Study D-331 April 27, 1994

Memorandum 94-16

Attachment Where Claim Is Partially Secured:
Experience Under 1990 Amendments

This memorandum has been prepared in response to a legislative mandate to report on 1990 amendments to the Attachment Law that relaxed the rules concerning issuance of attachment where the plaintiff's claim is partially secured by personal property. See 1990 Cal. Stat. ch. 943 (SB 2170).

Background

The basic Attachment Law (Code Civ. Proc. § 481.010 *et seq.*) was enacted in 1974 on recommendation of the Commission and has been amended on Commission recommendation several times since then.

A 1990 bill sponsored by the State Bar amended the Attachment Law to permit attachment of claims secured by personal property or fixtures — eliminating the former requirement of showing that the security has decreased in value or become valueless without fault of the plaintiff. Under the new rule, the amount of the attachment is reduced by the value of the security and the amount of any decrease in value caused by the plaintiff.

Specifically, the 1990 amendments made the following changes in Sections 483.010 and 483.015:

Code Civ. Proc. § 483.010. Cases in which attachment authorized

483.010. (a) Except as otherwise provided by statute, an attachment may be issued only in an action on a claim or claims for money, each of which is based upon a contract, express or implied, where the total amount of the claim or claims is a fixed or readily ascertainable amount not less than five hundred dollars ($500) exclusive of costs, interest, and attorney's fees.

(b) An attachment may not be issued on a claim which is secured by any interest in real ~~or personal~~ property arising from agreement, statute, or other rule of law (including any mortgage or deed of trust of realty~~,~~ *and any statutory, common law, or equitable lien on real property, but excluding* any security interest subject to Division 9 (commencing with Section 9101) of the Commercial Code~~, and any statutory, common law, or equitable lien~~). However, an attachment may be issued (1) where the claim was originally so

secured but, without any act of the plaintiff or the person to whom the security was given, the security has become valueless or has decreased in value to less than the amount then owing on the claim, in which event the amount ~~for which~~ *to be secured by* the attachment ~~may issue~~ shall not exceed the lesser of the amount of the decrease or the difference between the value of the security and the amount then owing on the claim, or (2) where the claim was secured by a nonconsensual possessory lien but the lien has been relinquished by the surrender of the possession of the property.

(c) If the action is against a defendant who is a natural person, an attachment may be issued only on a claim which arises out of the conduct by the defendant of a trade, business, or profession. An attachment may not be issued on a claim against a defendant who is a natural person if the claim is based on the sale or lease of property, a license to use property, the furnishing of services, or the loan of money where the property sold or leased, or licensed for use, the services furnished, or the money loaned was used by the defendant primarily for personal, family, or household purposes.

(d) An attachment may be issued pursuant to this section whether or not other forms of relief are demanded.

(e) This section shall remain in effect only until January 1, 1996, and as of that date is repealed , unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

Code Civ. Proc. § 483.015. Amount to be secured by attachment

483.015. (a) Subject to subdivision (b) and to Section 483.020, the amount to be secured by an attachment is the sum of the following:

(1) The amount of the defendant's indebtedness claimed by the plaintiff.

(2) Any additional amount included by the court under Section 482.110.

(b) The amount described in subdivision (a) shall be reduced by the sum of the following:

(1) The amount of any money judgment in favor of the defendant and against the plaintiff that remains unsatisfied and is enforceable.

(2) The amount of any indebtedness of the plaintiff that the defendant has claimed in a cross-complaint filed in the action if the defendant's claim is one upon which an attachment could be issued.

(3) The amount of any claim of the defendant asserted as a defense in the answer pursuant to Section 431.70 if the defendant's claim is one upon which an attachment could be issued had an action been brought on the claim when it was not barred by the statute of limitations.

(4) The value of any security interest in the property of the defendant held by the plaintiff to secure the defendant's indebtedness claimed by the plaintiff, together with the amount by which the value of the security interest has decreased due to the act of the plaintiff or any person to whom the security interest was transferred.

(c)This section shall remain in effect only until January 1, 1996, and as of that date is repealed , unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

Under the sunset clauses in the final subdivisions of these sections, the new rule will expire on January 1, 1996, unless the Legislature takes action before that date. If there is no legislative action, the former rule would then come back into force. The former statutes survive in the code in the form of sections due to become operative on January 1, 1996.

In an uncodified provision of the 1990 legislation, the Commission is directed to

> study the impacts of the changes in Sections 483.010 and 483.015 of the Code of Civil Procedure made by … this act during the period from January 1, 1991, to and including December 31, 1993, and shall report the results of its study, together with recommendations concerning continuance or modification of these changes, to the Legislature on or before December 31, 1994.

[1990 Cal. Stat. ch. 943, § 3.]

Relation of Attachment Remedy to Secured Debts

Historically, attachment was not available if the debt was secured. See, e.g., 1851 Civil Practice Act § 121 (Compiled Laws 1850-53, at 539). However, if the security had become valueless without any act of the plaintiff, attachment was available. The statute was amended in 1976, on Commission recommendation and at the urging of the State Bar, to permit attachment where the security had *declined* in value, with the amount of the attachment limited to the difference between the security and the claim or the amount of the decline, *whichever is the lesser amount*. This rule had the effect of limiting the undersecured creditor to the amount of the decline in the security.

The State Bar has carried the law one step further in sponsoring the 1990 amendments. The purpose, as reported in the Senate Judiciary Committee consultant's analysis of SB 2170 (1990) (Exhibit p. 3), was to protect *undersecured* creditors and give them the same remedies as unsecured creditors:

> According to the proponents: "Undersecured loans are made with regularity by lending institutions. It is a practice which fosters economic activity and provides flexibility for both lenders and loan applicants." In situations of default, however, present law limits the ability of undersecured creditors to obtain a prejudgment attachment of other property of a secured debtor except under narrow circumstances (i.e., diminution of value). Otherwise, an undersecured creditor must first obtain and liquidate the collateral and may then obtain an attachment order for the unsecured balance.
>
> The proponent points out that under present law, unsecured creditors may obtain a writ of attachment for the full amount of unsecured loans, and asserts that there is no apparent justification for not providing the same remedy for secured (including unsecured) creditors without their having to first acquire and liquidate any security interest.

Of course, secured and unsecured creditors *are* different, and arguably they should be treated differently. Traditional policies favor secured transactions. Secured creditors have priority over general creditors. This principle is supported by the assumption that secured creditors will resort to the security in satisfaction of their debts. In a situation involving competing creditors, principles of marshaling assets raise questions whether a secured creditor should be able to tie up more property of the defendant. See, e.g., Civ. Code § 2899. As noted in the consultant's analysis of SB 2170, the objection may be made that an undersecured creditor seeks to have the best of both worlds. Having bargained for an undersecured position, now the undersecured creditor wants to have the remedies of an unsecured creditor. It has also been speculated that permitting undersecured creditors to attach might encourage bankruptcy. (See Exhibit p. 4.)

Concerns such as these presumably led the Legislature to impose a sunset clause on the legislation and direct the Commission to make recommendations following a three-year trial period.

Experience Under 1990 Amendments

The Law Revision Commission was directed to study the impact of the 1990 amendments on the attachment process during 1991-1993 and to report to the Legislature any recommendations concerning continuation or modification of the 1990 changes. The policy arguments outlined above still remain, but what of the experience under the new rule?

The staff has solicited comments on the experience under the new rule from superior courts in ten of the largest counties. In addition, we have written to all persons on the Commission's mailing list who have expressed an interest in debtor-creditor relations and to about 30 organizations maintaining registered lobbyists. We have asked for reports of any relevant experiences under the 1990 attachment changes, evaluations of the new rule, and any suggestions for revisions. The State Bar liaisons were also contacted. Press releases soliciting commentary were distributed to the legal press.

In our experience, general requests for comment rarely receive much of a response, and this study is no exception. But we have received comments from four superior courts and the Debtor/Creditor Relations and Bankruptcy Committee of the Business Law Section of the State Bar:

Commissioner Arnold Levin of the Los Angeles County Superior Court reports that the number of attachments has increased under the amended statute, and speculates that this happens because attachments would be denied under the former (and post-sunset) rule as fully secured or would be granted only in lesser amounts. (See Exhibit pp. 5-6.) Commissioner Levin reports that the new rule avoids the difficulty of determining the value of personal property collateral that has declined in value, which was a requirement under the former rule. (It is not clear why this would be, since Sectin 483.015(b)(4) still requires a setoff of the value of the security.) Commissioner Levin concludes with the recommendation that the law be restored to its pre-amendment state:

> It has the virtue of being consistent and clear in dealing with secured claims. When fully secured, no attachment would be issued. While determining diminished value is sometimes difficult, it is a problem courts are expected to adjudicate.

Judge Joe S. Gray of the Sacramento County Superior Court reports that he and Judge Morrison, who handle almost all attachments in that county, have not perceived any difficulties with or any effect from the new rule. (See Exhibit p. 7.) Judge Gray reports that he can recall only one case in which it was used.

Judge Ronald L. Bauer of the Orange County Superior Court reports no observable impact of the 1990 amendments in over 700 cases considered since enactment of the new rule. (See Exhibit p. 8.)

Judge Arthur W. Jones of the San Diego County Superior Court reports that the new rule appears to be working well, that it has had no unusual or adverse

affect on the number or dollar amount of attachments. (See Exhibit p. 9.) Judge Jones concludes that evaluation of security is generally an easy task and sees no reason not to extend the new rule.

The Debtor/Creditor Relations and Bankruptcy Committee of the Business Law Section of the State Bar writes that, based on anecdotal history available to the members of the committee, the new rule "works effectively and should remain in operation." (See Exhibit pp. 10-11.)

Staff Recommendation

In view of the reports received on the new rule, the staff does not find sufficient grounds for returning to the prior law. The law does not appear to be creating any undesirable problems from the limited information at hand. Once again, while the staff would not recommend this rule for Commission approval, we do not believe we can recommend its repeal.

The staff suggests that the Commission report to the Legislature that, based on reports of experience under the new rule, there does not appear to be any reason not to repeal the sunset clauses and continue the new rule as amended in 1990. The repeal of the sunset clauses in Code of Civil Procedure Sections 483.010 and 483.015 would be appropriate for sponsorship by the original sponsor of the 1990 amendments or could be included in a Judiciary Committee bill.

The staff does not recommend that the Commission sponsor legislation to remove the sunset clauses. However, as noted at below, there are some drafting issues that could be addressed and the Commission comment should be revised at some point to remove statements that are inconsistent with the statute.

Related Issues

Confusion about 1990 amendments. The letter from Commissioner Arnold Levin of the Los Angeles County Superior Court raises some technical issues. (See Exhibit pp. 5-6.) He reports that "with some frequency" lawyers have relied on the wrong version of the statute. Apparently the operation of sunset sections is not widely understood. This problem will be cured after January 1, 1996, either by elimination of the sunset feature or its operation to return to the law as it existed before January 1, 1991. We do not envision the Commission articulating the reasons for the present statute, as requested by Commissioner Levin, however, since the 1990 amendments were not enacted on Commission

recommendation. Perhaps distribution of the attached consultant's analysis will aid in understanding the purpose of the 1990 amendments.

Obsolete statutory language. It should also be noted that one source of confusion might be that the new rule was inserted into Section 483.015(b), which deals with setoffs to the amount to be secured by the attachment, without cleaning up the old rule in Section 483.010(b). Section 483.010 originally stated only the fundamental rules on when attachment was available. As the bar on attachment involving secured claims started to erode, the new exceptions were inserted into subdivision (b) — the "however" sentence. While it became awkward, at least this sentence was next to the rule to which it was an exception. Under the current statute, however, the statutory structure is more confusing. Section 483.010(b) no longer states the fundamental rule concerning secured claims. It applies only to security interests in real property, excluding fixtures. (This raises a question about the meaning of the second clause of the "however" sentence pertaining to nonconsensual possessory liens since the subdivision now only applies to real property.) However, the staff does not expect that those interested in continuing the 1990 amendments are likely to do any more than repeal the sunset clauses and alternate sections.

Obsolete comments. The Commission should consider replacing the 1974 and 1976 comments to Section 483.010 with a revised comment that preserves what is still useful but deleting statements that are inconsistent with the statute. This can be done by printing a Commission-approved report on revised comments as an appendix to the Annual Report.

Respectfully submitted,

Stan Ulrich
Assistant Executive Secretary

SENATE COMMITTEE ON JUDICIARY
Bill Lockyer, Chairman
1989-90 Regular session

SB 2170 (Doolittle)
As amendment May 1, 1990
Hearing date: May 8, 1990
Code of Civil Procedure
GWW/ps

CREDITORS' REMEDIES
-PREJUDGMENT ATTACHMENT-

HISTORY

Source: State Bar of California

Prior Legislation: AB 2864 (1976) - Chapter 437

Support: Unknown

Opposition: No known

KEY ISSUE

SHOULD THE GENERAL RULE PRECLUDING THE USE OF PREJUDGMENT ATTACHMENTS IN CIVIL ACTIONS TO ENFORCE A SECURED DEBT BE REVISED TO INSTEAD PERMIT A CREDITOR OF A DEBT SECURED BY PERSONAL PROPERTY TO OBTAIN A PREJUDGMENT ATTACHMENT OF OTHER ASSETS OF THE DEBTOR, AS SPECIFIED?

PURPOSE

Existing law generally precludes the use of a prejudgment attachment in a civil action to recover on an obligation that is secured by real or personal property. As an exception to the general rule, an attachment order may be issued in cases where the collateral (security given) becomes valueless or, without any act of the creditor, has decreased in value to less than the amount then owing on the claim. In that event, an attachment order may be obtained for (1) the amount of the decrease or diminution in the

(More)

value of the security ("diminution test") or (2) the difference between the value of the security and the amount then owing on the claim, whichever is less.

The bill would instead generally permit the use of prejudgment attachments in civil actions to recover on a debt secured by personal property or commercial fixtures. An attachment order would be issued for the amount of the secured creditor's claim less the value of any security interest held by the creditor (including any diminution in the security's value caused by the creditor).

The bill would sunset on January 1, 1996. In the intervening period, the California Law Revision Commission would be directed to study the impact of the measure and to make a recommendation for the measure's continuance, modification, or repeal.

The purpose of this bill is to enhance the ability of secured creditors to obtain prejudgment attachment orders on a debtor's property.

COMMENT

1. Stated problem to be addressed

According to the proponents: "Undersecured loans are made with regularity by lending institutions. It is a practice which fosters economic activity and provides flexibility for both lenders and loan applicants." In situations of default, however, present law limits the ability of undersecured creditors to obtain a prejudgment attachment of other property of a secured debtor except under narrow circumstances (i.e., diminution of value). Otherwise, an undersecured creditor must first obtain and liquidate the collateral and may then obtain an attachment order for the unsecured balance.

The proponent points out that under present law, unsecured creditors may obtain a writ of attachment for the full amount of unsecured loans, and asserts that there is no apparent justification for not providing the same remedy for secured (including undersecured) creditors without their having to first acquire and liquidate any security interest.

This bill, originally proposed by the Debtor/Creditor Relations and Bankruptcy Committee of the Business Law Section of the State Bar, would provide similar prejudgment attachment rights for unsecured and secured creditors alike.

2. Possible adverse impacts on debtors

In principal effect, a secured creditor would no longer have to show diminution in value in order to obtain an attachment order. This provision could operate to a debtor's disadvantage

when the creditor seeks to maximize the attachment order by minimizing the value of the security interest held by the creditor. While a court hearing is available for the debtor to challenge the creditor's assessment, a debtor may lack sufficient resources or sophistication to challenge the assessment, thereby allowing a possibly excessive attachment order by default.

Additiionally, the change may be particularly beneficial for an undersecured creditor as it would be able to obtain a prejudgment attachment order for an amount covering the entire claimed debt and not just the amount of any decrease in the security's value. The following example might best illustrate this impact of SB 2170:

B, borrower, obtains a $100,000 business loan from L, lender. L takes a secured interest in the fixtures purchased for $80,000 with the loan proceeds. L is knowingly undercollateralized and is by contract an undersecured creditor. After 6 months, B defaults with a remaining loan balance of $95,000. The fixtures, through depreciation, are worth only $50,000.

Under existing law, L would be able to obtain an attachment order for $30,000, the diminishment of his security interest ($80,000 less $50,000), which essentially preserves his status quo -- he is again protected up to $80,000. As to the remaining $15,000 difference, L had undercollateralized the note; L took the risk. (L in this instance may possibly have charged additional loan points and/or higher interest rates for being an undersecured creditor. The proponent asserts, though, that many lenders base their rates on the strength of the customer rather than the extent of collateralization of the note, and therefore charge the same rate and points for unsecured and secured notes.)

Under SB 2170, L would be able to obtain a prejudgment attachment order for $45,000, the full amount of the loan less the value of the security interest. Under this bill, L's security position would be improved -- the $45,000 attachment order and the $50,000 remaining security interest would exceed L's initial security interest of $80,000.

The proponent asserts that since B owes the money to L, L should be able to obtain an attachment of property to cover the eventual judgment. Noting that the purpose of the attachment law is to allow a court approved procedure whereby assets will be preserved pending trial, the sponsor contends that the failure to obtain an attachment on the full undersecured amount could leave L in the position of having an uncollectable judgment. As frequently asserted by the proponent, an

undersecured creditor should have the same ability as a unsecured creditor to obtain a writ of attachment for the full amount of a claimed debt.

The flip side to proponent's arguments is that the lender chose at the outset to become a secured creditor, with all its attendant advantages (e.g., priority on claims, less risk of uncollectability). Having elected to be a secured creditor with its stated remedies, the lender should not be given the "best of both worlds" by having attachment rights as broad as those of an unsecured creditor. The attachment of additional property above that amount necessary to make whole the creditor's security interest could leave a business without the liquidity and flexibility needed to survive. Commented one state consumer lawyer, the bill would "hurt small businesses, place many debtors over a barrel and drive them into bankruptcy."

3. Law Revision Commission to review revision

The Attachment Law, including C.C.P. Section 483.010, is the product of recommendations of the California Law Revision Commission and was first adopted in 1974. Under the initial law the attachment remedy was generally not available where the plaintiff's claim was secured. The only exceptions were where the security became a valueless or where a nonconsensual possessory lien was relinquished. Pursuant to AB 2864 of 1976, Chapter 437, Section 483.010 was amended to also permit an attachment where through no act of the creditor, the security has decreased in value to less than the amount owing on the claim.

SB 2170 would all but reverse the early general policy and make attachment orders available to enforce obligations secured by personal property.

To address concerns that the measure may unduly hamper debtor's rights, the sponsor has agreed to a 5 year sunset of its provisions. In the interim period, California Law Revision Commission would study the legislation and make a recommendation for its continuance, modification, or repeal.

4. No application to consumer, household goods

The broader attachment rights would apply only on a claim which arises out of the defendant's conduct of a trade, business, or profession. It would not apply to obligations incurred by the defendant primarily for personal, family, or household purposes.

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The Superior Court
111 NORTH HILL STREET
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TELEPHONE
(213) 974-1234

ARNOLD LEVIN
COURT COMMISSIONER

March 31, 1994

Mr. Stan Ulrich
Assistant Executive Secretary
California Law Revision Commission
4000 Middlefield Road, Suite D-4
Palo Alto, CA 94303-4739

Dear Mr. Ulrich:

Your letter of March 21, 1994 has been referred to me by Judge Mallano for response.

I am the judicial officer who presides in Department 66 of this court--which department hears all writs of attachment and possession filed in the Central District of the Los Angeles Superior Court.

I will respond to your questions in order:

1. How is the law operating?

The fact that there are two similar statutes with different operative dates has caused some confusion among lawyers. With some frequency, counsel rely upon the wrong section. More difficult is the problem of explaining the reason for the present version of the statute. When challenged by the debtor, creditor's counsel can present no cogent reason for the difference in the two statutes and neither can the court. Nevertheless, I follow the statute as written and issue writs of attachments even if the value of personal property collateral greatly exceeds the debt.

It would be helpful if the Commission articulated the reasons for the present statute.

2. Has there been a difference in number or dollar amount of attachments?

This court has no statistics on which to base a precise answer. However, just from recollection and experience, there has been an increase in the number of attachments under

the present statute, because, under the prospective statutes, many of the applications now granted would be denied as fully secured claims, and others would be granted in lesser amounts as partially secured claims.

3. Evidentiary problems.

The present statute presents no particular evidentiary problems and, in fact, avoids the difficulty of determining the diminished value of the personal property collateral.

4. Suggestions.

I would recommend the permanent adoption of the prospective statute. It has the virtue of being consistent and clear in dealing with secured claims. When fully secured, no attachment would be issued. While determining diminished value is sometimes difficult, it is a problem courts are expected to adjudicate.

I hope this letter addresses the concerns of the Law Revision Commission.

If I can be of further assistance, please let me know.

Very truly yours,

Arnold Levin

AL:aMc

cc: Robert M. Mallano, Presiding Judge
Gary Klausner, Assistant Presiding Judge
Robert H. O'Brien, Supervising Judge,
Writs & Receivers Department

Judge Joe S. Gray

The Superior Court

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April 1, 1994

Mr. Stan Ulrich, Assistant Executive Secretary
California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

RE: Attachment where debt partly secured

Dear Mr. Ulrich:

At the request of our Presiding Judge, Ronald B. Robie, Judge Morrisson and I have reviewed your letter of March 21. 1994. Judge Morrison and I are responsible for all law and motion proceedings for both the Superior Court and Municipal Court in Sacramento County, with the exception of some Municipal Court proceedings conducted by the South Sacramento Municipal Court. We hear all applications for attachments for both courts. Neither of us has seen any effect what-so-ever from the 1990 amendments. I personally vaguely recall one case in which the law was used, but it was not remarkable. We perceive no difficulties at all with the present operation of the law.

We will keep an eye open for any instances regarding the law if they occur, and will try to advise you if there is any change in our experience. If you have further questions, please feel free to call me or Judge Morrison.

Very Truly Yours,

Joe S. Gray

Superior Court of the State of California
County of Orange

CHAMBERS OF
RONALD L. BAUER
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April 7, 1994

Mr. Stan Ulrich
Assistant Executive Secretary
California Law Revision Commission
400 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

RE: ATTACHMENT

Dear Mr. Ulrich:

In response to your March 21, 1994 inquiry about the effect of the 1990 amendments to the attachment statutes, I can report that no issue regarding the implementation or interpretation of those changes has arisen in my court during these three years.

Approximately 700 civil cases have been assigned to my court for all purposes throughout that time, and these 1990 amendments have been of no observable impact whatsoever.

Very truly yours,

Ronald L. Bauer
Judge of the Superior Court

RLB:cp/94-014

The Superior Court
OF THE
State of California

Chambers of
ARTHUR W. JONES
Judge of the Superior Court

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March 24, 1994

Mr. Stan Ulrich
Assistant Executive Secretary
CALIFORNIA LAW REVISION COMMISSION
4000 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

Re: **ATTACHMENT WHERE DEBT PARTLY SECURED**

Dear Stan:

In response to your March 21 letter, the 1990 Attachment Law appears to be working well. In my observation, it has had no unusual or adverse affect on the number or dollar amount of attachments issued. Although it does give rise to an evidentiary inquiry, the evaluation of security is generally an easy task. I see no reason not to extend the attachment law as extended in 1990.

Sincerely,

ARTHUR W. JONES
Judge of the Superior Court

AWJ:czo

THE STATE BAR
OF CALIFORNIA

OFFICE OF RESEARCH

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April 28, 1994

Stan Ulrich
Assistant Executive Secretary
California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

Dear Stan:

Enclosed are the following comments we have received on the report on Creditors Remedies Matters circulated for comment by the California Law Revision Commission:

1) Legal Services Section April 26, 1994 comments on the report on Creditors Remedies Matters;
2) Business Law Section April 27, 1994 comments on attachment law; and
3) Business Law Section April 27, 1994 comments on exemption amounts.

These comments are those solely of the Legal Services Section and the Business Law Section and have not been reviewed or endorsed by the State Bar Board of Governors.

If you have any questions about this, please contact me.

Sincerely,

David C. Long
Director of Research

cc: Glenda Veasey
Patricia D. Lee, Chair of Legal Services Section
Roland E. Brandel, Chair of Business Law Section
Robin Leonard
Jeff Gersick
Mary Vivano
Susan Orloff
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c:work\david\letter\ulrick

BUSINESS LAW SECTION
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April 27, 1994

Mr. David C. Long, Director
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REPLY TO: Lynn M. McLean, Esq.
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Re: California Law Revision Commission Request for Comments Regarding Attachment Law

Dear Mr. Long:

This letter is written in response to the request for input regarding the comments solicited by the California Law Revision Commission concerning current attachment law.

Based upon the anecdotal history available to the present members of the Debtor/Creditor Relations and Bankruptcy Committee of the Business Law Section (the "Committee"), the sense of the Committee members is that the current law in effect regarding attachment, as embodied in current California Code of Civil Procedure Sections 483.010 and 483.015, works effectively and should remain in operation beyond the expiration date of January 1, 1996.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Lynn M. McLean

LMM:EAH
cc: R. Brandel
J. Chu
H. Lesser
W. Weintraub
S. Weise