a money judgment in the register of actions in the following cases:

- (a) When a writ is returned satisfied.
- (b) When an acknowledgment of satisfaction of judgment is filed with the court.
- (c) When the court orders entry of satisfaction of judgment.

Comment. Section 724.020 continues the substance of portions of subdivision (a) of former Section 675.

CROSS-REFERENCES

Acknowledgment of satisfaction § 724.060  
 Court clerk's certificate of satisfaction § 724.100  
 Court order that satisfaction of judgment be entered § 724.050  
 Filing of acknowledgment of satisfaction §§ 724.030, 724.040  
 Return of writ satisfied § \_\_\_\_\_

§ 724.030. Judgment creditor or assignee to file acknowledgment of satisfaction of judgment

724.030. When a money judgment is satisfied, the judgment creditor or assignee of record immediately shall file with the court an acknowledgment of satisfaction of judgment. This section does not apply where the judgment is satisfied in full pursuant to a writ.

Comment. Section 724.030 continues what appears to have been required under the second sentence of subdivision (a) of former Section 675. The requirement that the filing be made "immediately" upon the satisfaction of the judgment is drawn from Section 117.9 (small claims court). Section 724.030 does not apply where the judgment is satisfied pursuant to a writ because in that case the court clerk is required to enter satisfaction. See Section 724.020. For an additional requirement when an abstract of the judgment has been recorded, see Section 724.040.

CROSS-REFERENCES

Acknowledgment of satisfaction

Attorney's authority to give § 283

Contents and manner of execution § 724.060

Demand for filing § 724.050

Defined terms

Money judgment § \_\_\_\_\_

§ 724.040. Judgment creditor's or assignee's duty where abstract of judgment recorded

724.040. If an abstract of judgment has been recorded with the recorder of any county and the judgment is satisfied, the judgment creditor or assignee of record shall immediately do both of the following:

(a) File an acknowledgment of satisfaction of judgment with the court.

(b) Serve personally or by mail on the judgment debtor an acknowledgment of satisfaction of judgment.

Comment. Section 724.040 generally continues what appears to have been required under subdivision (b) of former Section 675. However, the former requirement that the acknowledgment be filed and served within 30 days after the judgment is paid in full has been replaced by the requirement that such filing and service be made immediately upon satisfaction of the judgment. The former 30-day period apparently was provided because the failure without just cause to file and serve within the time allowed resulted in liability for damages and forfeiture of \$100. See former Section 675(b). Under this chapter, this sanction is imposed only for failure to file or serve after a demand by the judgment debtor. See Section 724.050. This change makes Section 724.040 con-



sistent with Section 724.030 and conforms to the procedure provided in Section 117.9 (small claims court). Section 724.040 applies whether the judgment is satisfied pursuant to a writ or by other means.

Section 724.040 requires service of an acknowledgment of satisfaction of judgment on the judgment debtor for two reasons: (1) To give the judgment debtor a list of the county or counties where the abstract of the judgment has been recorded and (2) to give notice to the judgment debtor that the acknowledgment of satisfaction of judgment or a certificate of satisfaction of judgment (see Section 724.100) must be recorded in each such county in order to release the judgment lien. See Sections \_\_\_\_\_ (release of judgment lien) and 724.060 (information required to be included in acknowledgment of satisfaction of judgment).

#### CROSS-REFERENCES

Attorney's authority to give acknowledgment § 283

Defined terms

Money judgment §

Manner of service §§ 684.010-684.070

405/464

#### § 724.050. Demand for filing or delivery of acknowledgment of satisfaction of judgment

724.050. (a) If a judgment has been satisfied, the judgment debtor or the owner of real property subject to a judgment lien created under the judgment may serve personally or by mail on the judgment creditor or assignee of record a demand in writing that the judgment creditor or assignee do one or both of the following:

(1) File an acknowledgment of satisfaction of judgment with the court.

(2) Execute, acknowledge, and deliver an acknowledgment of satisfaction of judgment to the person who made the demand.

(b) The demand shall include the following statement: "Important warning. If this judgment has been satisfied, the law requires that you comply with this demand not later than 15 days after you receive it. If a court proceeding is necessary to compel you to comply with this demand, you will be required to pay my reasonable attorney's fees in the proceeding if the court determines that the judgment has been satisfied and that you failed to comply with the demand. In addition, if the court determines that you failed without just cause to comply with this demand within the 15 days allowed, you will be liable for all damages I sustain by reason of such failure and will also forfeit one hundred dollars to me."

(c) If the judgment has been satisfied, the judgment creditor or assignee of record shall comply with the demand not later than 15 days after actual receipt of the demand.

(d) If the judgment creditor or assignee of record does not comply with the demand within the time allowed, the judgment debtor or the owner of the real property subject to a judgment lien created under the judgment may apply to the court on noticed motion for an order requiring the judgment creditor or assignee to comply with the demand. The notice of motion shall be served personally or by mail on the judgment creditor or assignee. If the court determines that the judgment has been satisfied and that the judgment creditor or assignee has not complied with the demand, the court shall either (1) order the judgment creditor or assignee to comply with the demand or (2) order the court clerk to enter satisfaction of the judgment.

(e) If the judgment has been satisfied and the judgment creditor or assignee of record fails without just cause to comply with the demand within the time allowed, the judgment creditor or assignee is liable to the person who made the demand for all damages sustained by reason of such failure and shall also forfeit one hundred dollars (\$100) to such person. Liability under this subdivision may be determined in the proceedings on the motion pursuant to subdivision (d) or in an action.

Comment. Section 724.050 provides a means whereby the judgment creditor or assignee of record can be compelled to file an acknowledgment of satisfaction of judgment in any case where the judgment has been satisfied, whether pursuant to a writ, by payment, offset, or other means. See, e.g., *George S. Nolte Consulting Civil Engineers, Inc. v. Magliocco*, 93 Cal. App.3d 190, \_\_\_ Cal. Rptr. \_\_\_ (1979); *Yanchor v. Kagan*, 22 Cal. App.3d 544, 99 Cal. Rptr. 367 (1971). The other provisions of this chapter which require the filing of an acknowledgment of satisfaction of judgment are limited in scope. See Sections 724.030 (judgment creditor or assignee to file an acknowledgment of satisfaction of judgment if judgment satisfied other than pursuant to a writ), 724.040 (judgment creditor or assignee to file an acknowledgment of satisfaction of judgment if abstract of judgment recorded). Subdivision (e) provides a sanction if the judgment creditor or assignee fails without just cause to file within the time allowed after actual receipt of the demand.

Section 724.050 also provides a method whereby a judgment debtor may obtain an acknowledgment of satisfaction of judgment, whether or not one is required to be served on the judgment debtor under Section 724.040. In addition, the section provides a method whereby the owner of real property subject to a judgment lien may obtain an acknowledgment of satisfaction of judgment.

Subdivisions (a) and (c) of Section 724.050 are drawn from the first portion of subdivision (c) of former Section 675. Subdivision (b) is new. Subdivision (d) of Section 724.050 supersedes the last portion of the second sentence of subdivision (a) of former Section 675. Subdivision (e) is drawn from the last sentence of subdivision (b) and subdivision (c) of former Section 675.

Section 724.050 continues the substance of subdivision (c) of former Section 675 and expands that provision—which provided for a demand for delivery of an acknowledgment of satisfaction of judgment to the person making the demand—to provide also for a demand for the filing of an acknowledgment of satisfaction of judgment. Section 724.050 also supersedes the last sentence of subdivision (b) of former Section 675 which imposed a sanction without the need for the judgment debtor to make a demand. A sanction is imposed under subdivision (e) of Section 724.050 only if a demand is made and the judgment creditor or assignee fails without just cause to comply with the demand within the 15-day period allowed. This change adopts the procedure provided in Section 117.9 (small claims court). The requirement that a demand be made protects against imposition of the sanction where, for example, the failure to file or deliver the acknowledgment is the result of an oversight on the part of the judgment creditor or assignee. But see Section 724.090 (other remedies preserved).

#### CROSS-REFERENCES

Acknowledgment of satisfaction of judgment § 724.060  
 Attorney's authority to give acknowledgment § 283  
 Attorney's fees § 724.080  
 Demand for acknowledgment of partial satisfaction of judgment § 724.110  
 Liability for requiring additional performance or payment § 724.070  
 Manner of service §§ 684.010-684.070  
 Other remedies preserved § 724.090

405/363

#### § 724.060. Contents and manner of execution of acknowledgment of satisfaction of judgment

724.060. (a) An acknowledgment of satisfaction of judgment shall contain the following information:

- (1) The title of the court.
- (2) The cause and number of the action.
- (3) The names of the judgment creditor and the judgment debtor. If an abstract of the judgment has been recorded in any county, the judgment debtor's name shall appear on the acknowledgment of satisfaction of judgment as it appears on the abstract of judgment.
- (4) The date of entry of judgment and where it was entered in the judgment book, minute book, or docket.
- (5) A statement either that the judgment is satisfied in full or that the judgment creditor or assignee of record has accepted payment or performance other than that specified in the judgment in full satisfaction of the judgment.
- (6) A statement whether an abstract of the judgment has been recorded in any county.

(7) If an abstract of the judgment has been recorded in any county:

(A) A statement of each county where the abstract of judgment has been recorded and the book and page of the county records where the abstract of judgment has been recorded; and

(B) A statement that the acknowledgment of satisfaction of judgment (or a court clerk's certificate of satisfaction of judgment) will have to be recorded with the county recorder of each county where the abstract of judgment has been recorded in order to release the judgment lien on the judgment debtor's real property in that county.

(b) The acknowledgment of satisfaction of judgment shall be made in the manner of an acknowledgment of a conveyance of real property.

(c) The acknowledgment of satisfaction of judgment shall be executed and acknowledged by one of the following:

(1) The judgment creditor.

(2) The assignee of record.

(3) The attorney for the judgment creditor or assignee of record unless a revocation of the attorney's authority is filed.

Comment. Section 724.060 supersedes portions of subdivisions (a) and (b) of former Section 675. The required contents of the acknowledgment of satisfaction of judgment are drawn from the official form approved by the Judicial Council. See Form for Acknowledgment of Full Satisfaction of Judgment (Form Approved by the Judicial Council of California, effective July 1, 1975). As to the effect of an acknowledgment of satisfaction executed by the attorney, see *Wherry v. Rambo*, 97 Cal. App.2d 569, 218 P.2d 142 (1950). Although Section 668 requires judgments to be entered in the "judgment book," Section 724.060 includes reference to entry of the judgment in the "minute book, or docket" because Section 724.060 may apply to a judgment entered before Section 668 was amended to require that all judgments be entered in the "judgment book."

#### CROSS-REFERENCES

Attorney's authority to give acknowledgment § 283

405/364

#### § 724.070. Liability for requiring additional performance or payment

724.070. (a) If a judgment creditor or assignee intentionally conditions delivery of an acknowledgment of satisfaction of judgment upon the performance of any act or the payment of an amount in excess of that to which the judgment creditor or assignee is entitled under the judgment, the judgment creditor or assignee is liable to the judgment debtor for all damages sustained by reason of such action or two hundred fifty dollars (\$250), whichever is the greater amount.

(b) Subdivision (a) does not apply if the judgment creditor or assignee has agreed to deliver an acknowledgment of satisfaction of judgment to the judgment debtor prior to full satisfaction of the judgment in consideration for the judgment debtor's agreement either to furnish security or to execute a promissory note, or both, the principal amount of which does not exceed the amount to which the judgment creditor or assignee is entitled under the judgment.

Comment. Section 724.070 continues the substance of subdivision (d) of former Section 675.

#### CROSS-REFERENCES

Attorney's fees § 724.080  
Other remedies preserved § 724.090

405/401

#### § 724.080. Attorney's fees

724.080. In an action or proceeding maintained pursuant to this chapter, the court shall award reasonable attorney's fees to the prevailing party.

Comment. Section 724.080 continues the substance of a portion of subdivision (g) of former Section 675.

405/403

#### § 724.090. Other remedies preserved

724.090. The damages recoverable pursuant to this chapter are not in derogation of any other damages or penalties to which an aggrieved person may be entitled by law.

Comment. Section 724.090 continues the substance of subdivision (h) of former Section 675.

26754

#### § 724.100. Certificate of satisfaction of judgment

724.100. (a) If satisfaction of a judgment has been entered in the register of actions, the court clerk shall issue a certificate of satisfaction of judgment upon application therefor.

(b) The certificate of satisfaction of judgment shall contain the following information:

- (1) The title of the court.
- (2) The cause and number of the action.
- (3) The names of the judgment creditor and the judgment debtor.

(4) The date of entry of judgment and where it was entered in the judgment book, minute book, or docket.

(5) The date of entry of satisfaction of judgment and where it was entered in the register of actions.

Comment. Section 724.100 is new. The certificate of satisfaction of judgment serves the same function as an acknowledgment of satisfaction of judgment and can be used, for example, where an acknowledgment of satisfaction of judgment is required but not easily obtained.

406/464

## CHAPTER 2. ACKNOWLEDGMENT OF PARTIAL SATISFACTION OF JUDGMENT

### § 724.110. Demand for delivery of acknowledgment of partial satisfaction of judgment

724.110. (a) The judgment debtor or the owner of real property subject to a judgment lien created under the judgment may serve personally or by mail on the judgment creditor or assignee of record a demand in writing that the judgment creditor or assignee execute, acknowledge, and deliver an acknowledgment of partial satisfaction of judgment to the person who made the demand. If the judgment has been partially satisfied, the judgment creditor or assignee of record shall comply with the demand not later than 15 days after actual receipt of the demand.

(b) If the judgment creditor or assignee of record does not comply with the demand within the time allowed, the judgment debtor or the owner of the real property subject to a judgment lien created under the judgment may apply to the court on noticed motion for an order requiring the judgment creditor or assignee to comply with the demand. The notice of motion shall be served personally or by mail on the judgment creditor or assignee. If the court determines that the judgment has been partially satisfied, the court shall make an order determining the amount of the partial satisfaction and may make an order requiring the judgment creditor or assignee to execute, acknowledge, and deliver an acknowledgment of partial satisfaction of judgment in that amount to the person who made the demand.

Comment. Section 724.110 is a new provision that provides a procedure whereby the judgment debtor or owner of property subject to a judgment lien may obtain an acknowledgment of partial satisfaction of judgment or a court determination of the amount of partial satisfaction

if the judgment creditor or assignee does not comply with a demand for an acknowledgment of partial satisfaction. Former statutory law did not provide for a similar procedure, but such a procedure was apparently allowed. See *Campbell v. Southern Pacific Co.*, 22 Cal.3d 51, 583 P.2d 121, 148 Cal. Rptr. 596 (1978); *Kaplan v. Hacker*, 113 Cal. App.2d 571, 248 P.2d 464 (1952). See also *Dallman v. Dallman*, 179 Cal. App.2d 27, 3 Cal. Rptr. 383 (1960) (motion to compel plaintiff to acknowledge partial satisfaction of terms of interlocutory divorce decree). Unlike the procedure for compelling the judgment creditor or assignee of record to deliver an acknowledgment of full satisfaction of judgment, Section 724.110 does not provide a sanction for failure to comply with the demand (compare subdivision (e) of Section 724.050) or for attorney's fees to the prevailing party (compare Section 724.080).

#### CROSS-REFERENCES

Attorney's authority to give acknowledgment § 283  
Demand for acknowledgment of full satisfaction of judgment § 724.050  
Manner of service §§ 684.010-684.070

406/473

#### § 724.120. Contents and manner of execution of acknowledgment of partial satisfaction of judgment

724.120. An acknowledgment of partial satisfaction of judgment shall be made in the same manner and by the same person as an acknowledgment of satisfaction of judgment and shall contain the following information:

- (a) The title of the court.
- (b) The cause and number of the action.
- (c) The names of the judgment creditor and the judgment debtor. If an abstract of the judgment has been recorded in any county, the judgment debtor's name shall appear on the acknowledgment of partial satisfaction of judgment as it appears on the abstract of judgment.
- (d) The date of entry of judgment and where it was entered in the judgment book, minute book, or docket.
- (e) A statement of the amount received by the judgment creditor or assignee of record in partial satisfaction of the judgment.
- (f) If an abstract of the judgment has been recorded in any county, a statement of each county where the abstract of judgment has been recorded and the book and page of the county records where the abstract of judgment has been recorded.

Comment. Section 724.120 is adapted from Section 724.060 which prescribes the contents and manner of execution of an acknowledgment of full satisfaction of judgment.

#### CROSS-REFERENCES

Attorney's authority to give acknowledgment § 283

CHAPTER 3. ENTRY OF RECORD OF DISCHARGE OF JUDGMENT  
UNDER BANKRUPTCY ACT

§ 724.310. Court order for entry of record of discharge of judgment  
under Bankruptcy Act

724.310. (a) Upon motion of the judgment debtor, the court in which the judgment was entered shall order the court clerk to enter in the register of actions that the judgment has been discharged in bankruptcy if the court determines all of the following:

(1) The judgment or the debt upon which the judgment was recovered has been discharged in bankruptcy.

(2) The discharge has not been revoked or vacated.

(3) The applicable period for requesting a revocation of the discharge has expired.

(b) The judgment debtor shall file with the motion a certified copy of the order of the bankruptcy court granting the judgment debtor a discharge.

(c) A notice of motion, together with a copy of the papers upon which it is made, shall be served personally or by mail on the judgment creditor.

(d) If the court so orders under this section, the court clerk shall enter the discharge in the register of actions and shall also enter the date of entry of the order of discharge in the bankruptcy court.

Comment. Section 724.310 supersedes former Sections 675b and 675c. Section 724.310 provides a procedure for entry of record of the discharge of the judgment in bankruptcy. The provisions of the former law relating to stay of proceedings and the effect of the entry of record are not continued. The federal Bankruptcy Act governs the effect of the discharge (11 U.S.C. § 524). See also 11 U.S.C. § 727(e) (revocation of discharge). The entry of record that the judgment has been discharged in bankruptcy merely makes the discharge a matter of record; it does not determine whether enforcement proceedings may be stayed or the effect of the discharge. Those matters are governed by the federal Bankruptcy Act.

CROSS-REFERENCES

Manner of service §§ 684.010-684.070