

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Introductory Material

Enforcing Civil Money Judgments

Raymond R. Goldstein

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Scope of Guide

This Action Guide focuses on the steps you need to consider when you represent a judgment creditor who wants to collect the money that was awarded to your client in a California state court judgment. It also applies to enforcing a federal judgment in California. This Action Guide does not cover methods of enforcing a nonmoney judgment, *i.e.*, a judgment that awarded possession or sale of real or personal property.

Abbreviations

Bankruptcy Prac	Personal and Small Business Bankruptcy Practice in California (Cal CEB 2003)
Civ Litigation Forms	California Civil Litigation Forms Manual (Cal CEB 1980)
Civ Proc Before Trial	<u>California Civil Procedure Before Trial (4th ed Cal CEB 2004)</u>
Debt Collection	<u>Debt Collection Practice in California (2d ed Cal CEB 1999)</u>
EJL	Enforcement Judgments Law
EWO	Earnings withholding order
OEX/ORAP	Order of examination (in northern California/in Southern California)
OSC	Order to show cause
RPS	Registered process server
Subpoenas	<u>Handling Subpoenas (Cal CEB Action Guide December 2006)</u>
Writ of Possession	<u>Obtaining a Writ of Possession (Cal CEB Action Guide August 2004)</u>

About the Author

Raymond R. Goldstein practices in Culver City, at the Center for Enforcement of Family Support. He received his J.D. from the University of West Los Angeles. He has spoken at numerous bar association events, served as a media expert on support enforcement, and is the author of many articles on the enforcement of judgments and litigation.

In Memoriam

Richard L. Enkelis died on April 4, 2008. He was the author of the Enforcing Civil Money Judgments Action Guide and contributed to the Debt Collection Practice in California Action Guide. Born on October 3, 1943, he obtained a BA from the University of Michigan and graduated from the University of Southern California law school in 1968. He practiced debt collection law for more than 37 years. He was a speaker for Continuing Education of the Bar and other organizations. His contributions to legal scholarship and to the education and mentoring of practitioners will long survive; his contributions to the Enforcing Civil Money Judgments Action Guide will be missed.

Acknowledgments

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Harold B. Auerbach, of Glassberg, Pollak & Associates, San Francisco, who specializes in commercial collections and enforcement of judgments. Mr. Auerbach has written and lectured for CEB in the past and is a member of the Commercial Law League of America. He received his J.D. from the University of San Francisco.

Richard L. Enkelis practiced in Pasadena, specializing in creditor/debtor relations, enforcement of judgments, and business litigation. He received his J.D. from the University of Southern California Law Center. He spoke at numerous legal education courses and published many articles in the areas of creditor/debtor relations, enforcement of judgments, and litigation.

Nathan H. Harris, of Hemar, Rousso & Heald, LLP, Encino, and formerly of Sulmeyer, Kupetz, Baumann & Rothman, Los Angeles, who specializes in commercial collections and civil litigation. He graduated from Hastings College of the Law and is a member of the Commercial Law League of America and the Los Angeles County Bar Association.

Darrel C. Horsted, a sole practitioner in San Francisco. He received his J.D. from Golden Gate University and specializes in civil litigation. Mr. Horsted is a member of the Bar Association of San Francisco and the Consumer Attorneys of California and was president of the Lawyers' Club of San Francisco.

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Before Meeting With Client

STEP 1. UNDERSTAND THE ENFORCEMENT OF JUDGMENTS LAW

EJL DEFINED

- a. Judgments may be for many kinds of things. The most common judgment is for money due from judgment debtor to judgment creditor.
- b. Judgments may also be for performance of an act or surrendering possession of real or personal property.
- c. The Enforcement of Judgments Law (EJL) (CCP §§680.010-724.260) provides *exclusive* methods that a judgment creditor may use to enforce a judgment. See below.

Money Judgments

Money judgment provisions are used for judgments when the award is for money, and judgment debtor, or someone on debtor's behalf, *e.g.*, an insurance company, does not voluntarily pay. CCP §§695.010-709.030.

Nonmoney Judgments

Nonmoney judgment provisions are used to satisfy a judgment for something other than the payment of money (CCP §§712.010-717.010), *e.g.*, when:

- a. Judgment debtor does not voluntarily surrender possession of real or personal property; or
- b. Judgment provides that real or personal property is to be sold.

OBJECTIVE IN ENFORCEMENT

The objective of enforcement is to satisfy the judgment while minimizing court time and client expense by using the methods most likely to result in satisfaction.

UNDERSTAND THAT DEBTOR WILL NOT BE COOPERATIVE

When you set out to enforce judgments, understand that judgment debtors are usually not cooperative.

LIMITATIONS OF EJL

NO EFFECTIVE REMEDIES FOR DEBTOR DISOBEDIENCE

Certain enforcement procedures have no (or ineffective) remedies if debtor fails to cooperate, because the EJL assumes that judgment debtor will:

- a. Be cooperative; and
- b. Help you collect your judgment.

Why Less Effective

Remedies are less effective if you must:

- a. Expend additional time preparing motions, *e.g.*, for contempt; or
- b. Make court appearances.

EXAMPLES OF LESS EFFECTIVE REMEDIES

Written Interrogatories

If you send postjudgment written interrogatories to obtain asset information from debtor, but debtor fails to answer voluntarily, your only remedy is to:

- a. File motion for an order:
 - (1) Compelling debtor to answer;
 - (2) Finding debtor in contempt; and/or
 - (3) Awarding additional money sanctions; and
- b. Make a court appearance.

Further Research: For interrogatory procedures, see Debt Collection Practice in California §§5.15-5.21 (2d ed Cal CEB 1999), referred to throughout this Action Guide as Debt Collection.

Assignment Order

If judgment creditor obtains an assignment order (see step 24, below) ordering debtor to assign future commissions, but creditor does not receive any commissions:

- a. The statute does not:
 - (1) Provide any remedy if debtor simply fails to pay; or
 - (2) Require debtor to make an accounting so that you can find out whether there were commissions that debtor did not provide under the assignment.
- b. Your only remedy is to:
 - (1) Use order of examination (see steps 17-21, below) to learn whether debtor received any commissions; and
 - (2) Bring contempt proceedings if debtor failed to obey the assignment order. See step 24, below.

NOTE

It may help to request the appointment of a receiver (an option under the assignment order statute) and give the source of the commissions notice of the appointment. (Be aware that this may be a costly procedure.)

TERMINOLOGY OF EJL

REVIEW STATUTORY TERMS

In addition to the terms defined in Appendix A, review the following terms:

Enforcement

Enforcement describes the various methods of obtaining satisfaction of a judgment. See CCP §§695.010-709.030 (enforcement of money judgments); CCP §§712.010-717.010 (enforcement of nonmoney judgments).

Execution

Execution is *one* method of enforcement used for *money* judgments. See CCP §§699.010-701.830. For other methods of enforcing judgments, see step 23, below.

Further Research: For definitions of terms used throughout this Action Guide, see Appendix A.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Accepting Case/STEP 2. OBTAIN COMPLETE INFORMATION FROM CLIENT

Before Accepting Case

STEP 2. OBTAIN COMPLETE INFORMATION FROM CLIENT

DETERMINE WHO THE CLIENT IS

Prospective client could be:

- a. Judgment creditor; or
- b. Assignee of record. See [CCP §673](#) and [step 11](#), below.

NOTE

The term "judgment creditor" is used throughout this Action Guide to refer to either possible client.

OBTAIN DOCUMENTS

Ask prospective client to provide you with copies of:

- a. Judgment;
- b. Documents filed or recorded to enforce the judgment, if any, *e.g.*, abstracts, writs of execution, applications for writs of execution;
- c. Documents from the underlying litigation, *e.g.*, pleadings, discovery, correspondence;
- d. Contracts or other documents exchanged by debtor and client before or since the litigation, *e.g.*, letters, copies of checks received from debtor (see [step 45](#), below);
- e. Credit applications or financial statements debtor may have given client;
- f. Proof of service, particularly if underlying judgment was by default. Make sure you give debtor credit for any payments made on the judgment.

OBTAIN INFORMATION

Ask client for all information concerning judgment debtor, *e.g.*:

- a. Names, nicknames, aliases;
- b. Assets, *e.g.*, automobile, bank accounts, brokerage accounts, residential home, vacation home, collectibles (*e.g.*, art, coins, stamps), investments (*e.g.*, privately held securities, LLC member interests), annuities, life insurance policies;
- c. Businesses, including:
 - (1) Type of entity (*e.g.*, dba, corporation, LLC)
 - (2) Services or products supplied;
 - (3) Methods by which business acquires new customers (*e.g.*, commercial referrals, consumer referrals, website, outside sales' leads, repeat business);
 - (4) Vendors business regularly uses, lines of credit, wholesale suppliers, contractors;
 - (5) Payment methods, *e.g.*, credit card, receivables, cash, check;

- d. Family, friends, neighbors, *i.e.*, people likely to know debtor's whereabouts or debtor's assets (*e.g.*, cars, boats); and
- e. Location, *i.e.*, where debtor resides or works.

Further Research: See Debt Collection, chap 1.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Accepting Case/STEP 3. CONSIDER ANY ACTUAL OR POTENTIAL CONFLICTS OF INTEREST

STEP 3. CONSIDER ANY ACTUAL OR POTENTIAL CONFLICTS OF INTEREST

DETERMINE WHETHER YOU HAVE A CONFLICT OF INTEREST

Before agreeing to represent a judgment creditor, analyze the case to see whether you have a conflict of interest (Cal Rules of Prof Cond 3-310), *e.g.*:

If You Represent Third Party Against Creditor

If one of your existing clients has a claim against judgment creditor, a conflict or potential conflict arises.

Example: You represent Baker who has a claim against Acme Corporation. In a separate matter, the president of Acme asks you to collect on a judgment for Acme. You would have a potential conflict because both parties would expect you to represent their interests first.

If You Represent Both Creditor and Debtor

A conflict or potential conflict arises when you represent both the judgment creditor and the prospective judgment debtor.

Example: Clark asks you to collect a judgment against Diane. A conflict arises when Diane offers to let you collect her judgment against a third party as a means of paying off Clark. This becomes particularly true when Diane's judgment against a third party is greater than Clark's judgment against Diane. If you are really collecting only Clark's judgment by means of a partial enforcement for Diane, there may be no conflict. If Diane wants you to collect her whole judgment, you cannot be clear of any potential conflict until Clark is paid off.

Represent Other Creditors

A conflict or potential conflict arises when you represent more than one creditor against the same debtor.

NOTE

In a debt collection law office, it is a common situation to have multiple claims against the same debtor.

Example: Miller, Nash, and Owen each have small judgments (\$15,000 to \$20,000) against Smith. Smith owns real property with \$100,000 in equity. Miller, Nash, and Owen each come to you separately and want you to collect against Smith. They have no knowledge of each other.

DETERMINE EFFECT OF CONFLICT

If you ascertain an actual or potential conflict, consult Cal Rules of Prof Cond 3-300 and 3-310 to determine whether you should:

- a. Decline case;
- b. Provide full and written disclosure; or
- c. Obtain written consent.

Further Research: For further information on conflicts of interest, see [Debt Collection §1.11](#).

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Accepting Case/STEP 4. DETERMINE WHETHER YOU HAVE TIME AND RESOURCES TO REPRESENT CREDITOR

STEP 4. DETERMINE WHETHER YOU HAVE TIME AND RESOURCES TO REPRESENT CREDITOR

YOUR TIME

RECOGNIZE NEED TO ACT PROMPTLY

Make sure that you have enough time to devote *immediately* to enforcement, *e.g.*, to find assets first and properly complete the levy or other enforcement procedure.

Example: Debtor's business is in financial difficulty, and debtor has been unable to pay his bills for several months. You have to move quickly, *i.e.*, start looking for assets today, to levy before debtor's position gets any worse.

Benefits of Acting Promptly

- a. The first creditor to make a claim against a debtor is often the most successful; and
- b. Your client is probably not the only creditor with a claim against debtor. The creditor who creates a lien (see [steps 27-29](#), below) or levies first has priority. See [step 23](#), below.

CONSIDER AMOUNT OF TIME NEEDED

Be aware that certain enforcement methods can:

- a. Take a great deal of time.

Example 1: A levy on real property that contains a dwelling requires you to set and attend at least one noticed hearing and prepare several documents all in a short period of time, *e.g.*, 20-45 days. See [steps 36-42](#), below.

Example 2: A levy on a going business may require you to go to the business to meet the levying officer and choose the assets to seize. See [step 44](#), below.

Example 3: If you obtain a wage assignment and the debtor changes jobs, you must start over again and obtain another wage assignment. See [Debt Collection, chap 7](#).

- b. Last for months or years:

Example: You must monitor a wage assignment or an assignment order over a long period of time, *e.g.*, months or years. See [step 25](#), below.

Further Research: On wage assignment, see [Debt Collection, chap 11](#); on assignment order, see [step 24](#), below; for definition of terms, see [Appendix A](#).

YOUR LIBRARY

OBTAIN ADEQUATE LIBRARY

At a minimum, you should have available in your office:

Codes

Code of Civil Procedure, Family Code. Bankruptcy and Probate Codes also may be useful.

Local Rules

Local rules of court for the courts in which you will be practicing, *e.g.*, concerning the calendaring and hearing of:

- a. Orders of examination;
- b. Claims of exemption; and
- c. Postjudgment motions for receivers or assignment orders.

Forms

Judicial Council and local court forms.

NOTE

Many sheriffs' offices have websites with sample forms and information on requirements for particular types of levies. See, *e.g.*, Los Angeles County Sheriff's Department website at: <http://civil.lasd.org/CivilProcess/civprocess.html?1> (listing types of civil process and associated fees).

Sheriff's Manual

California State Sheriffs' Association Civil Procedural Manual (used by sheriffs' departments to find responses and requirements for any particular kind of levy called for by the Code of Civil Procedure).

NOTE

If this manual is not available in your local law library, you can obtain a copy through the California State Sheriffs' Association, 1231 I Street, Suite 200, Sacramento, CA 95814, (916) 375-8000, (916) 375-8017 (fax). The association's website is at <http://www.calsheriffs.org>.

RECOGNIZE IMPORTANCE OF SHERIFF'S MANUAL

A current copy of the Sheriffs' Association Civil Procedural Manual is helpful because:

- a. In any discussion, you can refer levying officer or registered process server (RPS) to the correct page and paragraph of the manual;
- b. You will know the requirements the first time you send any paperwork to levying officer or RPS; and
- c. You avoid mistakes, *e.g.*, failing to send what levying officer or RPS needs.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Accepting Case/STEP 5. CONSIDER YOUR ROLE IF CLIENT WAS REPRESENTED BY ATTORNEY IN UNDERLYING LITIGATION

STEP 5. CONSIDER YOUR ROLE IF CLIENT WAS REPRESENTED BY ATTORNEY IN UNDERLYING LITIGATION

WHEN ISSUE ARISES

Consider what your role is if client:

- a. Was represented by an attorney in the underlying action that resulted in the judgment; and
- b. Wants you, rather than the other attorney, to enforce that judgment.

ASSOCIATION OR SUBSTITUTION

If you decide to represent the judgment creditor, obtain from the attorney in the underlying action either:

- a. Association of attorneys; or
- b. Substitution of attorneys.

Further Research: For more information on these procedures, see California Civil Procedure Before Trial (4th ed Cal CEB 2004), referred to throughout this Action Guide as Civ Proc Before Trial.

PURPOSE OF ASSOCIATION OR SUBSTITUTION

Ensure Court Recognition

Make sure court recognizes you as attorney of record.

Example: If you obtain a writ of execution with your name as attorney of record without filing a substitution of attorney, the court may void the writ when its files reveal another attorney of record. The delay while you get another writ may result in judgment debtor disposing of assets and your client losing priority or any hope of collection. For discussion of liens, see steps 27-29, below; for discussion of priority, see step 23, below.

Receive Papers

Make sure you receive any papers that debtor or court serves on judgment creditor, *i.e.*, statutes authorize judgment creditor's last known attorney of record to receive postjudgment notice and service for judgment creditor. CCP §§684.010-684.050.

COMPARE WITH SERVICE PROCESS FOR DEBTOR

Serve all papers on judgment debtor, *not* debtor's last attorney of record, *unless* (CCP §684.020):

- a. Debtor has filed and served a notice to serve the attorney designated in the notice; and
- b. That attorney consented in the notice to receive service on behalf of debtor.

NOTE

Professional courtesy may indicate that a courtesy copy should be served on or sent to debtor's attorney, in addition to copy served on defendant.

CHECK COURT FILE

Check court file to make sure neither debtor nor the attorney has revoked (see CCP §684.020(b)(2)-(3)):

- a. Notice to serve attorney of record; or
- b. Consent to receive service.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Accepting Case/STEP 6. ENTER INTO WRITTEN AGREEMENT WITH CLIENT

STEP 6. ENTER INTO WRITTEN AGREEMENT WITH CLIENT

WHEN WRITTEN AGREEMENT REQUIRED

You must enter into written agreement if:

- a. Fee is contingent (Bus & P C §6147); or
- b. Client's total expense will exceed \$1000. Bus & P C §6148.

WHEN ADVISABLE

Regardless of whether required by Bus & P C §§6147-6148, it is best to enter into written fee agreements with all clients.

INCLUDE IN AGREEMENT

In the written agreement, define services that you and client agree you will perform (see Bus & P C §6148(a)(2)), and other terms, *e.g.*:

Fee Arrangement

Specify:

- a. Hourly rate, if applicable;
- b. Any other standard rates, *e.g.*, minimum charges or fixed fees applicable to the case;
- c. Activities that will be charged, *e.g.*, conferences, telephone calls, or court appearances, and on what basis; and
- d. Full explanation of contingency fee, if applicable. See Bus & P C §6147(a).

Costs

Establish whether attorney will pay costs and be reimbursed later.

NOTE

In collection matters it is customary to require client to deposit an advance on account of costs. The agreement should make clear that attorney is to be reimbursed for any excess costs. As a practical matter, you should be aware of the cost balance on hand before undertaking any specific action. Whenever practical, get prior authorization for substantial cost items.

Deposits and Retainers

Determine whether client is paying any fees in advance, and if so:

- a. How those fees are to be used, *e.g.*, if the payment is a deposit to be applied to future fees you earn on an hourly basis (this is often called a "retainer"); or
- b. Whether fees are refundable, *e.g.*:
 - (1) Retainer is traditionally a nonrefundable payment to commit the attorney to represent the client (Cal Rules of Prof Cond 3-700(D)(2)); or
 - (2) If the fees you charge do not exhaust the "deposit," you will refund the balance to the client.

Billing

Define:

- a. How you will bill client; and
- b. When you expect client to pay.

Client Acknowledgment

Make sure that client *explicitly* acknowledges that you have advised him or her of, *e.g.*:

- a. Any conflicts to which client has given informed, written consent (see [step 3](#), above; see also Cal Rules of Prof Cond 3-300, 3-310);
- b. Your right to withdraw from representation under circumstances you specify in the agreement;
- c. Your right to apply retainer against unpaid past due bills; and
- d. Your right to endorse checks made payable to the client.

Errors and Omissions Coverage

Advise client if you do not have errors and omissions coverage and have not posted or cannot post necessary bonds

Client's Duties

Specify *client's* responsibilities (see [Bus & P C §6148\(a\)\(3\)](#)), *e.g.*:

- a. Be truthful;
- b. Keep you informed of:
 - (1) Current address;
 - (2) Any newly discovered facts;
 - (3) Any direct payment; and
 - (4) Any communication from debtor; and
- c. Make timely payments.

FORM OF AGREEMENT

Written agreement may be in any style, *e.g.*:

- a. Letter that you send to client, asking for signed copy to be returned; or
- b. Formal contract.

PROVIDE CLIENT WITH DUPLICATE

Provide client (or client's guardian or representative) with a duplicate copy of the contract signed by both the attorney and the client (or client's guardian or representative). [Bus & P C §§6147-6148](#).

Further Research: See Cal Rules of Prof Cond 4-200-210; [Civ Proc Before Trial](#). For language you might want to include in your agreement, see California Civil Litigation Forms Manual §§1.5-1.6 (Cal CEB 1980), referred to throughout this Action Guide as Civ Litigation Forms. See also [Fee Agreement Forms Manual, chap 1 \(2d ed Cal CEB 2007\)](#).

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Enforcing Judgment/STEP 7. IDENTIFY TYPE OF JUDGMENT AND APPLICABLE ENFORCEMENT PROCEDURES

Before Enforcing Judgment

STEP 7. IDENTIFY TYPE OF JUDGMENT AND APPLICABLE ENFORCEMENT PROCEDURES

OBJECTIVE

Identify judgment and applicable enforcement procedures to determine procedures you will need to follow for the type of judgment.

RECOGNIZE MONEY JUDGMENT

Examine wording of judgment to learn whether a money judgment is for, *e.g.*:

Fixed Amount

Payment of a fixed amount, *e.g.*, "judgment in the sum of \$5432.10 (plus costs and interest)."

Installments

Payment of installments, *e.g.*, "judgment in the sum of \$4000 payable in two installments of \$2000 each, due on February 1, 2003, and February 1, 2004."

Conditions

Includes any conditions that might accelerate payment of installments, *e.g.*, "if debtor fails to make any installment payment when due, the entire sum of \$4000 will become immediately due and payable."

IF MONEY JUDGMENT

Use EJL procedures (see [CCP §§695.010-709.030](#); see also [step 30](#), below) to obtain:

- a. Full *unpaid amount* of the fixed money judgment, plus interest (see [CCP §685.010](#)), plus costs, if applicable; or
- b. Only the total unpaid amount of installments currently due under the actual terms of the judgment, plus interest (see [CCP §685.010](#)), plus costs, if applicable.

NOTE

Client may want to wait to enforce an installment judgment until the total amount due justifies the expense of enforcement.

RECOGNIZE NONMONEY JUDGMENT

Examine the exact wording of the judgment to learn whether it is judgment for:

Personal Property

Possession of personal property, *e.g.*, "defendant is to give plaintiff possession of the 2000 Honda automobile" (for definition of personal property, see [Appendix A](#)).

Real Property

Possession of real property, *e.g.*, "plaintiff shall have possession of the real property located at 123 Main Street."

Sale

Sale, *e.g.*, "2000 Honda automobile shall be sold and the proceeds given to plaintiff."

Combination

Combination of remedies, such as possession of personal property and money judgment, *e.g.*, "defendant is to give plaintiff possession of the 2000 Honda automobile, and in the event the automobile cannot be delivered, judgment is entered in the sum of \$14,000."

IF NONMONEY JUDGMENT

Use enforcement procedures for nonmoney judgments. See [CCP §§712.010-717.010](#).

Further Research: On writ of possession of real property in landlord-tenant actions, see [California Landlord-Tenant Practice §§13.64-13.69 \(2d ed Cal CEB 1997\)](#); on personal property enforcement, see *Obtaining a Writ of Possession* (Cal CEB Action Guide August 2004), referred to throughout this Action Guide as Writ of Possession. See also 21 California Forms of Pleading and Practice, *Executions and Enforcement of Judgments* §§254.01-254.851 (Matthew Bender 2006).

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Enforcing Judgment/STEP 8.
ASCERTAIN WHEN JUDGMENT IS EFFECTIVE AND WHEN IT EXPIRES

STEP 8. ASCERTAIN WHEN JUDGMENT IS EFFECTIVE AND WHEN IT EXPIRES

PURPOSE

Find out when the judgment takes effect and when it expires, so that you proceed with enforcement procedures:

- a. After judgment or renewal becomes effective;
- b. When no stays are in effect; and
- c. Before judgment or renewal expires.

WHEN JUDGMENT is EFFECTIVE

DETERMINE WHEN JUDGMENT ENTERED

Review documents provided by client (and if necessary, the court file) to find the notice of entry of judgment and determine:

- a. Whether the judgment was entered by the clerk of the court (see CCP §§664-664.5);
- b. Date of entry; and
- c. Amount of judgment entered.

UNDERSTAND RESPONSIBILITY FOR MAILING NOTICE

- a. In some cases, *e.g.*, when prevailing party was not represented by counsel, the clerk mails notice of entry of judgment to all parties who appeared in the action or proceeding (and then executes certificate of mailing and places in file). CCP §664.5(b).
- b. In other cases, the party submitting an order of judgment for entry must prepare and mail a copy of the notice to all parties who appeared in the action or proceeding (and then file original notice with court along with proof of service). CCP §664.5(a) (see exceptions noted in statute).

EFFECT OF ENTRY

- a. Judgment is not effective until it is entered. CCP §664.
- b. Time for judgment to expire begins with date of entry (on when judgment expires, see below).
- c. The principal amount of the judgment is that amount entered by the clerk (see CCP §680.300), *i.e.*, the clerk will enter the amount of the judgment (CCP §577.5) plus prejudgment costs (CCP §1032) and interest, if applicable (see CC §§3287-3291).

NOTE

If the clerk does not know the costs at the time judgment is entered, the clerk leaves a blank that can be filled in once costs are known.

WHEN JUDGMENT EXPIRES

DETERMINE IF JUDGMENT HAS EXPIRED

Fixed Money Judgment and Nonmoney Judgment

Fixed money judgments and nonmoney judgments expire **10 years** after date judgment entered. CCP §683.020.

Installment Money Judgment

For installment money judgments (CCP §683.030):

- a. Review each installment due date; and
- b. If more than 10 years have passed since installment was due, judgment for that installment has expired.

RENEW IF JUDGMENT IS ALMOST 10 YEARS OLD

If judgment is almost 10 years old, apply to have judgment renewed and extend enforcement period for another 10 years. CCP §683.120. See step 9, below.

IF JUDGMENT EXPIRED

If judgment has expired (CCP §683.020):

- a. Judgment cannot be enforced;
- b. All enforcement procedures that you have begun must stop; and
- c. Any lien created by an enforcement proceeding under the judgment is extinguished. See step 9, below.

ACTION ON JUDGMENT OR DECREE

- a. It is possible to bring a cause of action based on a judgment measured from when a judgment becomes "final," instead of from the date of entry. See CCP §337.5.
- b. A judgment becomes final when the time to appeal expires or when an appeal becomes final (both well after the date of entry of judgment, which is the controlling date for renewal). See Pratali v Gates (1992) 4 CA4th 632, 5 CR2d 733; Hoover v Galbraith (1972) 7 C3d 519, 102 CR 733; Green v Zissis (1992) 5 CA4th 1219, 7 CR2d 406.

Example: A judgment has expired, *i.e.*, it is more than 10 years since the date of entry of the judgment, and the creditor has discovered assets of the debtor or believes assets exist that can be discovered. The judgment may not be renewed because of its age. Code of Civil Procedure §337.5 sets up a 10-year statute of limitations to bring a new action based on a judgment, and the time is measured from the time the earlier judgment became final. Because a judgment does not become final until after the time to appeal has expired or an appeal becomes final, there is always a window of time after the 10-year renewal period has expired during which a new action may be brought.

LIEN PRIORITY

Several enforcement methods create liens on the original judgment (see step 28, below, on abstracts), and these liens are treated in order of priority (see step 23, below).

New Cause of Action

Bringing a new cause of action can lead to a new enforceable judgment, but the lien priority established under the original judgment will be lost.

New Writ of Attachment

If the original suit was one in which a writ of attachment would have been possible, *e.g.*, a commercial claim over \$500 (CCP §483.010), then this new cause of action is also probably a claim on which an attachment would lie.

Loss of Lien Priority

This new attachment would create a lien (CCP §488.400) that would provide some help, but it would not gain the position of any earlier judgment lien. The new suit would result in a new judgment enforceable for another 10 years.

NOTE

As a new cause of action, the statute of limitations is subject to the tolling provisions of CCP §351. Although you may no longer renew judgment after 10 years from date of entry, you may bring a new suit on the judgment, resulting in a new judgment that

will be enforceable. See *Kertesz v Ostrowsky* (2004) 115 CA4th 369, 8 CR3d 907.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Enforcing Judgment/STEP 9. RENEW JUDGMENT, AND RENEW LIENS, IF APPROPRIATE

STEP 9. RENEW JUDGMENT, AND RENEW LIENS, IF APPROPRIATE

WHEN APPROPRIATE

Renew judgment when current date is close to 8 to 10 years after the date:

- a. Judgment was entered (CCP §683.020); or
- b. Each installment became due on an installment judgment. CCP §683.030.

WHY IMPORTANT

If you do not renew judgment before 10 years, judgment cannot be (CCP §§683.110, 683.130):

- a. Enforced; and/or
- b. Renewed.

EFFECT OF RENEWAL ON JUDGMENT LIEN

See step 28, below, for discussion of effect of renewal on judgment lien.

WHEN TO RENEW JUDGMENT

Renew judgment:

Original Judgment

Before the end of the 10-year period for an original judgment.

Previously Renewed Judgment

Between 5 and 10 years after the previous renewal. CCP §§683.110, 683.130.

FILE APPLICATION TO RENEW

Complete and file the application for renewal of judgment (Judicial Council Form EJ-190). See CCP §683.140; Debt Collection §§7.66-7.68.

Sample Form: See Appendix B.

CLERK ENTERS RENEWAL

When you file the application, the court clerk enters the renewal of the judgment in the court records showing total amount needed to satisfy the judgment at the time of renewal (CCP §683.150), including:

- a. Interest accrued and unpaid to that date; and
- b. Costs of filing the application for renewal.

SERVE NOTICE OF RENEWAL

Complete and serve the notice of renewal of the judgment on judgment debtor (Judicial Council Form EJ-195) (CCP §683.160(a)):

- a. Personally; or
- b. By mail.

FILE PROOF OF SERVICE

File with court clerk proof that you served the renewal notice so as to be allowed to enforce the renewed judgment. CCP §683.160(b).

NOTE

After the renewal has been issued, but before the proof of service of the renewal notice has been filed, many clerks will not issue a writ of execution on the original or the renewed judgment.

Further Research: See Debt Collection §§7.69-7.70.

NOTE

Because a judgment may not be renewed more than once every 5 years, you should consider maximizing interest by renewal (*i.e.*, compounding interest). For example, if the judgment cannot be enforced immediately because income or asset factors are not yet ripe, it may make sense to delay renewal until the outer time limit (*i.e.*, 9 years). If you choose to pursue enforcement in the near term, an earlier renewal can maximize the accrual of interest by increasing the amount of the judgment before full collection.

RENEWING LIENS

a. If a lien was created by the recordation of an abstract of judgment on the earlier judgment, simply renewing the judgment itself does not renew the lien.

b. To renew the lien:

(1) Record a certified copy of the application for renewal of judgment.

(2) If property had been transferred while subject to the original lien, you must also give notice to the transferee to retain that lien. CCP §683.180(b)(1). See step 28, below.

c. Probate Code §18200 provides that a judgment creditor can reach property in a revocable living trust as long as the settlor remains alive and the trust remains revocable. Prob C §18200. There is no indication of whether:

(1) The creditor's ability to look beyond this kind of a transfer to a trust means that the original abstract keeps its seniority position even without having given notice because the creditor is statutorily able to ignore the transfer; or

(2) The creditor has lost its seniority position by the failure to notify the transferee, even though the transfer is totally ineffective for that creditor.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Enforcing Judgment/STEP 10.
DETERMINE WHETHER ANY STAYS PROHIBIT ENFORCEMENT OF JUDGMENT

STEP 10. DETERMINE WHETHER ANY STAYS PROHIBIT ENFORCEMENT OF JUDGMENT

DIFFERENCE BETWEEN STAY OF EXECUTION AND OTHER ENFORCEMENT

IDENTIFY NATURE OF STAY

If there is a stay on the judgment, review the exact words of the stay:

Stay of Enforcement

If a stay of enforcement has been entered, generally, you would be prohibited from using any enforcement techniques. See [step 23](#), below.

Stay of Execution

Stay of execution means:

- a. You are prohibited from using execution methods to enforce the judgment; but
- b. You may still be able to use other enforcement techniques, *e.g.*, assignment order. [CCP §§708.510-708.560](#); see [step 24](#), below.

IF ENFORCEMENT IS STAYED, SEEK TO CREATE A LIEN

If the court is inclined to grant a stay on the enforcement of your judgment, ask that the court allow you to take steps to create a lien on debtor's property because:

- a. This will protect your priority over debtor's other creditors while the stay is in effect.

Example: Court allows you to create a lien by recording an abstract during the stay (see [step 28](#), below). Later, another creditor records a deed of trust on debtor's property. The other creditor's lien would be subordinate to yours, and you would not be penalized because of the stay. If the court had not allowed you to record the abstract, you would have lost your priority over that creditor.

- b. Creation of lien maintains status quo with respect to competing creditors without:

- (1) Causing liquidation of debtor's asset; or
- (2) Interfering with debtor's use and enjoyment of property.

Further Research: For definition of lien and stay, see [Appendix A](#); for discussion of liens, see [step 23](#), below; for lien procedure, see [steps 27-29](#), below.

STAYS ON APPEAL

DETERMINE WHETHER STAYED ON APPEAL

If judgment debtor has appealed the judgment:

Before You Represented Creditor

If appeal was taken before you became involved in the case, review court file or contact creditor's prior attorney to learn whether:

- a. Debtor has filed a bond or undertaking that guarantees that the judgment will be paid if debtor loses on appeal (see [CCP §917.1\(b\)](#)); or

b. Court has entered an order staying the enforcement of the judgment. See CCP §918.

While You Represent Creditor

If debtor appeals after you file a substitution of attorneys to represent client, you will be served with a copy of the bond. See CCP §§995.310-995.380.

If You Associated With Prior Attorney

If you and another attorney *both* represent client, find out if the other attorney has received a copy of the bond.

YOU ARE STAYED FROM ENFORCING IF BOND FILED

If you find a bond in the court file or receive a copy of the bond from debtor, you cannot enforce judgment if bond is:

- a. Still valid (for discussion of effective dates of bond and nature of surety, see step 10, below); and
- b. In the proper amount. See step 10, below.

IF DEBTOR HAS NOT FILED BOND

If debtor appealed but has not filed a bond:

- a. Determine whether court order staying the judgment included a consent from client to the stay (CCP §918);
- b. If client did not consent and there is no bond, determine when the stay will expire, *i.e.*, 10 days after the last date debtor could file notice of appeal (CCP §918(b));
- c. You are not stayed from enforcing the judgment if (CCP §917.1(a)):
 - (1) Debtor has not filed required bond (CCP §917.1); and
 - (2) 10 days have passed from the last date debtor could file a notice of appeal. CCP §918(b).

REVIEW AMOUNT OF BOND

Review the court file and verify that bond is in the correct amount, *i.e.*:

Amount of Judgment

Confirm that the judgment amount stated in the bond includes any costs awarded by the trial court. CCP §917.1(d); see CCP §§1021-1038 for proper costs.

Amount of Bond

The face amount of the bond should be (CCP §917.1(b)):

- a. If *issued by an admitted surety insurer*: 1½ times the amount of the judgment; or
- b. If *given by anyone other than an admitted surety insurer*: 2 times the amount of judgment. See below.

REVIEW NATURE OF SURETY

Determine who gave the surety from the face of the bond; *i.e.*, bonds may be given by:

- a. Admitted surety insurers (corporate insurers authorized to transact surety insurance) (see CCP §995.120); or
- b. A person (CCP §995.510):
 - (1) Other than debtor; and
 - (2) Who is a resident and either owner of real property or householder in the state.

REVIEW EFFECTIVE DATES OF BOND

Verify from the effective dates on the face of the bond that it has not expired.

REVIEW FORM OF BOND

Make sure the bond conforms to CCP §§995.310-995.660, *e.g.*:

- a. Has proper language (CCP §§995.330, 995.520);
- b. Is in writing (CCP §995.320); and
- c. Is properly executed. CCP §995.310.

WHEN TO OBJECT TO BOND

10 days after debtor serves a copy of the bond, file a noticed motion objecting to an improper bond. See CCP §§995.910-995.960.

BANKRUPTCY STAYS

IF BANKRUPTCY FILED

If debtor has filed a petition for bankruptcy, you are automatically stayed from enforcing judgment. See 11 USC §362(a).

NOTE

Except for Chapter 13 bankruptcies, automatic stay does not bar proceeding against codebtors who have not filed bankruptcy. If codebtor is the spouse of bankrupt debtor, remember that the stay does affect community property.

REVIEW BANKRUPTCY FILE

Go to the bankruptcy court and look at the file (status also may be available by phone or through the court's electronic filing system [PACER] on the Internet at <http://pacer.psc.uscourts.gov/>) to learn:

If Bankruptcy Pending

If the bankruptcy is still pending; if so, you are stayed from enforcing the judgment. See 11 USC §362(a); Debt Collection §12.27.

NOTE

Despite the existence of the bankruptcy stay under 11 USC §362(a), a landlord who obtains a judgment of possession in an unlawful detainer action *before* the tenant files for bankruptcy may be able to enforce the prepetition judgment. See Lee v Baca (1999) 73 CA4th 1116, 86 CR2d 913 (under California law tenant has no legal or equitable interest in rented property once judgment for possession has been entered in favor of landlord). So far no bankruptcy or other federal court has ruled on this issue, but under 11 USC §362(a)(2), the automatic stay reaches "enforcement, against the debtor or against property of the estate, of a judgment obtained before commencement of the case under this title." A court could hold that evicting the debtor is an enforcement action "against the debtor" even if, under California law, there is no longer any property of the estate involved.

If Judgment Discharged

If bankruptcy court has discharged debtor, *i.e.*, has discharged all debtor's debts including your client's judgment; if so, you are permanently stayed from enforcing the judgment. See 11 USC §§524, 727.

NOTE

On availability of homestead exemption for petitioners in bankruptcy, see CCP §703.140; see also *Kendall v Pladson (In re Pladson)* (9th Cir 1994) 35 F3d 462 (bankruptcy debtors entitled to claim California homestead exemption).

If Judgment Not Discharged

If bankruptcy court has declared judgment nondischargeable; if so, you may enforce the judgment as if there had been no bankruptcy. See 11 USC §§523, 727.

NOTE

Be careful to read exactly what the bankruptcy court declared. Your original judgment may have been declared nondischargeable, in which case it is what you would proceed to enforce in the state court. There may also have been an adversary proceeding in the bankruptcy court that led to a new judgment in the bankruptcy court of nondischargeability and for some sum of money. In the latter case, it is the bankruptcy court judgment that is the only valid judgment and the only one that may be enforced.

If Bankruptcy Dismissed

If bankruptcy has been dismissed; if so, you are free to enforce your judgment. 11 USC §362(c)(2).

CONSULT WITH BANKRUPTCY EXPERT

Consult with an attorney who specializes in bankruptcy to learn whether any of the client's rights, such as lien rights established when you record an abstract, might survive the bankruptcy.

Further Research: On bankruptcy and its effect on enforcement of judgments, see [Debt Collection, chap 12](#). For additional information about various aspects of bankruptcy, see [Moving for Relief From an Automatic Stay in Bankruptcy](#) (Cal CEB Action Guide September 2006) and [Personal and Small Business Bankruptcy Practice in California](#) (Cal CEB 2003), referred to throughout this Action Guide as [Bankruptcy Prac](#).

OTHER STAYS

REVIEW COURT FILE

Review court file to determine whether the trial court granted a stay of enforcement for reason *other* than appeal. See [CCP §918](#).

REVIEW STAY

Learn whether the effective time of the stay has expired, *i.e.*, 10 days beyond the last day on which debtor could file a notice of appeal ([CCP §918](#)):

- a. Regardless of whether debtor files appeal; or
- b. Unless your client consented to a longer period.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Enforcing Judgment/STEP 11.
ASCERTAIN THAT CLIENT IS VALID JUDGMENT CREDITOR

STEP 11. ASCERTAIN THAT CLIENT IS VALID JUDGMENT CREDITOR

DETERMINE CLIENT'S STATUS

Learn from client whether client is the:

- a. Original judgment creditor; or
- b. Judgment assignee, *i.e.*, the original judgment creditor assigned the judgment to client.

IF CLIENT IS ASSIGNEE

If client is judgment assignee:

- a. Review the assignment and judgment to decide whether assignment appears valid, *e.g.*, signed, not violating any terms of the judgment; and
- b. Make sure that client is assignee of record, *e.g.*, file acknowledgment of assignment with court. CCP §673(a).

NOTE

Be aware that there may be other methods of becoming assignee of record, such as by an order of a probate court if the original judgment debtor is deceased and thus cannot sign an acknowledgment of assignment of judgment. See CCP §§673, 681.020.

NOTE

A creditor who seeks to enforce a debt may be judicially estopped if he or she failed to disclose the existence of the debt in an earlier bankruptcy proceeding. Failure to disclose the debt may cause it to remain an asset of the bankruptcy estate, and the bankruptcy trustee has standing to enforce it. After the bankruptcy is reopened and the trustee chooses not to seek recovery of the properly disclosed debt, the debt is considered abandoned and released back to the judgment creditor to enforce.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Enforcing Judgment/STEP 12.
IDENTIFY DEBTOR

STEP 12. IDENTIFY DEBTOR

OBJECTIVE

Identify debtor to enforce the judgment against the proper debtor.

DETERMINE IDENTITY IF DEBTOR IS AN ENTITY

Review the judgment and make sure you know the correct legal entity of the judgment debtor, *e.g.*, if you are suing a business and it is not clear from the judgment whether the business is a corporation, partnership, or individual, check with:

- a. Attorney who obtained the judgment to determine what that attorney discovered about the entity; and
- b. Public records, *e.g.*, county clerk for fictitious business names, local city for business licenses, Secretary of State for corporate, limited liability company, or limited partnership status, or State Board of Equalization for resale licenses.

OBTAIN CORRECT AND COMPLETE NAMES OF DEBTOR

Review judgment and ask client the complete name of debtor, including any aliases, nicknames, and any variations of spelling.

DETERMINE PROPER NAME AND SPELLING

Make sure you have the:

- a. Correct name for judgment debtor; and
- b. Correct spelling of judgment debtor's name.

IF ALIASES DISCOVERED

To levy a writ of execution, the name on the account must be the same as the name on the writ. Correct the judgment by:

- a. Noticed motion to correct name on judgment; or
- b. Affidavit of Identity. CCP §680.135.

NOTE

Once properly filed, the Affidavit of Identity allows writs of execution and abstracts of judgment to be issued including the additional names.

Small Claims Court Judgment

For small claims court judgments also consider a motion under CCP §116.630, although enforcement of small claims judgments are governed by the EJL. See CCP §116.820.

NOTE

You will have to begin again if you obtain a writ of execution and then find out that you misspelled the name.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Enforcing Judgment/STEP 13. LOCATE AND LEARN ABOUT JUDGMENT DEBTOR

STEP 13. LOCATE AND LEARN ABOUT JUDGMENT DEBTOR

OBJECTIVE

Locate debtor in order to serve order of examination, interrogatories, or other documents and gain insight into debtor's motivations.

ASK CLIENT

Ask client for information about debtor, including any information gathered by the attorney who helped client obtain the judgment. See [step 2](#), above. In addition, inquire into debtor's habits, *e.g.*, if debtor eats at the same restaurant at certain times, jogs or works out at a gym at a certain time, or regularly visits a dog park.

ASK CLIENT'S PRIOR COUNSEL

Ask client's former counsel for information and insight regarding debtor. You may be dealing with a debtor who would avoid enforcement at any cost, even to his or her own detriment. Debtor also may be particularly sensitive to the airing of the enforcement to people or organizations such as pastors, military commanders, or family members.

SEARCH NEWS

Use news and blogging archives to learn as much as possible about debtor and his or her activities.

USE PRIVATE INVESTIGATOR

If you are unable to locate debtor by any other method, engage a private investigator or other private agency to locate debtor and his or her assets.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/Before Enforcing Judgment/STEP 14. CHECK PUBLIC RECORDS FOR INFORMATION ABOUT DEBTOR AND ASSETS

STEP 14. CHECK PUBLIC RECORDS FOR INFORMATION ABOUT DEBTOR AND ASSETS

REVIEW COURT FILE

Review file of the underlying litigation to be sure:

- a. That you have a correct copy of all relevant documents;
- b. That there are no documents in the court file that would affect the enforcement of judgment, *e.g.*, an undertaking to stay enforcement (see [step 10](#), above); and
- c. Whether anyone has filed a request for notice of sale. [CCP §701.550\(b\)](#). For discussion of complete writ of execution, see [step 32](#), below.

REVIEW COURT RECORDS

If available, check the court's plaintiff/defendant directory or index (usually in the clerk's office) to discover whether:

- a. Debtor has an ongoing suit against a third party in which you could file a lien and obtain payment for your client (for liens in pending actions, see [step 27](#), below);
- b. Other claims and judgments exist against debtor; or
- c. Other judgment creditors have executed on their judgments against debtor.

NOTE

If a creditor has executed on the judgment, the result of the execution may be learned from the court file or directly from the creditor. Pleadings in other proceedings may also disclose information about debtor's assets, *e.g.*, schedules of assets and expenses in bankruptcy proceedings, or income and expense declarations in divorce proceedings.

If Other Cases

If you discover numerous judgments that have been entered against judgment debtor or other returned levies:

- a. Discreetly check with attorneys representing those creditors to determine the status of those collections, *e.g.*, real property already sold; and
- b. Recognize that if other creditors are not actively pursuing enforcement:
 - (1) You may be able to obtain priority for your client over other creditors by creating liens or beginning levy (see [steps 23](#) and [27-29](#), below); or
 - (2) It might mean debtor has no assets; but
 - (3) If debtor has assets, you might be able to coordinate the enforcement activities of more than one creditor so that they can share the cost of enforcement. For discussion of conflicts when representing more than one creditor, see [steps 3-4](#), above.

REVIEW RECORDS FOR LOCATION OF DEBTOR AND ASSETS

Review all public records to find location(s) of debtor and any assets, *e.g.*:

- a. Telephone book;
- b. County voter records;
- c. County assessor;

- d. County recorder;
- e. County property tax records;
- f. Local business license records;
- g. Department of Motor Vehicles;
- h. Fictitious name filings;
- i. Secretary of State filings (*e.g.*, corporations, limited liability companies, and limited partnerships);
- j. State Board of Equalization;
- k. Contractors' State Licensing Board; and
- l. See Bus & P C §103 for a list of agencies that have licenses under the State Department of Consumer Affairs.

REVIEW ONLINE SOURCES

Many of these public records can be accessed online. Conduct a search on debtor's name using major Internet search engines (*e.g.*, www.google.com) and databases. Free online databases include:

- a. www.anywho.com (electronic phonebook that also allows reverse telephone look-ups);
- b. www.whois.net (Internet domain registrants);
- c. www.FAA.gov (aircraft registration and pilot licenses); and
- d. www.imdb.com (any credited individual in film or television).

DETERMINE WHETHER THERE ARE MULTIPLE LOCATIONS

By using public records listed above, you may be able to determine whether judgment debtor has multiple locations, *e.g.*, more than one mailing address, which might lead to more assets for a possible levy.

ASSESS PHYSICAL AND GEOGRAPHIC FACTORS

Knowing the geography and physical layout of debtor's home, business, and asset locations can be useful for various reasons, including service of process and levy attempts. If available, use satellite imaging or maps.google.com's "Street View" feature.

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When Identifying Property Subject to Enforcement

STEP 15. IDENTIFY PROPERTY SUBJECT TO ENFORCEMENT

GENERAL RULE

All property of a judgment debtor is subject to the enforcement of a judgment *unless* an exception is expressly provided by law (for exceptions, see below). CCP §695.010(a).

PROPERTY SOMETIMES OVERLOOKED

CONSIDER ALL TYPES OF PROPERTY

Types of property that are sometimes overlooked in enforcing a judgment include:

Leaseholds

Leaseholds in which judgment debtor has the right to voluntarily sublet or assign the interest in the lease (CCP §695.035), *e.g.*, shopping centers or other commercial leases.

Public Entity Debts

Debts due from a public entity. For method of enforcement, see step 23, below.

Business Licenses

Licenses to engage in certain kinds of businesses, *e.g.*:

- a. License granted by the Alcoholic Beverage Control Commission (for discussion of appointment of a receiver, which you must use to reach debtor's interest in the license, see step 23, below); or
- b. Government-granted franchises. CCP §§708.910-708.930. For discussion of giving notice to public entity, see step 23, below.

EXCEPTIONS

NONASSIGNABLE PROPERTY

Property that judgment debtor cannot assign or transfer is not subject to enforcement unless expressly provided by statute (CCP §695.030), *e.g.*:

Contracts

Some contracts expressly state that the parties' rights under the contract are not assignable and are usually not subject to enforcement, *except*:

- a. A lease that is not assignable may be subject to enforcement if the lessor consents to enforcement (see CCP §695.035); or
- b. A nonassignable trust interest is subject to enforcement by a special method (see CCP §709.010);

Personal Injury Claims

A claim for personal injury is nonassignable (see *Fifield Manor v Finston* (1960) 54 C2d 632, 7 CR 377), *except* CCP §695.030(b)(2) provides a way that you can create a lien in a pending lawsuit (see step 23, below); and

Business Licenses

A license issued by a public entity to engage in a business, profession, or activity is nonassignable and not subject to enforcement (see CCP §695.060), *except* CCP §708.630 provides a way to reach an alcoholic beverage license.

NOTE

For discussion of appointment of a receiver, which must be used to reach debtor's interest in license, see step 23, below.

EXEMPT PROPERTY

If you find that debtor has a nonassignable interest, you can usually assume that there is a special exception for that type of property. For executing on property not subject to enforcement, see below.

Exempt If Claimed

Certain forms of property may be exempt if claimed by judgment debtor; *i.e.*, the exemption is lost if debtor does not claim exemption. CCP §703.030(a).

Absolutely Exempt

Other property is *not* subject to enforcement even if debtor does not make an exemption claim. CCP §703.030(b).

NOTE

If you mistakenly execute on property that is absolutely exempt, the debtor must claim exemption to get property released. Although CCP §703.030(b) states that such property is "exempt without making a claim," as a practical matter, the debtor should file a claim to make the levying officer and the judgment creditor aware that there has been a violation. For executing on property not subject to enforcement, see below.

Further Research: For a list of both types of exempt property, see Appendix C.

COMMUNITY PROPERTY

A judgment against either spouse is generally enforceable against the community property assets of both spouses (CCP §695.020), *except*:

- a. For judgments arising from contracts made before the marriage, the nondebtor spouse's earnings are not subject to enforcement if held in a separate account and not commingled (see Fam C §911); and
- b. For judgments arising from torts, community property is not subject to enforcement (Fam C §1000):
 - (1) If the tortfeasor spouse was *not* acting on behalf of the community; or
 - (2) If the tortfeasor's separate property is sufficient to satisfy the judgment.

EXECUTION ON PROPERTY NOT SUBJECT TO ENFORCEMENT

If you execute on property that is not subject to enforcement, *i.e.*, nonassignable or absolutely exempt:

- a. Debtor may claim its release through claim of exemption (CCP §695.040; for exemption procedures, see step 46, below); and
- b. You could be liable for abuse of process if you *knowingly* executed on absolutely exempt property. See White Lighting Co. v Wolfson (1968) 68 C2d 336, 66 CR 697.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Identifying Property Subject to Enforcement/STEP 16. LOCATE DEBTOR'S PROPERTY

STEP 16. LOCATE DEBTOR'S PROPERTY

IMPORTANCE OF LOCATION

Levying officer can only levy against assets within the geographic boundaries of his or her county. Larger counties are subdivided into smaller areas with designated levying officers for each area. An RPS can levy statewide.

DO NOT ASSUME ASSETS ARE IN ONE COUNTY

Even if debtor has a place of business in one county:

- a. Do not assume all debtor's assets are located within that county.
- b. Look for assets in all counties.

IN CALIFORNIA

DETERMINE COUNTY

If property is in California, determine county where property is located.

DETERMINE SPECIFIC TYPE OF LOCATION

Determine whether property is in a:

- a. Private place, *e.g.*, a home;
- b. Public location, *e.g.*, a parking lot, street;
- c. Business; or
- d. Financial institution.

To Levy on Property

See [steps 43-45](#), below.

OUTSIDE CALIFORNIA

CONSIDER AVAILABLE METHODS

If property is outside California, you are limited in methods available to effectively enforce the judgment, *e.g.*:

Assignment Orders

Obtain an order directing debtor to assign to your client any proceeds from the property outside California. See [step 24](#), below.

Example: Debtor is earning commissions, and the commission-paying source is located outside California. By the assignment order, debtor is to pay the commissions over to creditor. For limitation on this method of enforcement, see [step 1](#), above, and [step 24](#), below.

NOTE

If you practice in a border area such as Lake Tahoe, and you have a sophisticated debtor, you could easily find that the debtor's

residence is in California but his or her bank account is in Nevada.

Seek Enforcement in Other State

If you can obtain jurisdiction of judgment debtor in the state where the assets are located, it may be appropriate to have the judgment domesticated in the other state, and hire an attorney in that state to levy on the asset.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Identifying Property Subject to Enforcement/STEP 17. CONSIDER ORDER OF EXAMINATION

STEP 17. CONSIDER ORDER OF EXAMINATION

ORDER OF EXAMINATION DEFINED

The order of examination (called an OEX in northern California and an ORAP in southern California) is an order to appear in court and be examined that is directed to (CCP §§708.110-708.205):

- a. Debtor;
- b. Third parties indebted to judgment debtor; and
- c. Others.

Purpose of Examination

The purpose of the examination is to discover and locate assets of judgment debtor that you can use to satisfy the judgment.

WHEN MOST USEFUL AND APPROPRIATE

The examination is most useful when you have completed sufficient investigation of debtor's assets to permit you:

- a. To be able to ask meaningful questions (for discussion of investigation, see step 14, above; for discussion of examination process, see step 19, below); and
- b. To be able to determine that debtor's assets justify the expense.

Example: You discover during the examination that debtor owns a 2002 Toyota Corolla. After the examination you find that the Kelley Blue Book value of the car is only \$2500, so you may determine that it will probably not be worth it to levy against the automobile because \$2300 is exempt. CCP §704.010.

NOTE

At times you may have no information and the exam may be the only way to get information. An exam may also lead to settlement.

WHOM YOU CAN EXAMINE

You can examine:

Judgment Debtor

- a. The individual judgment debtor named in the judgment (CCP §708.110); and
- b. If judgment debtor is an organization, the person that the organization must send to appear and testify at the examination. CCP §708.150.

NOTE

Although the organization must designate the person to appear at the examination (as in a deposition), some courts, by local practice, require you to specify an individual. See CCP §§708.150, 2025(d). The theory seems to be that if no one appears, a bench warrant will issue only when an individual was specified. See also steps 18, 21, below.

Third Party

Any third person who (CCP §708.120):

- a. Has possession or control of property in which judgment debtor has an interest; or

b. Is indebted to judgment debtor in an amount exceeding \$250.

NOTE

If the third party has knowledge of debtor's assets, *e.g.*, is a former officer, director, employee, attorney, ex-partner, and does not fall into categories under CCP §708.120, attach a declaration under CCP §708.130.

Spouses

Spouses who *may* be required to appear and testify because CCP §708.130(b) provides that there is no interspousal privilege for an examination of a judgment debtor.

Witnesses

Witnesses who *may* be required to appear and testify in the same manner as they may be required to appear at trial (CCP §708.130(a)), *e.g.*:

- a. Current corporate officers or employees;
- b. Former officers or employees; and
- c. Any other individual with knowledge about debtor's income or assets.

CONSIDER ADVANTAGES OF OEX/ORAP

An OEX or ORAP provides the following advantages:

Obtain Information

If you are properly prepared, you have the ability to ask debtor about income, assets, and expenses, *e.g.*, existence, location, value. (For discussion of preparing for examination, see step 19, below.)

Immediate Possession of Property

If you take a turnover order, you may ask the court at the end of the examination to order debtor to turn over to you or levying officer any of debtor's assets under examinee's control. See CCP §708.205(a).

DOCUMENTS

If you serve a subpoena duces tecum or a notice to produce documents with the order for examination (for discussion of preparing subpoena or demand, see step 18, below), the examinee must produce at the examination, *e.g.*:

- a. Checkbooks and bank statements;
- b. Deeds, promissory notes and statements that show the principal balance due on real property loans; and
- c. Records of accounts payable and receivable.

NOTE

Remember, if you ask a third party to produce records about the debtor, you may need to follow the subpoena procedures for consumer or employee records. See CCP §§1985.3, 1985.6; see also Handling Subpoenas (Cal CEB Action Guide December 2006), referred to throughout this Action Guide as Subpoenas.

RECOGNIZE LIMIT ON OEX/ORAP

You can examine debtor only once every 120 days (CCP §708.110(b)), unless you show the court good cause for a more frequent examination. CCP §708.110(c).

PREPARE

Realize that you will have the unique opportunity to know the exact date and time that debtor will be at a particular location, both for the first OEX/ORAP and for any continuation necessary to complete the examination. With proper preparation, you may be able to easily and inexpensively serve on debtor other pleadings or levies.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Identifying Property Subject to Enforcement/STEP 18. IF YOU DECIDE ON ORDER OF EXAMINATION, PREPARE, FILE, AND SERVE PROPER FORMS

STEP 18. IF YOU DECIDE ON ORDER OF EXAMINATION, PREPARE, FILE, AND SERVE PROPER FORMS

SELECT COURT

DETERMINE EXAMINEE'S RESIDENCE AND EMPLOYMENT

Determine whether the examinee lives or works:

- a. Outside the county where the judgment was entered; and
- b. More than 150 miles from the examination place.

CHOOSE PROPER COURT

Where Judgment Entered

Choose the court in the county in which the money judgment was entered if either (CCP §708.160(a)-(b)):

- a. Examinee lives or works in that county; or
- b. Court is less than 150 miles from the examinee's residence or place of business.

Where Examinee Lives or Works

Choose the county where the examinee lives or works if both (CCP §708.160(b)):

- a. Examinee lives and works outside the county where the judgment was entered; and
- b. Place where examinee lives or works is more than 150 miles from the court where judgment was entered.

PREPARE FORMS

CALL COURT

Call proper local court and department to determine:

- a. Dates, times, and departments where examinations are heard;
- b. Whether you need to reserve a date to be filled in on the order form; and
- c. Whether there are any special procedures for getting the OEX/ORAP signed by the judge.

DETERMINE FILING FEES

Filing fees for hearings after the first paper are fixed by Govt C §70617 (\$40 for papers other than motions for summary judgment or summary adjudications). The additional fee for filing with an abstract from a court different from the court where judgment was entered has been eliminated.

COMPLETE ORDER AND APPLICATION FORM

Complete Judicial Council Form AT-138/EJ-125, including:

Caption and Title

Correct pleading caption, including type of examination you are requesting, *e.g.*, Enforcement of Judgment, Judgment Debtors, or Third Person.

Order

In the order portion of the form, include:

a. Correct name of the person to be examined, *e.g.*:

(1) *Individual*: Use name of judgment debtor as it appears on the judgment and any other names or aliases; or

(2) *Organization*: Fill in name of organization (CCP §708.150), but be aware that local rules of some courts also require you to provide the name of an individual.

NOTE

Recognize that if you fill in the name of the organization and not the name of an individual, you have a practical problem if no one appears. See step 21, below.

b. Type of information you seek from the examinee.

c. Date, time, and place of examination, if known.

NOTE

Some courts prefer that you leave this information blank to be completed by the clerk; others require you to reserve date in advance.

d. Name of particular person(s) that you want the court to authorize to serve the order, in addition to the sheriff or the RPS.

NOTE

Because you may see debtor at court hearings or settlement negotiations, you may want to include your own name and serve the order yourself.

NOTE

Make sure you leave yourself enough time to serve debtor. For discussion of when to serve order, see step 18, below.

Application

In the bottom portion of the form, provide information that you verify under penalty of perjury, *i.e.*:

a. Who is requesting examination;

b. Who will be examined;

c. Why you have chosen this court; and

d. Why the examination is timely.

PREPARE SUBPOENA OR DEMAND IF APPROPRIATE

If you want examinee to bring records to the examination, prepare and serve with the order:

If Debtor Examinee

Either:

a. Notice To Produce (CCP §1987(c)); or

b. Civil subpoena duces tecum (Judicial Council Form 982(a)(15)).

Sample Form: For sample completed application, see Appendix M.

If Third Party Examinee

Civil subpoena duces tecum (Judicial Council Form SUBP-002).

Further Research: See Subpoenas.

PROVIDE ABSTRACT AND AFFIDAVIT IF IN ANOTHER COUNTY

If you must conduct examination in a county other than county in which the judgment was entered (CCP §708.160(d)):

Abstract of Judgment

- a. Obtain a new or certified copy of an abstract of judgment from the court in which the judgment originated; and
- b. File that abstract of judgment with the court clerk in the county where you will conduct examination.

Affidavit

- a. Prepare affidavit stating why you are seeking the examination in that county; and
- b. Attach affidavit to the Complete Order and Application Form (Judicial Council Form AT-138/EJ-125) when you submit the form to be signed by the judge in the court where you will conduct examination.

PROVIDE AFFIDAVIT TO COMPEL THIRD PARTIES

To compel third party to appear under CCP §708.120:

- a. Check the appropriate boxes on Judicial Council Form AT-138/EJ-125; and
- b. Attach an affidavit or declaration to establish why you believe the person (CCP §708.120):
 - (1) Has possession or control of property in which debtor has an interest; or
 - (2) Is indebted to judgment debtor in an amount exceeding \$250.

Sample Form: For sample completed application and affidavit, see Appendix N.

CONSIDER SUBPOENA DUCES TECUM

Consider preparing and serving a subpoena duces tecum to compel third party to bring any relevant records about debtor's assets to the exam.

DETERMINE LOCAL PROCEDURES

Find out the local court procedure for issuing these orders by calling the clerk's office.

HAVE JUDGE SIGN FORM

Take form to court and have it signed and issued by a judge.

MAY NEED TO MODIFY JUDICIAL COUNCIL FORM

- a. There may be a special problem in dealing with a third party *witness* who is required to appear and testify before the court or referee under CCP §708.130(a), because, although the code section allows a third person with possible knowledge of judgment debtor's assets to be brought into court, the Judicial Council form has no provision for indicating such an examination. (The court clerk will most likely not know how to deal with such a situation on an OEX calendar.)
- b. The best solution is to use a standard Judicial Council form and modify the boxes for third persons by crossing out the text and inserting "see attached Declaration" when using the modified form for third persons who do not fit into those categories defined by CCP §708.120.

Attach Declaration

- a. Attach a declaration indicating:

- (1) Who the third person is who is to be examined; and
 - (2) The basis for believing that the person has possible knowledge of judgment debtor's assets, *e.g.*, third person is the former bookkeeper of judgment debtor or debtor's agent.
- b. It also helps to put in a short set of points and authorities to establish your right to examine any person with knowledge under CCP §708.130(a).

Documents From Third Party

If you want the third party to bring documents:

- a. Prepare a subpoena duces tecum and have it issued by the court clerk when the judge signs the order.
- b. Serve the third party with the:
 - (1) Order of examination;
 - (2) Declaration; and
 - (3) Subpoena duces tecum.

NOTE

Because this process results in a situation more like the usual judgment debtor examination, it should be easier to get it on calendar.

SERVE ORDER

WHEN TO SERVE ORDER

Serve order at least 10 days before the date set for the hearing. CCP §§708.110, 708.120.

HOW TO SERVE DEBTOR

If Examinee Is Debtor

Personally serve judgment debtor (CCP §708.110(d)); or

If Examinee Is Third Party

Serve (CCP §708.120(b)):

- a. Third party personally; and
- b. Debtor:
 - (1) Personally; or
 - (2) By mail.

IF EXAMINEE IS THIRD PARTY, PAY FEES

- a. If you want to examine a third party, tender fees to cover examinee's mileage from examinee's residence to place of examination when you serve the order on that person. CCP §708.120(f); see Govt C §68093 (\$.20 per mile).
- b. If serving a third person under CCP §708.130, the code is silent concerning witness fees. It is recommended that this be treated in the same way as service under CCP §708.120, and that the fees be advanced automatically, whether asked for or not, at time of service.

NOTE

If service is under CCP §708.120, failure to advance fees at time of service, whether asked for or not, makes the order to appear ineffective.

FILE PROOF OF SERVICE

File proof of service and the original order with the court as required by the local rules and custom of the court, *e.g.*, at least 3 court days before the hearing. See San Francisco Ct R 8.9(C); Los Angeles Ct R 3.4(b)(1).

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Identifying Property Subject to Enforcement/STEP 19. PREPARE FOR EXAMINATION

STEP 19. PREPARE FOR EXAMINATION

RECOGNIZE SCOPE OF EXAMINATION

You have the widest scope to inquire about debtor's property and business affairs, *e.g.*, source of debtor's funds or debtor's future employment prospects. See *Young v Keele* (1987) 188 CA3d 1090, 1093, 233 CR 850.

NOTE

Although examination questioning is very broad, it is limited to the capacity of the examinee as designated individual. For example, if debtor and a relative are partners in two businesses (*e.g.*, Biz1 and Biz2) and the relative is being examined as the designated individual on behalf of third party Biz1, questions related to debtor's direct interests in Biz2 would be beyond the scope of the OEX/ORAP that commanded relative's appearance.

Anticipate Claim of Privilege

For privileges debtor may invoke during the examination, see step 21, below.

PREPARE OUTLINE OF QUESTIONS

- a. Review specific areas to cover (see below); see also Appendix D.
- b. From your knowledge of examinee, prepare an outline or list of pertinent questions.

Example: You discover from the DMV that the debtor owns an expensive automobile, and you learn the blue book value of that automobile is \$60,000. You already know that debtor can claim an automobile exemption of only \$2300 equity (see CCP §704.010), so you prepare questions for the examination, *e.g.*, the amount financed by debtor, the monthly payments, the principal balance owed, and equity value in the automobile. You also subpoena records concerning the automobile for debtor to bring to the examination (for discussion of preparing subpoena, see step 18, above).

COVER SPECIFIC AREAS

Areas that you should cover include:

Personal Information About Debtor

Personal information, *i.e.*:

- a. Employment record during last 5 years;
- b. Social security number and driver's license number, for use in completing the abstract (see step 28, below);
- c. Marital status;
- d. Birthplace;
- e. If applicable, spouse's:
 - (1) Name;
 - (2) Social security number;
 - (3) Place and nature of employment; and
 - (4) Birthplace;
- f. Contents of will, which could reveal the existence and location of assets owned by judgment debtor; and

g. Hobbies and recreations, which could lead to information about memberships or collectibles (*e.g.*, art, coins, stamps).

Business Information

Business information, *i.e.*:

a. Names and addresses of judgment debtor's:

- (1) Partners;
- (2) Coshareholders;
- (3) Co-officers;
- (4) Codirectors;
- (5) Employees;

b. Methods of client acquisition; and

c. Cash flow details.

Property Information

Property information, *i.e.*:

a. Determine whether judgment debtor has transferred property to anyone within the last 10 years.

b. If judgment debtor has transferred property, obtain information about the transferee (you may be able to trace the property to the transferee). See step 26, below; Debt Collection §§8.6-8.7.

Further Research: See *Troy v Superior Court* (1986) 186 CA3d 1006, 1013, 231 CR 108.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Identifying Property Subject to Enforcement/STEP 20. PREPARE A TURNOVER ORDER TO TAKE TO EXAMINATION

STEP 20. PREPARE A TURNOVER ORDER TO TAKE TO EXAMINATION

OBJECTIVE

A turnover order requires debtor or the third party examinee to turn over property that you discover during the examination to (CCP §§708.205, 699.040):

- a. You, on behalf of the creditor, *e.g.*, debtor's cash or airline coupons (see comment to CCP §708.205); or
- b. Levying officer.

PREPARE BLANK TURNOVER ORDER

Prepare an order that debtor deliver property after the examination, leaving a space for the description of property you discover during the examination and want turned over (see CCP §708.205), *e.g.*, fill in:

- a. The amount of any large sum of cash that debtor has; and
- b. Any sum that the third party owes to debtor.

NOTE

Make the title of the order descriptive, *e.g.*, Order for Delivery of Property After Examination, Turnover Order, or Order Applying Property Toward Satisfaction of Judgment.

Sample Form: For a sample Turnover Order, see Appendix E.

REMEMBER TO ASK COURT FOR ORDER

At the conclusion of the examination, you will ask the court to approve the order. See step 21, below.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Identifying Property Subject to Enforcement/STEP 21. ATTEND EXAMINATION OF DEBTOR OR THIRD PARTY, IF APPROPRIATE

STEP 21. ATTEND EXAMINATION OF DEBTOR OR THIRD PARTY, IF APPROPRIATE

use of deposition reporter

WHETHER TO USE DEPOSITION REPORTER

Consider carefully the type of testimony anticipated at the OEX/ORAP and use a deposition reporter if the witness is expected to:

- a. Be dishonest (to create a record for future impeachment);
- b. Admit to legal or beneficial interests in concealed or third party property (to record these admissions for future proceedings);
or
- c. Refuse to answer questions (to create a record for a contempt action).

IF REPORTER IS USED

Consider Cost of Reporter

Understand cost of reporter, including possible per diem charges in addition to per page charges.

Consider What the Reporter Should Record

Have the reporter record:

- a. Swearing in of examinee;
- b. All question and answer sessions during examination, noting off-record conversations examinee may have with counsel;
- c. All instances of intervention of the judicial officer; and
- d. Completion or continuation of examination in presence of court clerk.

IF EXAMINEE DOES NOT APPEAR

TRY TO COMPEL ATTENDANCE

If the examinee fails to appear, there is no uniform court procedure:

Bench Warrant

Some courts will issue a bench warrant for the arrest of an examinee who failed to appear. See [CCP §§708.170\(a\)\(1\)\(B\)](#).

OSC in re Contempt

Some courts will require that an Order to Show Cause (OSC) in re Contempt be issued and served, and if the examinee again fails to appear, will then issue a bench warrant.

Bench Warrant Letter

Some courts will send what is called a "bench warrant letter," usually signed by the presiding judge, explaining that:

- a. Examinee failed to appear at the time and place stated in the order that was properly served;
- b. Creditor has asked the court to issue a bench warrant; but

- c. Court has sent the letter as a courtesy to set a new date and time for the examination; and
- d. If the examinee fails to appear at the new date and time, the court will issue a bench warrant.

NOTE

Many courts ask the creditor's attorney to write the letter and continue the hearing to a new date. Check your local practice.

Check With Court Clerk or Bailiff

Consult court clerk or bailiff regarding procedures *and* fees, *e.g.*, whether there are special requirements, forms, or charges. The service fee for civil bench warrant is \$50. Govt C §26744.

NOTE

Increases in fees in many counties for service of civil bench warrants may influence whether you choose to proceed with a bench warrant. Although a bench warrant may be issued and placed into the field for service, law enforcement agencies usually will not take active steps to serve it but will arrest debtor only after a traffic stop. The risk of such a possibility still may be of benefit to a creditor's case.

IF YOU SERVED ORGANIZATION

If you served an organization under CCP §708.150 (leaving the organization to designate who will appear):

- a. The court may be reluctant to issue a bench warrant because the order does not name an individual for levying officer to arrest; and
- b. Ask court to issue the warrant for the person who was actually *served* with the OEX/ORAP.

ASK FOR ATTORNEY FEES

If the examinee failed to appear without good cause, when the examinee *does* appear, ask the court to award you attorney fees incurred in the examination proceeding. See CCP §708.170 (fees are added to amount of judgment).

NOTE

Many judges attempt to award attorney fees at the time of the judgment debtor's original failure to appear. Because the code provides that the court can award the attorney fees only on a finding that the examinee failed to appear "without good cause," such an award would appear to be invalid. If the creditor adds that amount to the judgment and later enforces the judgment including that amount, the creditor has run a risk of there having been a wrongful levy or overlevy. Even though the judge awarded the fees, counsel should not attempt to add them to the judgment until after the debtor has actually appeared in court and the court has made the requisite finding of a failure to appear without good cause. At the time of the hearing when the debtor is there, counsel should point out to the court that an earlier award of attorney fees was made and ask that if the court makes a finding of failure to appear without good cause, those earlier fees be confirmed. If the court makes such a finding, counsel can then add the attorney fees to the judgment.

IF EXAMINEE APPEARS

COURT INSTRUCTS EXAMINEE

Usually the court will instruct the examinee that:

- a. Examinee must answer your questions;
- b. Court will not be involved in the questioning, except concerning further orders or disputes about questions; and
- c. The examination will be conducted in the place designated by the court, *e.g.*, the hallway, separate room, empty courtroom.

CONDUCT EXAMINATION

Meet with examinee in the place designated by the court and ask questions to obtain short, factual statements designed to identify

and locate assets. See [step 19](#), above.

Sample Form: See [Appendix D](#) for sample examination questions.

IF DISPUTE WITH EXAMINEE

If the examinee refuses to answer or fails to produce documents that you subpoenaed:

- a. Return to the courtroom;
- b. Explain the issue to the judge or referee; and
- c. Ask for order requiring answer or documents.

RECOGNIZE POSSIBLE THIRD PARTY CLAIMS

You *may* ask the court to resolve issues raised by the third party examinee during the examination about whether the examinee ([CCP §708.180](#)):

Adverse Interest

Has an interest in the property adverse to debtor, *e.g.*, the third party claims to own the property instead of debtor; or

No Debt

- a. Claims that he or she already paid debtor; or
- b. Denies the debt.

NOTE

Carefully review requirements of [CCP §708.180](#) concerning when the court cannot make this determination.

REVIEW WHICH PRIVILEGES APPLY

Interspousal

Interspousal immunity ([Evid C §§970-973](#)) does *not* apply in an examination proceeding. [CCP §708.130\(b\)](#).

Self-Incrimination

Privilege against self-incrimination *does* technically apply in examination ([Coleman v Galvin \(1947\) 78 CA2d 313, 177 P2d 606](#); [Troy v Superior Court \(1986\) 186 CA3d 1006, 1010, 231 CR 108, 110](#)), *but*:

- a. Court *will not* allow debtor to assert privilege by merely declaring that an answer will incriminate.
- b. Court *will* allow debtor to assert privilege only if it is evident from implications of the question in the setting in which it is asked that:
 - (1) Debtor cannot give a responsive answer to the question or an explanation of why it cannot be answered without making an incriminating disclosure; and
 - (2) There is a real danger of incrimination with respect to each question.

ASK COURT TO SIGN TURNOVER ORDER, IF APPROPRIATE

COMPLETE ORDER

Complete the blank turnover order you prepared with a description of the property you want debtor or third party examinee to immediately deliver. See [CCP §§708.205\(a\)](#), [699.040](#).

Example: The examinee is a third party who admits he owes debtor \$500. You fill in the sum of \$500 on the turnover order. The

third party will be ordered to pay that sum to you or to levying officer, to be applied to the judgment.

ASK COURT TO APPROVE ORDER

Return to the courtroom and ask the judge or referee to sign the order directing debtor or third party examinee to deliver the listed property to satisfy the judgment. See CCP §§708.205, 699.040.

OBTAIN PROPERTY FROM LEVYING OFFICER

If the court orders the property turned over to a levying officer, remember to immediately deliver a writ of execution to levying officer with instructions to levy on property being turned over. See step 43, below.

IF THIRD PARTY OBJECTS

Recognize that the court may not sign the order if court has not resolved issues raised by the third party (CCP §708.205(b)), *i.e.*, examinee:

- a. Claims an interest in the property adverse to debtor; or
- b. Denies that he or she owes debtor.

Request Court to Forbid Transfer

If the court declines to sign the turnover order because of third party's objection, ask the court to forbid the third party to transfer the property to judgment debtor or anyone else until you can take steps to obtain the property. See CCP §§708.205, 708.180(c)-(d).

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Deciding How to Enforce Judgment/STEP 22. DETERMINE WHETHER EXECUTION IS PROPER METHOD OF ENFORCEMENT FOR DEBTOR'S PROPERTY

When Deciding How to Enforce Judgment

STEP 22. DETERMINE WHETHER EXECUTION IS PROPER METHOD OF ENFORCEMENT FOR DEBTOR'S PROPERTY

EXECUTION DEFINED

Execution is one method of enforcing a judgment.

NOTE

Remember not to use the terms "execution" and "enforcement" interchangeably. See [step 1](#), above.

PROPERTY SUBJECT TO EXECUTION

All property is subject to levy under a writ of execution to satisfy a money judgment *except* those listed in [CCP §699.720](#), [CCP §699.710](#). See [step 23](#), below, and [Appendix F](#).

EXECUTION PROCESS

To *execute* on property:

Obtain Writ

- a. Complete a writ of execution; and
- b. Have it issued by the court clerk. For how to obtain writ, see [step 32](#), below.

Sample Form: See [Appendix J](#) for completed sample writ.

Levy Under Writ

Levy under the writ on a particular type of property, *i.e.*:

- a. Deliver proper documents to levying officer or RPS (see [steps 32-34](#), below);
- b. Deliver proper fee or fee deposits to levying officer or RPS;

NOTE

An indigent judgment creditor may be eligible for a fee waiver that will include levying officer's fees. See Information Sheet on Waiver of Court Fees and Costs (Judicial Council Form FW-001-INFO), Application for Waiver of Court Fees and Costs (Judicial Council Form FW-001), or Application for Waiver of Additional Court Fees and Costs (Judicial Council Form FW-002).

c. Levying officer or RPS serves the writ, notice of levy, and other required documents on:

- (1) Debtor (see [CCP §700.010](#)); and
 - (2) The appropriate person (for specific methods of levying, see [steps 34](#), [38](#), and [43-45](#), below);
- d. If the levy is on a third party, not the debtor, *e.g.*, a bank, the third party ([CCP §§701.010-701.030](#)):
- (1) Should deliver to levying officer the property levied on that is in third party's possession (see [CCP §701.010](#)); or
 - (2) Has 10 days to provide to levying officer a memorandum describing debtor's property in the third party's possession (see

CCP §701.030(b));

NOTE

If the third party does not comply with the levy, the third party may be liable to the creditor. See CCP §701.020.

e. Levying officer completes the levy (for specific methods of levying, see step 38, below), *e.g.*:

(1) Seizes or accepts the appropriate property; and

(2) Records necessary documents;

f. Levying officer delivers cash or conducts a sale (see step 48, below); and

g. Levying officer files writ with court. See step 49, below.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Deciding How to Enforce Judgment/STEP 23. DETERMINE WHETHER YOU SHOULD USE METHODS OTHER THAN EXECUTION TO ENFORCE JUDGMENT AGAINST OTHER PROPERTY

STEP 23. DETERMINE WHETHER YOU SHOULD USE METHODS OTHER THAN EXECUTION TO ENFORCE JUDGMENT AGAINST OTHER PROPERTY

ALTERNATIVE METHODS OF ENFORCEMENT

The EJM provides, *e.g.*:

- a. An exclusive method for each type of property that is not subject to execution (CCP §699.720; for list of property, see Appendix F); or
- b. An alternative and optional method to reach property that may be difficult or awkward to reach by levy. See below.

Further Research: See generally CCP §§708.210-709.030.

APPOINTMENT OF RECEIVER

PROPERTY APPOINTMENT OF RECEIVER

Ask the court to appoint a receiver (CCP §§708.610-708.630):

ABC License

You *must* use a receiver to reach debtor's interest in an Alcoholic Beverage Control Commission license. CCP §§699.720(a)(1), 708.630.

Other Property

You *may* use a receiver when a receiver is a reasonable method to obtain the fair and orderly satisfaction of the judgment. See CCP §708.620 and comment to that statute.

Example: You might request appointment of a receiver coupled with a charging order when the debtor has a partnership interest. The charging order merely creates a lien, but the receiver could be authorized to receive the debtor's share of the partnership profits. See Debt Collection §§11.7-11.11.

CHARGING ORDER

PARTNERSHIP INTEREST OR INTEREST IN LIMITED LIABILITY COMPANY

You *must* ask court for charging order if debtor has a partnership interest (CCP §§699.720(a)(2), 708.310; Corp C §§15028, 15673, 16504) or an interest in a limited liability company (Corp C §17302).

- a. Order creates a lien on debtor's interest in profits and surplus; but
- b. Order does not give you the right to partnership property or partnership management. See Hellman v Anderson (1991) 233 CA3d 840, 852, 284 CR 830.

LIEN CREATED BY SERVICE OF NOTICE OF MOTION

Pending the court's issuance of a charging order, service of notice of motion for a charging order creates a lien (CCP §708.320) against the debtor's interest when served on the debtor and either:

- a. All partners of the partnership; or

- b. All members of the limited liability company.

JUDGMENT LIEN

PROPERTY REACHED BY LIEN

Cause of Action

You must file a notice of lien to reach debtor's interest in a cause of action in a pending action or special proceeding. CCP §699.720(a)(3). For complete procedures, see CCP §§708.410-708.480; see also step 27, below.

Judgment Not Final

You must use the same lien procedures as for a pending cause of action to reach a judgment in favor of debtor that is not final regarding debtor, *e.g.*, judgment not final because time for appeal has not expired. CCP §699.720(a)(4).

Other Property

You may create a lien in numerous ways and in most other kinds of property, including, *e.g.*:

- a. Real property (CCP §697.340); and
- b. Personal property. CCP §697.530.

Further Research: See CCP §§697.010-697.920. For definition of liens, see Appendix A; for lien procedures, see steps 27-29, below.

NOTICE TO PUBLIC ENTITY

PROPERTY REACHED BY NOTICE TO PUBLIC ENTITY

Reach debt due to debtor from a public entity (CCP §699.720(a)(5)) by (see CCP §§708.710-708.795):

Debt of Public Entity

- a. Obtaining an abstract of judgment from the court clerk (see step 28, below); and
- b. Serving that abstract on the public entity.

Franchise Granted by Public Entity

Reach debtor's franchise granted by a public entity (CCP §699.720(a)(7)) by serving a noticed motion on *both* (CCP §§708.910-708.930):

- a. Judgment debtor; and
- b. Public entity that granted the franchise.

NOTE

Be aware that any order the court makes is subject to all applicable laws governing the sale, transfer, or approvals necessary for the franchise. CCP §708.930.

COURT ORDER

PROPERTY REACHED BY COURT ORDER

Beneficiary's Trust Interest

To reach debtor's trust interest, file a petition in the court having jurisdiction over administration of the trust. CCP §709.010. See Prob C §82; CCP §699.720(a)(8).

NOTE

This clearly reaches the beneficiary's interest in a trust created by someone else. However, if the trust is a revocable living trust created by the judgment debtor as settlor, Prob C §18200 allows a judgment creditor to reach the property directly. There is confusion at this point about whether a court order is needed for property subject to a revocable living trust under Prob C §18200. Check with the levying officer in your county to see what their procedures are for such property.

When No Probate Proceeding Pending

Many trusts today are created to avoid a probate court having jurisdiction over the administration of the trust as contemplated by CCP §709.010. A creditor of a beneficiary has no standing to initiate a probate proceeding. In these circumstances it is recommended to seek an assignment order (see below) to assign the beneficiary's interest to judgment creditor.

NOTE

If a trustee is not performing his or her duties properly, an assignment of the debtor's beneficiary interest may provide sufficient standing to initiate a trust proceeding.

Other Contingent Interests

If judgment creditor has an interest that is not yet vested, *e.g.*, contingent remainder, executory interest, or other interest (see CCP §699.720(a)(9)), petition the court for an order to apply this interest to satisfy the judgment. CCP §709.020.

Guardianship or Conservatorship Property

Reach property held for debtor by guardian or conservator (CCP §699.720(a)(10)) by filing motion in court where the guardianship or conservatorship is pending to have guardian or conservator pay the judgment. CCP §709.030.

ASSIGNMENT ORDER

REVIEW PURPOSE

This valuable tool allows a judgment creditor to obtain involuntarily what a judgment debtor could voluntarily assign. It is a tool limited only by the imagination of judgment creditor and the willingness of a court to grant remedies.

PROPERTY REACHED BY ASSIGNMENT ORDER

Obtain an assignment order (see CCP §§708.510-708.560; see also step 24, below) to reach:

Federal Employee Wages

Wages due from the federal government that are not subject to withholding under an earnings withholding order (EWO).

NOTE

Federal wages are subject to an EWO under the Hatch Act (5 USC §5520(a)). Assignment orders are still useable, but much more cumbersome than the direct EWO. See discussion in step 25, below, for specifics on EWO.

Rents

Rents that will be payable in the future. CCP §§708.510(a),708.530(b) (assignment order regarding rents is recordable instrument).

Future Commissions and Royalties

Commissions and royalties that will be payable in the future (execution would be limited to the amount due at the time of levy; see CCP §700.170).

Future Patent or Copyright Payments

Patent or copyright payments due in the future (execution would be limited to the amount due at the time of levy; see [CCP §700.170](#)).

Insurance Contract

Loan value of unmaturing insurance, endowment, or annuity policy. [CCP §699.720\(a\)\(6\)](#).

NOTE

The cash value of an unmaturing life insurance policy is not subject to enforcement.

WAGE GARNISHMENT

PROPERTY REACHED BY WAGE GARNISHMENT

To reach debtor's earnings before employer pays them to debtor, use an earnings withholding order (EWO), commonly referred to as a wage garnishment. See [CCP §§706.010-706.154](#). See also [step 25](#), below.

CREDITOR'S SUIT

PROPERTY REACHED BY CREDITOR'S SUIT

To reach debtor's property in the possession or control of a third party, you may use a creditor's suit. See [CCP §§708.210-708.290](#). See also [step 47](#), below.

NOTE

Although a levy on property may result in a third party claim of ownership that must be addressed in a summary proceeding (see [step 47](#), below), a creditor's suit includes full litigation procedures, including complete discovery and pretrial motions.

COMMISSIONS

WHEN COMMISSIONS ARE SUBJECT TO ASSIGNMENT ORDER

Commissions are subject to assignment order when they are not considered earnings.

a. Not all "commissions" are subject to an assignment order. Commissions may be earnings as defined by the Wage Garnishment Law ([CCP §§706.010-706.154](#)) reached by an EWO, like any other wages.

Example: The commissions of a salesperson at a department store who is an employee but is paid by a percentage of what is sold may be considered earnings.

b. A self-employed person includes an independent contractor, such as a real estate salesperson who receives a percentage of the sales price as a commission but is not an employee of a broker.

c. If the person is truly an independent contractor (specifically allowed in real estate by [Bus & P C §10032](#)), using an assignment order is a problem, because most judges treat such commissions as wages and do not allow a greater seizure than would be achieved by an EWO if these were wages.

NOTE

Creditor's attorneys should be aware that there is no restriction on the percentage taken; as a practical matter, they should be aware of what might happen if they overreach; *e.g.*, debtor will not have enough money to live on and will file bankruptcy.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Deciding How to Enforce Judgment/STEP 24. PROCEED WITH ASSIGNMENT ORDER, IF APPROPRIATE

STEP 24. PROCEED WITH ASSIGNMENT ORDER, IF APPROPRIATE

WHEN AVAILABLE

An assignment order is available when:

- a. Debtor will be receiving a payment; and
- b. You want a court order directing debtor to assign to creditor the right to receive that payment. See [CCP §§708.510-708.530](#).

WHEN TO USE

Use assignment order when debtor has rights to payments, especially if payments cannot be reached by other methods, *e.g.*:

- a. Nonexempt loan value of an unexpired life insurance policy cannot be reached by a levy under a writ of execution ([CCP §708.510\(a\)\(6\)](#)); see comment to [CCP §708.510](#);
- b. Future royalties ([CCP §708.510\(a\)\(4\)](#));
- c. Payments due to debtor from outside California (on enforcing out-of-state payments, see [step 24](#)); and
- d. Commissions (such as are due to a real estate salesperson).

NOTE

If a person such as a real estate salesperson is self-employed or an independent contractor, he or she does not fall under the definition of an employee in either the Labor Code or the Earnings Withholding Law. A court can assign any portion, up to 100 percent, of the commissions to apply to the judgment, not just the 25 percent under the EWO provisions. *CAVEAT:* If you do obtain a 100-percent order, you may force the judgment debtor into bankruptcy to force a stay of the order and allow the judgment debtor money to live on.

Further Research: For examples of other types of property, see [step 23](#), above.

Prohibitions

Review the statute defining the type of payment you want assigned to determine whether there are any prohibitions against assignment. See, *e.g.*, federal government employees' retirement benefits. 5 USC §8346.

PREPARE MOTION

Prepare a notice of motion, supporting memorandum, and declaration setting forth:

- a. Details about the payment due to debtor, *e.g.*, who will make payment, when; and
- b. The amount needed to satisfy the judgment.

Sample Forms: See [Appendix G](#); [Debt Collection §§11.24-11.26](#).

CONSIDER REQUESTING AN ACCOUNTING

In your motion for assignment order, consider asking the court to order debtor to report or account periodically about payments received or due. Debtor should report to:

- a. Court; or
- b. You or your client.

Further Research: See [CCP §639\(a\)\(2\)](#) (court may order an accounting when necessary to carry judgment or order into effect).

CONSIDER REQUESTING A RECEIVER

In your motion for assignment order, consider asking the court to (CCP §708.510(a)):

- a. Appoint a receiver in aid of execution (see CCP §§708.610-708.630); and
- b. Order debtor or person owing money to debtor to turn over the payments to the receiver.

Example: If debtor is an insurance agent, debtor deducts his or her commissions from premiums received from customers and then sends the premiums to the insurance company. You could obtain an assignment order and serve it on the insurance company, but to make sure that the commissions are properly deducted and paid by the agent to you from the premium *before* the agent pays premiums to the insurance company, the court could order the premiums given first to a receiver, who deducts the commissions and then turns the premiums over to the agent to send to the insurance company.

NOTE

This can be an expensive procedure, but the possibility of a receivership may cause a debtor to be more cooperative. The receiver usually must be appointed from an "approved" list, and the creditor will probably need to pay a retainer and guarantee fees. Fees are recoverable, but only if you collect. The court may also require the receiver to post a bond.

FILE AND SERVE MOTION

The notice of motion should be filed with the court and served on debtor by mail or personally (CCP §708.510(b)):

- a. Remember to serve judgment debtor, not debtor's attorney, unless (CCP §684.020):

- (1) Debtor has requested that the attorney be served; and
- (2) Attorney has filed, and not withdrawn, a consent to be served.

- b. Recognize that debtor may forget to comply with this statute and assume that his or her attorney will receive a copy of this notice.

- c. Serve a courtesy copy on debtor's last attorney of record to avoid having the judge continue the hearing of the motion for an assignment order while debtor notifies attorney.

WHAT COURT MAY CONSIDER

Recognize that the court may take into consideration *all* relevant factors in deciding the motion for assignment, including (see CCP §708.510(c)):

- a. Reasonable requirements of debtor and persons supported by debtor; and
- b. Payments that debtor is required to make to others.

WHAT COURT MAY ORDER

Court may order that the obligor (the one obligated to make the payments) make payments to you to the extent necessary to satisfy the money judgment, *e.g.*, five monthly rental payments of \$1000 to satisfy the \$5000 judgment. See CCP §708.510(d).

Receiver

Court may also appoint a receiver at your request. See above.

Accounting

Court may also order debtor to make periodic reports to the court or to you concerning payments debtor has received and should have turned over to you.

SERVE AND RECORD ORDER

- a. Serve the obligor with the order immediately when issued. See CCP §708.540.
- b. If the payment concerns real property, record the order in the county where the property is located. CCP §708.530(b).

EFFECT OF ORDER

If the judge issues an assignment order, creditor should receive payment directly from the obligor when obligor receives notice of the order. CCP §708.540.

ANTICIPATE CLAIM OF EXEMPTION

Debtor may claim the right to exemption by filing a motion. See CCP §§708.510(f), 708.550.

CONSIDER NEED FOR EX PARTE RESTRAINING ORDER

WHEN APPROPRIATE

An ex parte restraining order is appropriate to prohibit debtor from assigning or otherwise disposing of the right to payment, *e.g.*, before the court can consider your motion for assignment order. See CCP §708.520.

CHECK CALIFORNIA RULES OF COURT AND LOCAL RULES

Determine whether Cal Rules of Ct 3.1200-3.1207 or local court rules allow this motion to be made ex parte, or whether they require that you give notice to debtor. CCP §708.520(a).

BE PREPARED TO PROVIDE UNDERTAKING

The court may require you to provide an undertaking before it will issue the restraining order. See CCP §708.520(b).

PREPARE MOTION

Include why you need the restraining order, *e.g.*, debtor could easily assign the right to payment to someone else before the hearing. CCP §708.520(b).

SERVE RESTRAINING ORDER

Personally serve on debtor (CCP §708.520(d)):

- a. Restraining order; and
- b. Notice that debtor may be held in contempt if he or she violates the order.

Sample Form: For sample restraining order, see Appendix O.

IF OBLIGOR FAILS TO OBEY ASSIGNMENT ORDER

DETERMINE WHETHER OBLIGOR HAS PAID DEBTOR

- a. Use OEX/ORAP (see steps 17-21, above) to discover whether debtor received any payments from obligor; or
- b. Move for an accounting on the assignment order to determine what payments have been made or are still due. See CCP §708.560.

NOTE

It would be better to include a request for a periodic accounting in your original motion to save the time and expense of this later motion. See above.

OBLIGOR IS LIABLE TO CREDITOR

The obligor is personally liable to the creditor in the amount of payments that were to be made to creditor. See CCP §§701.020(a), 708.540; see also comment to CCP §708.540 (obligor who has been served with an assignment order is analogous to a garnishee).

OBLIGOR IN CONTEMPT

Anyone who disobeys the assignment order could be held in contempt. See CCP §1209(a)(5).

ENFORCING OUT-OF-STATE PAYMENTS

If the obligor is out of state:

- a. You cannot hold the obligor in contempt, because the California court did not gain jurisdiction over obligor when you served the assignment order.
- b. If you can obtain jurisdiction of the out-of-state judgment debtor, it may be appropriate to:
 - (1) Contact an attorney in the other state concerning methods of levying in that state; and
 - (2) Have the judgment domesticated in the other state and hire the attorney to levy on the asset.

NOTE

Even though you may not be able to enforce the out-of-state assignment order, because of the order the out-of-state obligor may not pay the funds to the debtor and may thus bring pressure on the debtor to settle with you.

Further Research: See general discussion of United States constitutional requirements and statutory provisions for sister-state judgment in 27 California Forms of Pleading and Practice, *Judgments* §§318.94[4], 813.301[5] (Matthew Bender 2006).

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Deciding How to Enforce Judgment/STEP 25. PROCEED WITH WAGE GARNISHMENT

STEP 25. PROCEED WITH WAGE GARNISHMENT

COMPLETE APPLICATION

Complete application for an EWO (Judicial Council Form WG-001).

Sample Form: For sample completed application, see [Appendix K](#).

DETERMINE WHO SERVES EWO

- a. Although the statute says certain levies may be made by an RPS, in reality, because of budget and staffing shortages at sheriffs' offices in many areas, *e.g.*, Alameda, Contra Costa, Santa Clara, and San Mateo counties, the use of an RPS has become mandatory.
- b. The sheriff simply returns levies that may be done by an RPS and says the sheriff's office no longer performs such levies. The law has not changed, but this new reality must be acknowledged, because the creditor effectively has no choice.

NOTE

This may affect, *e.g.*, timing of levies, costs of levies, and the ability to do multiple levies.

DELIVER APPLICATION

Deliver application to levying officer or RPS, along with ([CCP §706.021](#)):

- a. Instructions to garnish the wages; and
- b. Appropriate fee (\$30). [Govt C §26750\(a\)](#).

NOTE

An indigent judgment creditor may be eligible for a fee waiver that will include levying officer's fees. See Information Sheet on Waiver of Court Fees and Costs (Judicial Council Form FW-001-INFO), Application for Waiver of Court Fees and Costs (Judicial Council Form FW-001), or Application for Waiver of Additional Court Fees and Costs (Judicial Council Form FW-002).

PAY RPS FEE

Be aware that RPS charge is in addition to the \$25 fee.

LEVYING OFFICER OR RPS SERVES ORDER

Levying officer or RPS ([CCP §§706.021](#), [706.101](#), [706.103\(a\)](#), [706.108\(c\)](#)):

- a. Completes the EWO; and
- b. Serves order on debtor's employer.

NOTE

If using an RPS, find out who prepares forms such as EWO, Employers Instructions, and Notice of Levy. Levying officer or RPS may prepare; some RPSs will prepare and others require creditor's attorney to prepare. See [step 34](#), below.

Sample Form: For completed sample EWO form, see [Appendix K](#).

EMPLOYER MUST WITHHOLD

The order instructs the employer to withhold:

- a. 25 percent of debtor's wages (CCP §706.050; 15 USC §1673(a)); or
- b. If the judgment is for support, 50 percent of debtor's wages. CCP §706.052.

NOTE

If debtor can prove the need for more than the remaining portion of wages for support, debtor may file a claim of exemption to reduce the amount of withholding. See CCP §706.051.

EMPLOYER PAYS LEVYING OFFICER

The employer pays the withheld amount to levying officer at least monthly, no later than the 15th day of the month. CCP §706.025(a).

NOTE

Even though the spouse of the judgment debtor is not a judgment debtor in his or her own right, the community property wages of the nondebtor spouse may be levied on. CCP §§695.020, 706.109. This requires a noticed motion. CCP §706.109.

TO REACH FEDERAL EMPLOYEES

- a. How to reach wages of federal employees is determined by each agency, but in general, send by certified mail to agency payroll center.
- b. Always check with the agency involved. Also check with levying officer or RPS: Some think they must mail; others think judgment creditor may mail; others think RPS must mail.
- c. For regular government employees, see 5 CFR pts 581.101-582.501.
- d. For military personnel, see 32 CFR pts 584.8-584.9.

MONEY TO DEBTOR THAT IS NOT CHARACTERIZED AS EARNINGS

A corporation, whether or not closely held by the debtor, may pay money to the debtor that is characterized as something other than earnings, so that an EWO does not attach. This may occur in the course of legitimate business, or it may be in an effort to avoid compliance with an EWO.

Consider Serving Levy Simultaneously with EWO

Consider serving on the employer, in addition to the EWO, a levy on other monies payable to debtor or on behalf of debtor, including:

- a. Recapture or distribution of capital;
- b. Commissions;
- c. Bonuses;
- d. Expense reimbursements;
- e. Loans;
- f. Repayment of loans; and
- g. Dividends.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Deciding How to Enforce Judgment/STEP 26. IF THIRD PARTY ALSO HAS NAME OR INTEREST IN PROPERTY, CONSIDER SPECIAL EXECUTION METHODS

STEP 26. IF THIRD PARTY ALSO HAS NAME OR INTEREST IN PROPERTY, CONSIDER SPECIAL EXECUTION METHODS

IF THIRD PARTY IS SPOUSE

Community property is usually subject to enforcement of a money judgment (CCP §695.020), *e.g.*:

Bank Account or Safe Deposit Box

If bank account or safe deposit box is in the name of spouse alone, prepare affidavit or declaration stating that the property belongs to debtor and debtor's spouse to deliver to the bank at time of levy. CCP §700.160(b)(2); see step 45, below.

Other Community Property

If property is other community property, levy as you would on any other of judgment debtor's property. CCP §695.020. For when community property is liable, see Fam C §§900-1000.

IF THIRD PARTY IS NOT SPOUSE

If property is a bank account in the name of debtor *and* a third party who is not debtor's spouse, then you may levy on the account (CCP §700.160(b)(1)); notice must be given to third party). See CCP §700.160(c).

If Property Is a Bank Account

If property is a bank account in the name of a third party who is not debtor's spouse, then you need a separate court order for the levy. CCP §700.160(a).

If Property Is Not a Bank Account

If property is *not* a bank account and not in debtor's name, but you can show it is actually debtor's property, try bringing a motion ex parte for permission to levy on the asset. In argument, cite to CCP §700.160 by analogy for property not in the name of judgment debtor, and CCP §187 for the court's inherent power to make any order to enforce its judgments. See also Brown v Brown (1971) 22 CA3d 82, 84, 99 CR 311 (court has power to enforce its judgment).

If Property in Possession of Third Party

If property is in debtor's name but in possession of a third party (not debtor, *e.g.*, a bank) (CCP §§701.010-701.030):

- a. Third party should deliver to levying officer the property levied on that is in third party's possession (see CCP §701.010); or
- b. Third party has 10 days to provide to levying officer a memorandum describing debtor's property in third party's possession. See CCP §701.030(b).

NOTE

If the third party does not comply with the levy, the third party may be liable to the creditor. See CCP §701.020.

If Third Party's Interest Affected by Levy

If a third party's interest is affected by your levy, that party may (CCP §§720.110, 720.210; see step 47, below):

- a. Claim ownership and right to possession of real or personal property; or
- b. Claim security interest or lien.

TRANSFERRED PROPERTY

IF DEBTOR HAS TRANSFERRED PROPERTY

If property has been transferred by debtor to the name of a third party, determine, *e.g.*:

Fair Value

Whether debtor transferred the property for fair value:

- a. If transferred for fair value and was not otherwise subject to some kind of lien (see below), there is nothing you can do.
- b. If transferred for *less* than fair value, it is presumptively a fraudulent transfer (see below).

Lien

If judgment creditor had a lien against the property, see below.

IF SUBJECT TO YOUR CLIENT'S LIEN

Recorded Lien

If judgment creditor recorded a lien before the transfer, you can levy on the property even after the transfer, because the lien would give judgment creditor senior rights over the rights acquired by a bona fide purchaser.

Unrecorded Lien

If judgment creditor's lien arose without being recorded, it may not be enforceable after the transfer.

Example: A lien arises when you serve an order of examination on the judgment debtor, but this lien is not recorded and cannot be discovered by a bona fide purchaser.

NOTE

In *In re Hilde* (9th Cir 1997) 120 F3d 950, the Ninth Circuit upheld a lien over the interest of a trustee in bankruptcy. In light of this decision, it is unclear whether the attorney for the judgment creditor has an obligation to serve an OEX/ORAP to obtain a lien and/or notify the judgment debtor of the existence of the lien.

IF NOT FAIR VALUE

If you determine that the property was not transferred for fair value, either:

Bring Separate Action

File an independent action to establish that debtor fraudulently transferred the property to hinder, delay, or defraud creditors (see [CC §3439.07](#)); or

Ignore Transfer

Instruct levying officer to proceed with levy ([CC §3439.07](#)), but be aware that levying officer as a general rule will not levy on property in the name of a third party without:

- a. Court order directing levy; or
- b. Judgment specifying that property you want to levy on has been fraudulently transferred.

When Creating Liens on Judgment Debtor's Property

STEP 27. CONSIDER LIENS CREATED BY OPERATION OF LAW

UNDERSTAND PURPOSE OF LIEN

Liens:

Give Notice

Provide notice that judgment has not been satisfied;

Prevent Disposal of Property

Usually prevent debtor from disposing of the property without judgment being satisfied; and

Establish Priority

Establish a priority by date the lien is created, *i.e.*, the order in which the liens will be paid if the property is sold; *e.g.*, the earliest lien will be paid first and has priority over the next lien created, which will be paid second, etc.

NOTE

Bankruptcy might affect lien priorities. See *Moldo v Charnock (In re Charnock)* (2004) 318 BR 720, 726; see also Bankruptcy Prac §10.59 for effects of liens impairing a bankruptcy exemption.

Further Research: See [CCP §§697.010-697.920](#). For definition of liens, see [Appendix A](#).

BY LEVY

WHEN LEVYING OFFICER OR RPS LEVIES ON PROPERTY

When levying officer levies on debtor's property under a writ of execution (see [step 22](#), above), a lien is created on the specific property levied on. [CCP §697.710](#).

PERIOD OF LIEN

The lien is good for two years from the date the writ of execution is issued. [CCP §697.710](#).

NOTE

Because the lien runs from the date of issuance of the writ, be careful to note when it will expire. Many people assume, wrongly, that it is good for two years from the date of the levy that created the lien.

RENEWAL OF LIEN

There is technically no way to "renew" the lien. The procedure is to obtain a new writ and levy on the same property before the old lien expires. See [CCP §697.020\(b\)](#); [Oliver v Bledsoe](#) (1992) 5 CA4th 998, 1010, 7 CR2d 382 (lien created by successive levy relates back to time of first lien).

BY OEX/ORAP

WHEN YOU SERVE OEX/ORAP

When you serve judgment debtor with an OEX/ORAP (see [step 18](#), above) a lien arises. See [CCP §708.110\(d\)](#).

OEX/ORAP LIENS UPHELD

In re Hilde Case

In *In re Hilde* (9th Cir 1997) 120 F3d 950, the Ninth Circuit upheld an OEX/ORAP lien against a trustee in bankruptcy. Debtor filed for bankruptcy more than 90 days after the judgment was entered and the OEX/ORAP served. The trustee sold the nonexempt assets of debtor. The OEX/ORAP lien creditor claimed a position senior to the trustee. The Bankruptcy Court and the Bankruptcy Appellate Panel (BAP) both determined that the case turned on whether the bank had "perfected" its lien. The Bankruptcy Court determined that the trustee could not avoid a lien and the BAP overturned the case. The Ninth Circuit reversed the BAP and upheld the lien, holding that there is no "perfection" test under [CCP §708.110\(d\)](#); service of the OEX/ORAP was all that was needed.

Consequences Beyond Bankruptcy

This has important consequences in many areas beyond bankruptcy. If a business is being sold, due diligence probably now requires a check for served OEX/ORAPs, as do transfers to trusts by judgment debtor and transfers to transmute nonexempt property to exempt property.

NOTE

There is likely to be legislative action due to the effect of this decision on business transfers of personal property. Often, a debtor who is selling out has been the subject of many actions, and service of more than one OEX/ORAP would be expected. As a practical matter, because a lien runs from the date of service, to be sure of buying free and clear of liens, a purchaser would have to check not only for OEX/ORAPs that had happened, but also for all cases in which they were ever issued. This may be impossible to determine unless the register of actions shows the issuance of the OEX/ORAP. Proof of service does not have to be filed. Moreover, it is not unusual for a debtor who has been served to show up at the attorney's office and be examined before a court date, after which the matter may be taken off calendar, or no proof of service may have ever been filed and the matter never put on calendar. Thus, court calendars may never show the OEX/ORAP, but the lien would still be valid.

BY CONTRACT

WHEN ENTERED CONTRACT WITH DEBTOR

A lien may arise by operation of contract, *e.g.*:

Attorney's Contingency Fee Agreements

If judgment concerns attorney's contingency fee, the fee agreement may have provided that the attorney/creditor acquire a lien on the potential amount judgment debtor will recover in, *e.g.*, a personal injury action.

Health Care Providers

Health care providers may have been granted liens on proceeds of personal injury causes of actions, *e.g.*, when judgment debtor was unable to pay for treatment when received.

Voluntarily Granted by Debtor

Debtor may voluntarily grant a lien on potential proceeds from any pending action or special proceeding.

NOTE

If you take a voluntary lien from your judgment debtor, follow same procedures as when creating a lien by notice in that action. See below.

BY NOTICE IN PENDING ACTION

WHEN AVAILABLE

Notice in pending action is available if debtor (CCP §708.410):

- a. Is a party in another action or special proceeding; and
- b. Has:
 - (1) A cause of action for money or property in the action; or
 - (2) Right to money or property under a judgment in that action or proceeding.

FILE NOTICE AND ABSTRACT

To create a lien against debtor's rights to receive money, file in the *pending* action (CCP §708.410(b)):

- a. Notice of lien form (described in CCP §708.420); and
- b. Abstract of judgment or certified copy of judgment.

SERVE NOTICE

Promptly after filing the notice and abstract, serve all parties to the pending action. Pay particular attention to what must be included in the notice before serving. CCP §708.410(c).

NOTE

Review the court file to determine all parties to the action.

REMAIN AWARE OF PROCEEDING

Remain aware of the status of the proceeding in which you file your lien. Under CCP §708.440, no compromise, dismissal, settlement, or satisfaction of the pending action or proceeding or any of the judgment debtor's rights to money or property may be entered into unless:

- a. The court in the pending action files the order;
- b. The judgment creditor gives written consent; or
- c. The money judgment is otherwise satisfied.

NOTE

Creditors have certain rights of intervention. See CCP §708.430.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Creating Liens on Judgment Debtor's Property/STEP 28. CREATE LIEN ON REAL PROPERTY BY RECORDING ABSTRACT OF JUDGMENT

STEP 28. CREATE LIEN ON REAL PROPERTY BY RECORDING ABSTRACT OF JUDGMENT

OBJECTIVE

Record abstract of judgment to create a lien, *i.e.*, a "cloud on title," on any real property owned by judgment debtor in the county in which you recorded the abstract. See [CCP §697.310-697.410](#).

What Lien Does

A lien:

- a. Notifies any prospective buyer or lender that debtor owes you money;
- b. Puts any buyer or lender on notice that:
 - (1) To receive clear title, it must satisfy the debt to you; or
 - (2) The property must be taken "subject to" your lien.

NOTE

Usually, creditor's judgment will be paid (maybe years later) when debtor sells the property subject to the lien.

Example: On June 1, 2001, creditor obtains a judgment against debtor. Debtor owns a house in Placer County. On October 15, 2002, creditor records an abstract in Placer County showing a judgment amount of \$15,000.

- In 2004, debtor wants to refinance his house. The bank orders a title report that shows creditor's judgment lien, *i.e.*, the lien is a "cloud" on debtor's title. In most cases, the bank will *not* make the loan to debtor unless judgment is paid.
- Debtor decided not to get the loan in 2004, but in 2006 debtor puts his house in Placer County on the market. As part of the sale he is to deliver clear title to the buyer. The title report shows the creditor's judgment lien. To deliver clear title, debtor must remove the lien by either paying creditor or making arrangements to pay creditor, *e.g.*, with money he receives from buyer in escrow.

COMPLETE ABSTRACT FORM

Carefully complete all information required by the form (Judicial Council Form EJ-001); *e.g.*, provide last four digits of judgment debtor's driver's license and Social Security numbers, if known.

Sample Form: See [Appendix H](#).

If You Fail to Comply

Abstract will be void if you fail to provide all information available to you. See [Keele v Reich \(1985\) 169 CA3d 1129, 215 CR 756](#) (lien of recorded abstract was void because judgment creditor knew debtor's Social Security number but checked box on abstract form indicating number was unknown).

NOTE

Do not forget to fill out item 1d, if applicable. All information relevant to your particular case must appear on the form or the form will most likely not be accepted.

Amend Abstract If Necessary

If you later discover an error on the form or discover more complete information, file an "amendment to abstract of judgment" to correct the information. [CCP §674\(b\)](#). See [step 12](#), above.

NOTE

Judicial Council Form EJ-001 has a box to check for an amended abstract. Be sure to check the box and to provide the information in boxes 5a and 5b, so that the amendment properly relates back to the original recording date.

WHEN LIEN EXPIRES

An abstract expires 10 years from the date the judgment was entered, no matter when you recorded the abstract. See step 8, above.

IF JUDGMENT RENEWED

If judgment creditor renews the judgment (see step 9, above), renewal does not automatically extend the life of the lien created by the abstract.

HOW TO RENEW

Record a certified copy of the application for renewal of judgment (CCP §683.180) to renew the lien created by the abstract.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Creating Liens on Judgment Debtor's Property/STEP 29. CREATE LIEN ON PERSONAL PROPERTY BY FILING FORM JL-1 WITH SECRETARY OF STATE

STEP 29. CREATE LIEN ON PERSONAL PROPERTY BY FILING FORM JL-1 WITH SECRETARY OF STATE

OBJECTIVE

To create lien on debtor's personal property, file Notice of Judgment Lien (Form JL-1). See [CCP §§697.510-697.670](#). See [Appendix I](#) for a sample completed form. For definition of lien, see [Appendix A](#).

NOTE

If an aircraft is involved, register with the FAA in Omaha; for large boats, register with the Coast Guard.

WHEN AVAILABLE

A lien on personal property is available when:

- a. Debtor has personal property that is subject to lien (see [CCP §697.530\(a\)](#)); see below);
- b. Judgment was first entered in California after June 30, 1983 (see [CCP §697.510\(a\)](#)); and
- c. Judgment is for a lump sum, not installment payments, unless all installments are due. See [CCP §697.510\(a\)](#).

EFFECTIVE LIFE OF LIEN

The lien continues on all specified property for 5 years from the date you file it with the Secretary of State, unless ([CCP §697.510\(b\)](#)):

- a. Judgment is paid; or
- b. Lien is terminated or released.

PROPERTY SUBJECT TO LIEN

If judgment debtor can give you a voluntary security interest by filing a UCC-1 form with the Secretary of State ([CCP §697.530\(a\)](#)), you can create an involuntary lien on all of debtor's:

- a. Accounts receivable;
- b. Chattel paper;
- c. Equipment, excluding ([CCP §697.530\(d\)\(1\)](#)):
 - (1) Vehicle registered with DMV;
 - (2) Vessel registered with DMV; or
 - (3) Mobile home or commercial coach registered under Health and Safety Code;
- d. Farm products;
- e. Negotiable documents of title; and
- f. Inventory that is ([CCP §697.530\(d\)\(2\)](#)):
 - (1) Durable goods held for sale by a retail merchant with a unit value greater than \$500; or
 - (2) Other inventory that is not held by a retail merchant for sale.

NOTE

Distinguish between property owned directly by judgment debtor and property owned by a separate business that the debtor owns or controls, because a lien is effective only on property directly owned by debtor.

CONSIDER STRATEGY FOR LIEN

If debtor has appropriate personal property, create the lien, in addition to other enforcement methods (see CCP §697.520), *e.g.*:

- a. If debtor's inventory held for sale does not have a unit value greater than \$500 (see CCP §697.530(d)(2)), record lien to cause:
 - (1) A new lender to examine the records more closely; and
 - (2) Judgment debtor to pay judgment to remove even the potential of a lien dispute.
- b. Recognize that judgment will usually be paid or partially paid (maybe years later), when debtor sells the personal property subject to the lien, *e.g.*, in a bulk sale.
- c. Lien may protect creditor if debtor files for bankruptcy, *i.e.*, secured creditors are paid first in the order that they recorded their liens with balance, if any, distributed to other creditors. See 11 USC §726.

COMPLETE, SERVE, AND FILE FORM JL-1

OBTAIN FORM

You can obtain the form:

- a. Directly from the Secretary of State; or
- b. From legal form publishers, or in stationery stores that carry legal forms.

COMPLETE FORM

Provide all the information required by the form, *e.g.*, name of debtor, amount of judgment. CCP §697.550.

Sample Form: For sample notice of judgment lien on personal property, see Appendix I.

FILE FORM

Within 10 days after the date of the notice, file the form with the Secretary of State. The current filing fee is \$20. See CCP §697.570; Com C §9403(5). Verify the filing fee when you file.

SERVE FORM

When you file the form, or promptly after, serve a copy on judgment debtor (CCP §697.560):

- a. Personally; or
- b. By mail.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Executing on a Judgment Generally/STEP 30. CALCULATE AND ADD POSTJUDGMENT COSTS TO AMOUNT OF JUDGMENT, IF APPROPRIATE

When Executing on a Judgment Generally

STEP 30. CALCULATE AND ADD POSTJUDGMENT COSTS TO AMOUNT OF JUDGMENT, IF APPROPRIATE

WHEN TO CLAIM

Claim postjudgment costs:

- a. Before debtor fully pays the judgment; but
- b. Not later than 2 years after you or the creditor incurs the costs. CCP §685.070(b).

NOTE

If your client has failed to claim the costs within the allotted time, consider seeking relief under CCP §473. See step 46, below.

WHAT COSTS TO CLAIM

Claim reasonable and necessary costs incurred in enforcing the judgment (CCP §685.040), including:

Abstract

Statutory fees for issuing and recording an abstract. CCP §685.070(a)(1); for abstract procedures, see step 28, above.

Notice of Lien

Statutory fees for filing a notice of judgment lien on personal property. CCP §685.070(a)(2); for personal property lien procedures, see step 29, above.

Writ

Statutory fees for issuing a writ to enforce the judgment if not automatically collected. CCP §685.070(a)(3); for writ fees and collection, see CCP §685.050; for writ procedures, see step 32, below.

Levying Officer

Statutory costs of levying officer for performing (CCP §685.070(a)(4)):

- a. Duties under the writ, *e.g.*, levying on certain property (see step 22, above); or
- b. Wage garnishment. See step 25, above.

Miscellaneous Remedies

Costs connected with any additional creditor remedies that you have approved by the judge or referee conducting the proceeding (CCP §685.070(a)(5); see CCP §§708.010-709.030), *e.g.*:

- a. Order of examination (see steps 17-21, above); or
- b. Assignment order. See step 24, above.

Attorney Fees

Attorney fees, if allowed by CCP §685.040. CCP §685.070(a)(6).

Other Costs

Any other reasonable and necessary costs you incur in enforcement, *e.g.*, RPS's fees, for which you can file a motion (see CCP §699.080(f)). CCP §685.080(a).

HOW TO SEEK COSTS

- a. File a memorandum of costs (CCP §685.070(b)); or
- b. File a motion for costs if the costs are not specifically provided in CCP §685.070. CCP §685.080(a).

WHEN TO CLAIM ATTORNEY FEES

Do not claim attorney fees *unless*:

- a. Specifically provided for by the statute you are proceeding under (CCP §685.040), *e.g.*, if the examinee fails to appear and the court finds that the failure to appear was without good cause, the court may award attorney fees (see CCP §708.170); or
- b. If the judgment itself specifies in clear language that attorney fees incurred during the postjudgment enforcement process may be recovered, *i.e.*, would be added as part of the judgment under CC §1717.

HOW TO CLAIM ATTORNEY FEES

Be aware that under CCP §1033.5(c)(5), postjudgment attorney fees awarded under CC §1717 are:

- a. An awardable cost; but
- b. To be awarded *only on noticed motion*.

NOTE

There is continuing confusion about the requirement of a noticed motion. In *Gunlock Corp. v Walk On Water, Inc.* (1993) 15 CA4th 1301, 1304, 19 CR2d 197, the court permitted an attorney fee claim that appeared as an item of costs in a costs memorandum but was not requested by a noticed motion. This holding may not apply in the postjudgment attorney fees context. First, *Gunlock* deals with prejudgment fees, not postjudgment fees. Second, although *Gunlock* has not been overruled, it has been strongly criticized. See *Russell v Trans Pacific Group* (1993) 19 CA4th 1717, 1728, 24 CR2d 274 (trial court does not have discretion to disregard statutory requirement that claim for contractual attorney fees must be made by timely written motion), and *Lee v Wells Fargo Bank* (2001) 88 CA4th 1187, 106 CR2d 726. See also Cal Rules of Ct 3.1702.

EXPECT DELAY FOR DEBTOR TO FILE MOTION TO TAX COSTS

Expect delay in issuance of writ of execution if you file a memorandum of costs totaling more than \$100:

10 Days

Expect the clerk to wait 10 days to issue the writ of execution to permit debtor to file a motion to tax costs. CCP §685.070(c).

If Served by Fax or Overnight Mail

If you serve debtor by fax or overnight mail, clerk will probably wait an additional **2 days**. CCP §1013.

If Served by Mail in California

If you serve debtor by mail in California, the clerk will probably wait an additional **5 days**. CCP §1013.

NOTE

If you are aware of an asset that is suddenly available, it is probably better to get the writ issued and execute on the asset, rather than filing a memorandum of costs that will delay the writ and tell the debtor that you are coming.

STEP 31. CALCULATE AND ADD POSTJUDGMENT INTEREST TO AMOUNT OF JUDGMENT

WHEN TO CALCULATE

When you are preparing to have a writ of execution issued (see [step 32](#), below), calculate the interest that the clerk can add to the judgment on the writ.

NOTE

Make sure that you deduct any credits or payments *before* you calculate the interest. See [step 32](#), below; see also Example 3, below.

SIMPLE INTEREST

HOW TO CALCULATE INTEREST

Calculate interest on a judgment at 10 percent per annum from date judgment entered. [CCP §685.010\(a\)](#).

Example 1: The judgment was issued on October 1, 1999, in the sum of \$1000. On February 1, 2000, you calculate the interest at 10 percent: $.10 \times \$1000 = \100 divided by 365 = \$.27 per day. There were 122 days from October 1, 1999, to February 1, 2000, for a total accrued interest of \$32.94.

Example 2: On October 1, 2000, debtor in Example 1 still has not paid the \$1000 judgment. The interest for one year would be: $.10 \times \$1000 = \100 .

Example 3: On February 2, 2000, debtor in Example 1 pays \$500. The payment from debtor is applied, first to the interest from October 1, 1999, to February 1, 2000 ($\$500 - \$32.94 = \$467.06$). The judgment balance of \$1000 is decreased by \$467.06 to \$532.94. Interest from February 2, 2000, to October 1, 2000, is: $.10 \times \$532.94 = \53.29 divided by 365 = \$.15 per day. On October 1, 2000, when debtor has still not paid, the accrued interest would be interest on the 242 days from February 2 to October 1: $242 \times \$.15 = \36.30 .

NOTE

Be sure to calculate annual interest carefully, taking into consideration the number of days in each month and leap years. Although the amount of an extra day of interest may be minuscule (see example below), it results in interest that exceeds 10 percent per annum, and provides the debtor with a basis to attack the enforcement proceeding. Further, if it is a debt subject to the federal Fair Debt Collection Practices Act (FDCPA) (15 USC §§1692-1692o), there is an argument for a technical violation for over-collecting, which carries a penalty of \$1000 plus the other side's attorney fees. 15 USC §1692k. On the FDCPA, see [Debt Collection, chap 2](#).

Example: Judgment is entered for \$10,000 on January 31, 2004. If you calculate interest by taking 10 percent (*i.e.*, \$1000), dividing by 365 ($1000/365 = 2.7397$), and then multiplying by the number of days between January 31, 2004 and January 31, 2005 (366 days because of leap year), you would get \$1002.73 instead of \$1000 for the one year.

Calculators are available on the Internet to assist in interest calculation. Search for the key words "date calculator" to find calculators able to compute the number of days between two dates.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Executing on a Judgment Generally/STEP 32. COMPLETE FORMS TO OBTAIN WRIT OF EXECUTION

STEP 32. COMPLETE FORMS TO OBTAIN WRIT OF EXECUTION

OBJECTIVE

Complete forms to obtain a writ of execution that directs a levying officer or RPS to levy on judgment debtor's assets. See [step 12](#), above.

NECESSARY FORMS

You will need to:

Writ of Execution

Complete Judicial Council Form Writ of Execution EJ-130 (to be issued by the clerk). For discussion of writ of execution, see below.

Memorandum of Costs

Complete memorandum of costs if you have incurred recoverable costs since the entry of judgment. [CCP §685.070](#). For discussion of memorandum of costs after judgment, see [step 32](#).

Affidavit of Postjudgment Interest

Prepare affidavit to obtain interest since the entry of judgment. [CCP §685.050\(a\)\(2\)](#). For discussion of affidavit for postjudgment interest, see [step 33](#), below.

NOTE

If you submit all three forms and costs exceed \$100, remember the waiting period for the clerk to issue the writ. [CCP §685.070\(e\)](#). For discussion of delay for debtor to file motion to tax costs, see [step 30](#).

WRIT OF EXECUTION

COMPLETE SIDE 1, WRIT OF EXECUTION

Complete Judicial Council Form EJ-130. [CCP §§699.510-699.520](#).

Sample Form: See [Appendix J](#).

Complete Caption

Include ([CCP §699.520\(b\)](#)):

- a. Title of the court that entered the judgment; and
- b. Name and number of the action.

Check Box for Execution

Check the box that indicates that the writ is for execution (Money Judgment).

NOTE

The other boxes in the caption are only for nonmoney judgments.

Complete Item 1

- a. State the name of the county in which debtor has property that you want to execute against. See CCP §699.510(a).
- b. If you want to execute on property in more than one county, provide a separate writ for each county. CCP §699.510(a).

NOTE

Only one writ of execution may be outstanding for a specific county at any time. CCP §699.510(a).

Complete Item 3

a. Check the box to indicate whether you represent:

- (1) Judgment creditor; or
- (2) Assignee of record (see step 1, above); and

b. Fill in name of your client.

Complete Item 4

Fill in (continue on reverse if you need additional space) (CCP §699.520(c)):

- a. Name of each judgment debtor from judgment and Affidavit of Identity; and
- b. Last known address of each judgment debtor.

Complete Item 5

Fill in date the judgment was entered. CCP §699.520(d).

Check and Complete Item 6, if Applicable

If the judgment has been renewed (CCP §699.520(d)):

- a. Check the box next to item 6; and
- b. Fill in date of renewal.

Check Item 7

- a. If no one has requested a notice of sale under the writ (see CCP §701.550(a)), check box a.
- b. If someone has requested a notice of sale under the writ (see CCP §701.550(a)), check box b and complete the information on the reverse side of the form.

Check Item 8, if Applicable

If the judgment also binds a joint debtor (see CCP §§989-994), check the box in item 8 and complete information on the reverse.

Do Not Check Item 9

This item is completed only for a *nonmoney* judgment.

Check Item 10, if Applicable

If you are enforcing a sister-state judgment, check this box. See Debt Collection §§7.45-7.47.

Complete Item 11

Fill in the amount of the judgment that was entered or renewed.

Complete Item 12

Fill in the total costs from your costs memorandum. See below.

Complete Item 13

Add items 11 and 12.

Complete Item 14

Fill in any amount paid to satisfy the judgment, *e.g.*, if you received a payment from debtor or money from a previous levy.

NOTE

Fill in only the net amount applied to the judgment, not the amount applied to postjudgment accrued interest. (See example of interest calculation in [step 31](#), above.) The amount that goes on line 14 would be \$467.06 and not \$500, which may look confusing, but to do it the other way could yield negative numbers on line 15. In the example referred to above, a writ being issued on October 1, 2000, would show \$467.06 on line 14 and \$36.30 on line 16.

Complete Item 15

Subtract item 14 from item 13.

Complete Item 16

Fill in total accrued interest to the date the clerk issues the writ from your Judicial Council Form MC-012, Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest.

Complete Item 17

Fill in the fee for issuance of the writ. See [Govt C §70626](#).

NOTE

Be sure to check on current filing fees before completing this item.

Complete Item 18

Complete by adding items 15, 16, and 17.

Complete Item 19

Fill in the daily interest on amount in item 15.

Check Item 20, if Appropriate

If the amounts in items 11-19 are different for each joint debtor:

- a. Check this box; and
- b. Provide the amounts in a separate attachment.

NOTE

Some counties have local forms for this purpose, *e.g.*, Los Angeles County Form "Writ of Execution—Attachment 20" form number CIV 101 10-04.

COMPLETE REVERSE SIDE OF WRIT OF EXECUTION

If you have information to be continued from side 1, complete the reverse of Judicial Council Form EJ-130 ([CCP §§699.510-699.520](#)):

Complete Short Title

Include name and number of the action.

Item 4

Complete if you did not have enough room on side 1.

Item 7

Complete if you checked box b on side 1.

Item 8

Complete if you checked box in item 8 on side 1.

Item 9

Do not complete for execution of a money judgment.

IF FAMILY LAW JUDGMENT, PROVIDE ADDITIONAL INFORMATION

If the judgment was entered under the Family Code, comply with additional requirements of that code (CCP §699.510(b)), *e.g.*:

- a. Court order for attorney fees (Fam C §272); and
- b. Affidavit of support payments due. See Fam C §§5100-5104.

NOTE

Many counties have specialized application forms for dissolution matters, often entitled "Application for Writ of Execution."

Further Research: See Fam C §§290-291, 2026, 3556, 4502, 5100, 5103-5104; see also CCP §683.130. For family law enforcement procedures, see Practice Under the California Family Code: Dissolution, Legal Separation, Nullity, chap 20 (Cal CEB Annual). For distinctions and considerations regarding enforcement of family law money judgments, see Appendix P.

MEMORANDUM OF COSTS AFTER JUDGMENT

COMPLETE AND FILE MEMO

Use Mandatory Form

Judicial Council Form MC-012, Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest, is a mandatory form and must be used in all courts. Although the form contains a proof of mailing, it should be sent to judgment debtor only if there are costs being claimed. See CCP §685.070(b). Interest declarations are simply filed with the court and not served. CCP §685.050(a)(2).

Complete Required Items

On the form, complete items for:

- a. Costs;
- b. Credits, *e.g.*, any amount received to satisfy the judgment from debtor, levying officer, or third party (include this amount in item 14 of writ (see above) and include in affidavit for postjudgment interest (see above)); and/or
- c. Accrued interest:
 - (1) Support this amount by your affidavit (see above); and
 - (2) Include this amount in item 16 of the writ.

Sample Form: For a sample memorandum of costs, see Appendix J.

INCLUDE COSTS IN WRIT

The total amount of costs will be included in the writ in item 12.

IF MORE THAN \$100

If the costs are more than \$100, the clerk will (CCP §685.070):

- a. Wait 10 days after you personally serve judgment debtor (during which debtor could move to tax the costs); and
- b. Issue the writ of execution only if debtor does not move to tax costs.

Further Research: For discussion of delay for debtor to file motion to tax costs, see step 30, above.

NOTE

If you serve debtor by mail, or by fax or overnight mail, in California, the clerk will probably wait an additional 5 or 2 days, respectively. See CCP §1013.

IF LESS THAN \$100

If the memorandum of costs is for less than \$100, the clerk may (CCP §685.070(e)):

- a. Add the costs, credits, and interest to the total judgment amount on the writ; and
- b. Immediately issue the writ of execution, as long as it contains a warning that the costs are subject to a subsequent motion to tax and could then be stricken.

APPLY PAYMENTS OR CREDITS

Deduct each payment made by judgment debtor or amount received from a levying officer or third party from (CCP §701.810(f)):

- a. Accrued postjudgment interest first; and
- b. Then the balance, to reduce the judgment.

NOTE

If you apply payments to the judgment balance and postjudgment costs first, rather than interest, you might end up with a writ of execution that contains a negative number. However, by applying all payments to interest first and then the judgment balance, the writ of execution will never show a negative number. This has in the past been a source of confusion for some practitioners and court clerks.

AFFIDAVIT FOR POSTJUDGMENT INTEREST

CALCULATE INTEREST

Determine the correct amount of interest (see step 31, above). CCP §685.050(a)(2).

PREPARE JUDICIAL COUNCIL FORM MC-012

You must use Judicial Council Form MC-012, Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest. It is a good idea to also use Judicial Council Form MC-020, Additional Page, for an explanation of interest calculations. See Appendix J (Forms 2 and 3).

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Executing on a Judgment Generally/STEP 33. HAVE WRIT ISSUED BY THE COURT CLERK

STEP 33. HAVE WRIT ISSUED BY THE COURT CLERK

TAKE WRIT AND FORMS TO CLERK IN COUNTY WHERE JUDGMENT ENTERED

- a. Take the writ and appropriate forms you prepared (see [step 32](#), above) to the clerk of the court where the judgment was entered. [CCP §699.510\(a\)](#); and
- b. Bring a copy of the original money judgment for the clerk's reference so that the clerk will not have to pull the court file before issuing the writ.

HAVE CLERK ISSUE WRIT

Have the clerk:

- a. Complete the writ form, if necessary; and
- b. Issue the writ. See [CCP §712.010](#).

NOTE

"Issue" means signing, dating, and sealing the form.

PAY FEE

Provide the clerk with the fee to issue writ. See [Govt C §70626](#).

NOTE

Be certain that the court clerk has signed the writ of execution and stamped it with the court seal. There is no point in sending the writ to the levying officer or RPS only to have it returned because it is either addressed to the wrong county, not sealed, or not signed.

WHEN WRIT EFFECTIVE

The writ is effective for **180 days** from the date issued by clerk. [CCP §699.510\(a\)](#).

RENEW WHEN RETURNED OR EXPIRES

You may have the clerk issue a new writ of execution to the same county ([CCP §699.510\(a\)](#)):

- a. When it is returned by a levying officer (see [CCP §699.560](#); see also [step 49](#), below); or
- b. 181 days after the first writ was issued, *even if* the prior writ of execution has not yet been returned by levying officer or RPS.

NOTE

Some clerks will not issue a new writ unless you return the old one, despite this provision.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Executing on a Judgment Generally/STEP 34. COMPLETE FORMS FOR SERVING WRIT OF EXECUTION

STEP 34. COMPLETE FORMS FOR SERVING WRIT OF EXECUTION

NECESSARY FORMS

At the time of levying, levying officer or RPS must have:

- a. Writ of execution form;
- b. Notice of levy;
- c. Levying officer's or RPS's instructions;
- d. List of exemptions; and
- e. If you want officer to levy on debtor's wages, application for EWO and EWO (see [step 25](#), above).

NOTE

A list of exemptions is necessary only if judgment debtor is a natural person, because only a natural person may claim an exemption.

NOTICE OF LEVY

WHEN LEVYING OFFICER OR RPS COMPLETES

At the time of serving the writ of execution, levying officer or RPS also completes and serves a notice of levy (Judicial Council Form EJ-150).

WHEN USING RPS

- a. If using an RPS (see [step 25](#), above), be aware that you may have to fill out forms yourself.
- b. Be careful when filling out the form that you do not include items that an RPS may not levy on but that a levying officer may levy on. Samples of two different Notices of Levy are included as [Appendix L](#).

LEVYING OFFICER'S OR RPS'S INSTRUCTIONS

CHECK WITH OFFICE

- a. Determine from levying officer or RPS whether there are preprinted instructions for the type of levy you are requesting (for specific types of levy, see [step 22](#), above, and [steps 36-45](#), below); and
- b. Discuss any special or unusual circumstances of levy, *e.g.*, you want levying officer or RPS to conduct sequential levies (levy on two or more pieces of property).

NOTE

Once you become familiar with the levying officer or RPS and the office, you will know what procedures the levying officer or RPS considers unusual, *e.g.*, the levying officer or RPS may not have much experience in sequential levies or placing a keeper in a going business. See [step 44](#), below.

COMPLETE INSTRUCTIONS

Provide levying officer or RPS with instructions, including:

- a. Type of levy you are requesting;
- b. Location and description of the property;
- c. Whether the property is a dwelling; and
- d. The name and address of any person levying officer or RPS must serve with the writ or notice of levy. See CCP §§687.010(a), 684.130.

Further Research: For instructions in specific types of levies, see steps 36 and 43-45, below.

SIGN INSTRUCTIONS

Sign the instructions or have judgment creditor sign them.

NOTE

Levying officer or RPS is exempt from liability for his or her actions only if acting on written, signed instructions. See CCP §§687.040, 687.010(a).

LIST OF EXEMPTIONS

LEVYING OFFICER OR RPS PROVIDES FORM

Make sure that levying officer or RPS provides and serves a judgment debtor who is a natural person, *i.e.*, not a corporation, with list of possible exemptions found on Judicial Council Form EJ-155. CCP §681.030(c).

APPLICATION FOR EWO

COMPLETE APPLICATION

If you want to levy on debtor's wages, complete the application for an EWO (Judicial Council Form WG-001). See step 25, above.

NOTE

Judicial Council Form WG-001 is a specialized sheriff instruction form for a particular levy, *i.e.*, an earnings withholding order.

Sample Form: For completed sample form, see Appendix K.

LEVYING OFFICER OR RPS COMPLETES ORDER

From the information on your application, levying officer or RPS will then fill out the actual EWO, which will be served on the employer.

Further Research: See CCP §§706.010-706.154; see also step 25, above.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Executing on a Judgment Generally/STEP 35. CHOOSE PROPER PERSON TO MAKE LEVY

STEP 35. CHOOSE PROPER PERSON TO MAKE LEVY

PROPER LEVYING OFFICER OR RPS FOR ALL LEVIES

In the county where the property is located, choose (see [CCP §680.260](#)):

- a. Sheriff; or
- b. Marshal.

Check Local Practice

- a. Some counties have both sheriffs and marshals, but they are unified in a single department.
- b. Other counties have completely separate entities, both of which can serve civil process and enforce judgments.
- c. Some counties have more than one sheriff/marshal's office that handles service and levies in specific geographic areas.

NOTE

Be aware of a procedural change brought about by budget and staffing shortages at the sheriff's offices in some counties. Although the statute says certain levies may be made by an RPS, the reality is that in many areas, *e.g.*, Alameda, Contra Costa, Santa Clara, and San Mateo counties, the use of an RPS is mandatory. The sheriff simply returns levies that may be done by an RPS, saying that the sheriff's office no longer performs such levies. The law has not changed, but this new reality must be acknowledged, because the creditor effectively has no choice.

LEVIES BY RPS

RPS can begin levies by serving and posting as required by the specific levy procedure for ([CCP §699.080\(a\)](#)), *e.g.*:

- a. Real property (see [CCP §700.015](#); see also [step 38](#), below);
- b. Deposit accounts (see [CCP §700.140](#); see also [step 45](#), below);
- c. Personal property (see [step 43](#), below):
 - (1) In possession of levying officer or RPS;
 - (2) Used as a dwelling;
 - (3) That is a final money judgment; or
 - (4) In an estate;
- d. Final money judgments (see [step 43](#), below);
- e. Growing crops (see [step 43](#), below); or
- f. Accounts receivable or general intangible personal property. See [step 43](#), below.

Check Local Costs

Determine and compare costs or fees of using local levying officer, *i.e.*, sheriff or marshal, or RPS. Increasing fees charged by local levying officer or RPS may make it financially impractical to use them for the levy.

IF YOU CHOOSE RPS

Check with the local levying officer or RPS to see how the RPS must coordinate with levying officer's department before or after

serving the levy, *e.g.*:

- a. File writ with levying officer or RPS (CCP §699.080(b));
- b. Obtain certain information from levying officer, *e.g.*, levying officer's file number; and
- c. File with levying officer within **5 court days** after levy (CCP §699.080(d)):
 - (1) Writ;
 - (2) Process server's proof of service, stating manner of levy performed;
 - (3) Proof of service of copies of the writ and notices of levy served on third persons; and
 - (4) Instructions for further action by levying officer.

NOTE

An RPS may levy on only a limited number of types of property, and a levy might be voidable if the RPS were instructed to levy on property not authorized. Compare limited list of property on which an RPS may levy (CCP §699.080) with the list of property for which methods of levy are provided (CCP §§700.010-700.020). Any property not covered in CCP §699.080 may be levied on only by the levying officer. In addition, most levying officers require a letter of instruction from the creditor or the creditor's attorney that specifically authorizes service by an RPS, including the RPS's name and license number.

LEVYING OFFICER COMPLETES LEVY

Levying officer completes the levy (CCP §699.080(e)), *e.g.*, conducting sale (see step 43, below).

BENEFITS OF CHOOSING RPS

Usually the process server is more flexible and may be available more hours, *e.g.*, to:

- a. Have the levy served at a specific time when levying officer may not be available;
- b. Coordinate multiple levies (levies in two places at the same time) when levying officer may have only one person available; or
- c. Coordinate sequential levies, *e.g.*, levy on one property in the morning and another during the afternoon, when levying officer may perform levies only in the morning.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Levying on Real Property/STEP 36.
DECIDE WHETHER LEVY ON REAL PROPERTY APPROPRIATE

When Levying on Real Property

STEP 36. DECIDE WHETHER LEVY ON REAL PROPERTY APPROPRIATE

WHEN APPROPRIATE

Levy on real property when:

Equity

Equity in the property is enough to satisfy:

- a. A substantial portion of the judgment; and
- b. Costs of the levy. See CCP §704.840.

Debtor Will Want to Keep Property

Even if equity is not large, begin a levy to convince debtor to pay the judgment; *e.g.*, if the real property is debtor's home, most debtors will find some other way to pay the judgment rather than lose the home:

- a. Be prepared to negotiate a payment plan that will be acceptable to creditor and debtor; and
- b. Do not forget to include the costs of the levy in the total amount owed when negotiating a payment plan with debtor. For discussion of determining costs, see below.

DETERMINE TYPE OF PROPERTY

Determine whether property:

- a. Is commercial;
- b. Does not contain a dwelling; or
- c. Contains a dwelling, *e.g.*:

(1) Mobile home:

- (a) A mobile home that is attached to a foundation with proper permits becomes a real property fixture (see Health & S C §18551(a)(C)(4)); or
- (b) A mobile home not attached to the land would be personal property (see Health & S C §18551(b));

(2) Houseboat (probably personal property); or

(3) Real property dwelling, *e.g.*, house or apartment.

NOTE

Be aware that a fishing trawler or a recreational vehicle in which the debtor is living should logically be treated as a personal property item. Levying officers are often at a loss regarding how to treat such situations, but because it is personal property used as a dwelling, then you simply levy on it as you would other personal property.

EFFECT OF TYPE OF PROPERTY

Commercial

If property is clearly commercial, *e.g.*, a grocery store, you can proceed to a sale of the real property without an order from the court.

Contains Dwelling

If property contains a dwelling, levying officer will notify you that you must obtain a court order to sell the property. See [steps 39-41](#), below.

Unimproved

If property is unimproved, levying officer may want you to ask the court to determine whether a court order of sale is necessary. See [step 39](#), below.

Dwelling That Is Personal Property

If property contains a dwelling that is personal property, *e.g.*, a mobile home not affixed to the land, you must proceed as with any other personal property. See [step 43](#), below; see also [CCP §§700.080, 704.740](#).

DETERMINE COSTS

Check with levying officer and determine:

- a. Levying officer's fees to levy on real property; and
- b. How you will be required to pay those costs, *e.g.*, deposit of \$500 before the levy begins.

NOTE

The significant increase in these fees in many counties may influence your analysis of whether to proceed with the levy.

OBTAIN TITLE REPORT

Obtain a title report for the subject real property (sometimes called a litigation guaranty report) that will show:

- a. Correct name of the present vested owners of the property;
- b. Complete legal description of the property;
- c. Whether owner has recorded a declaration of homestead (see [step 37](#), below);
- d. Whether owner has filed a current homeowner's exemption claim with the county tax assessor;

NOTE

The homeowner's exemption affects the amount of property taxes paid by the owner, and is not the same as the statutory or declared homestead exemption. For discussion of homestead exemption, see [step 37](#), below.

- e. Liens that were recorded before date of the levy; and
- f. Liens recorded after date of levy.

Purpose of Report

The report provides you with information to:

- a. Help you decide whether to proceed with the levy;
- b. Provide forms and instructions to levying officer;
- c. Provide creditor and his or her attorney with insurance regarding the representations made about the title and encumbrances of the property; and
- d. File the application for any order to sell the property if you proceed with the levy. See [CCP §704.760](#); see also [step 39](#), below.

OBTAIN AN APPRAISAL OF PROPERTY

Engage an independent appraiser to give you the market value of the property.

NOTE

Check local court rules; in some counties you must wait to obtain the appraisal until after you move for an order of sale. For discussion of filing your appraisal, see [step 39](#), below.

ANALYZE REPORT AND APPRAISAL

Use the information in the report and appraisal to:

Title

Determine from way title is held:

- a. Whether any third party has an interest in the property; and
- b. What debtor's ownership interest is, *e.g.*, undivided one-half interest.

NOTE

If debtor is a joint tenant or cotenant, you may execute only against the debtor's interest in the house, not the entire dwelling. See [CCP §704.820](#). If you are levying on less than 100 percent interest of a property, ask your appraiser whether a fractional appraisal is necessary. Because a prospective buyer not only acquires an interest in the property but becomes a partner in ownership of the property, a fractional appraisal accounts for the fact that a one-half interest in a property will be valued at less than one-half of the market value. Always consider contacting the other cotenants as prospective buyers of your debtor's interest.

Equity

Determine whether there is any equity in the property, *e.g.*:

- a. Calculate the total amount of the liens on the property.

NOTE

You will have to contact the lienholders to find out the current principal balance owed, the accrued interest, and the interest rate.

- b. Ascertain whether owner has filed a homestead declaration and, if so, when it was filed (for discussion of homestead exemption, see [step 37](#), below).
- c. Ascertain the amount of the homestead exemption ([CCP §704.730](#)).
- d. Subtract the liens and exemptions from the market value, including all senior encumbrances for which another cotenant may be jointly and severally liable.

NOTE

If a lien or homestead declaration was recorded *after* you recorded an abstract or otherwise created a lien, your judgment should be paid *before* that lien. See [step 42](#), below.

PRESENT ALTERNATIVES TO CLIENT

Creditor should decide after considering your analysis of the information:

- a. To levy on real property and, *e.g.*:
 - (1) Pursue the levy to sale because the amount of equity will satisfy the judgment and costs of levy; or
 - (2) Enter into negotiations with debtor for a payment plan to satisfy the judgment and costs;
- b. Not to levy on the real property, because it is unlikely to result in any substantial recovery for creditor; or
- c. Whether to meet the requirements for purchasing the property if levying officer conducts execution sale. For discussion of

bidding at sale, see [step 42](#), below.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Levying on Real Property/STEP 37.
UNDERSTAND HOMESTEAD EXEMPTION

STEP 37. UNDERSTAND HOMESTEAD EXEMPTION

HOMESTEAD EXEMPTION DEFINED

A judgment debtor may claim an exemption based on a homestead value of real property (CCP §704.730), *e.g.*:

- a. \$50,000 for a single judgment debtor;
- b. \$75,000 for a married judgment debtor; or
- c. \$150,000 for a judgment debtor:
 - (1) 65 years old or older;
 - (2) 55 years old with a limited income; or
 - (3) Who is disabled.

EFFECT OF HOMESTEAD EXEMPTION

Debtor may keep a portion of the proceeds from the sale of one dwelling that is (CCP §§704.710-704.720):

- a. Where a person lives; and
- b. The principal dwelling in which:
 - (1) Debtor or debtor's spouse lived on the date judgment creditor's lien attached to the dwelling, *i.e.*, day you recorded the abstract; and
 - (2) Debtor or debtor's spouse lived continuously from the date judgment creditor's lien attached until the hearing on your application for a court order for sale of the property.

NOTE

Until community property is divided between debtor and debtor's separated or former spouse or until specified by court order, debtor not currently residing in the homestead is entitled to a homestead exemption if debtor's spouse continues to reside in or exercise control over possession of the homestead. CCP §704.120(d).

Further Research: For definitions of homestead and exemptions, see Appendix A.

AMOUNT OF HOMESTEAD EXEMPTION

A judgment debtor may be entitled to a homestead exemption of (CCP §704.730):

- a. \$50,000 for a judgment debtor or spouse, unless debtor or spouse qualifies for a greater amount (see below);
- b. \$75,000 if debtor or spouse lives in a family unit (see CCP §704.710(b)), and at least one member of the family unit owns:
 - (1) No interest in the homestead, *e.g.*, debtor lives with a minor child; or
 - (2) Only a community property interest in the homestead, *e.g.*, debtor lives with spouse; or
- c. \$150,000 for a judgment debtor or spouse who is:
 - (1) 65 years old or older;
 - (2) 55 years old with a limited income (see CCP §704.730(a)(3)(c) for details); or

(3) Disabled.

TYPES OF HOMESTEAD EXEMPTIONS

Recognize that there are actually two different kinds of homestead exemptions:

- a. Homestead that arises by law (see CCP §§704.710-704.850), called a "statutory homestead" in this Action Guide; or
- b. Declared homestead that arises when a declaration of homestead is recorded by judgment debtor. See CCP §§704.910-704.995.

If Involuntary Sale

If the real property is sold involuntarily (see CCP §§704.720(b), 704.960(b)), *e.g.*, by levying officer:

- a. If a *statutory homestead*, proceeds are exempt for a period of six months and any new home purchased during that time is also a homestead (CCP §§704.710(c), 704.720(b)); or
- b. If a *declared homestead*, proceeds are exempt for six months, and if a new home is purchased during that time, the new home may also be declared a homestead. CCP §704.960.

If Voluntary Sale

If the real property is sold voluntarily by debtor:

- a. If a *statutory homestead*, proceeds are *not* exempt (compare CCP §704.720(b) with CCP §704.960); or
- b. If a *declared homestead*, proceeds are exempt for six months, and if a new home is purchased during that time, the new home may also be declared a homestead. CCP §704.960.

DETERMINE WHETHER DECLARED HOMESTEAD SENIOR

Determine when the declared homestead was actually recorded:

If Before Abstract

If homestead was recorded *before* you recorded abstract, the declared homestead is "senior," *i.e.*, judgment lien attaches only to the value of the property in excess of the liens and homestead in effect at the time of the recording. CCP §704.950(a), (c).

If After Abstract

If the declared homestead was recorded *after* you recorded an abstract, the levy on the property will be dated as of the date you created the lien with your abstract, and debtor's declared homestead would appear to be wiped out as a junior lien. CCP §701.630 (lien subordinate to the lien under which the property is sold is extinguished). Cases hold, however, that the two homesteads both apply and the statutory homestead still provides an exemption. Webb v Trippet (1991) 235 CA3d 647, 650, 286 CR 742.

NOTE

Regardless of the type of homestead exemption, the debtor and his or her spouse are entitled to only a single exemption on one dwelling.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Levying on Real Property/STEP 38.
PROCEED WITH LEVY ON REAL PROPERTY

STEP 38. PROCEED WITH LEVY ON REAL PROPERTY

PROVIDE FORMS AND INSTRUCTIONS TO LEVYING OFFICER OR RPS

Forms

Prepare the forms needed for the execution (see [step 32](#), above).

Instructions

Prepare instructions to levying officer or RPS. See [step 36](#), above.

NOTE

Some counties have specialized sheriff instruction forms for real property levies.

PAY LEVYING OFFICER'S COSTS

Most levying officers will require you to make a deposit of estimated costs at the time you send the instructions.

NOTE

Because of significant increases in fees and deposits, be sure to call levying officer ahead of time to ascertain expected costs and amount of required deposit.

ANTICIPATE NEED FOR APPLICATION

- a. Prepare an application for order of sale when you send instructions to levying officer, if property contains a real property dwelling or is unimproved.
- b. This will avoid missing the short deadline (20 days) to apply for an order of sale after levying officer or RPS serves the notice that property contains a dwelling and creditor needs an order of sale (see [step 39](#), below). See [CCP §704.750\(a\)](#).

LEVYING OFFICER OR RPS BEGINS LEVY

Levying officer or RPS begins levy by recording with the County Recorder in the county where the real property is located ([CCP §700.015\(a\)](#)):

- a. Writ of execution; and
- b. Notice of levy.

WHAT LEVYING OFFICER OR RPS SERVES

Levying officer or RPS serves copies of ([CCP §700.010](#)):

- a. Writ of execution;
- b. Notice of levy;
- c. List of exemptions on debtor only; and
- d. Affidavit of identity of debtor listed on writ of execution..

WHOM AND HOW TO SERVE

Debtor

Levying officer or RPS serves debtor (CCP §700.010(b)):

- a. Personally; or
- b. By mail.

Third Party

If debtor's interest in real property stands in the name of a third party, levying officer or RPS serves that party (see CCP §700.015(b)):

- a. Personally; or
- b. By mail.

Occupants

At the real property, levying officer or RPS either (CCP §700.015(c)):

- a. Serves any person occupying the property; or
- b. Posts the documents on the property.

NOTE DATE OF LEVY NOTICE

Be sure to note the date levying officer or RPS served the notice of levy, because the notice of sale cannot be served for 120 days after that date. CCP §701.545.

IF NO DWELLING

IF COMMERCIAL PROPERTY

Levying officer may proceed to sell the real property under CCP §§701.540-701.680. See step 42, below.

IF DWELLING

IF DWELLING ON PROPERTY

If the property contains a dwelling, levying officer notifies you that property will be released unless you obtain a court order for sale. CCP §704.750(a).

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Levying on Real Property/STEP 39. IF DWELLING, PREPARE AND FILE APPLICATION FOR ORDER OF SALE

STEP 39. IF DWELLING, PREPARE AND FILE APPLICATION FOR ORDER OF SALE

OBJECTIVE

Prepare and file application for order of sale to have the court determine:

- a. Whether debtor is entitled to a homestead exemption; and
- b. The minimum bid and other procedures levying officer must use to sell the property.

DEADLINE TO FILE APPLICATION

20 days after levying officer notifies you that levy has been made, file application for an order to sell the real property. CCP §704.750(a).

When to Prepare Application

Because of this short deadline, do not wait to prepare the application until you receive the notice from levying officer under CCP §704.750(a).

If You Fail to File

If you do not file the application within the 20 days, the property will be released. See CCP §704.750(a).

WHAT TO INCLUDE IN APPLICATION

Include in the application (CCP §704.760; see steps 36-37, above):

- a. Legal description of property that you obtained from the title report;
- b. Whether tax assessor shows any homeowner's exemptions on the property;
- c. Whether debtor has recorded any homestead exemption declaration;
- d. Any liens on the property, including:
 - (1) Name and address of any lienholders;
 - (2) Current principal balance of the lien; and
 - (3) Interest accrued and rate of accrual (*i.e.*, amount of interest accrued each day);
- e. Whether you believe the dwelling is a homestead; and
- f. If dwelling is a homestead, amount of the homestead exemption.

CONSIDER MEMORANDUM OF POINTS AND AUTHORITIES

It is also good practice to include a brief memorandum of points and authorities to support your application, *e.g.*, reason why if you contend debtor is not entitled to a homestead exemption.

FILE APPLICATION

File with court in the county where the *real property* is located, which may be different from county in which the judgment was entered. CCP §704.750(b)(1).

FILE ABSTRACT, IF APPROPRIATE

If you are filing in a county other than the county in which the judgment was entered, file an abstract of the judgment. CCP §704.750(b)(2).

CONSIDER FILING YOUR APPRAISAL

To assist the court in determining the fair market value of the dwelling:

Check Local Rules

- a. Some courts may *require* you to submit a declaration from an appraiser with your application.
- b. Other courts may appoint an appraiser after you file the motion. See CCP §704.780(d).

Submit Appraisal

If there is no specific local rule, file the appraisal.

OBTAIN AN ORDER TO SHOW CAUSE

When you file the application, the court should issue an order to show cause setting (CCP §704.770(a)):

- a. Time for hearing; and
- b. Place for the hearing.

Deadline for Hearing

Deadline for hearing is **45 days** after you file the application, unless the court orders a later date. See CCP §704.770(a).

WHAT TO SERVE

Serve (CCP §704.770(b)(1)):

- a. Order to show cause;
- b. Application;
- c. Notice of Hearing on Right to Homestead Exemption (Judicial Council Form EJ-180).

DEADLINE TO SERVE

Deadline to serve is **30 days** before the hearing date. CCP §704.770(b).

NOTE

You have only 15 days after you file the application to serve the documents, *i.e.*, you must set the hearing 45 days after filing application (see CCP §704.770(a)) and serve the application and other documents 30 days before the hearing. See CCP §704.770(b).

WHOM AND HOW TO SERVE

Serve (CCP §704.770(b)) both:

Debtor

Debtor:

- a. Personally; or
- b. By mail; and

Occupant at Property

An occupant of the dwelling:

- a. Personally; or
- b. By posting in a conspicuous place at the dwelling.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Levying on Real Property/STEP 40. IF DWELLING, ATTEND HEARING ON APPLICATION FOR ORDER OF SALE OF REAL PROPERTY

STEP 40. IF DWELLING, ATTEND HEARING ON APPLICATION FOR ORDER OF SALE OF REAL PROPERTY

RECOGNIZE YOUR BURDEN OF PROOF

If Homeowner's Exemption

If there is a current homeowner's exemption on file with the county tax assessor, you have the burden of proving that the dwelling is not a homestead. CCP §704.780(a)(1).

If No Homeowner's Exemption

If there is no current homeowner's exemption, debtor has the burden of proving that he or she is entitled to the exemption. CCP §704.780(a)(1).

If You Included Homestead Amount in Application

If you included in the application a homestead exemption amount you believed debtor was entitled to, debtor has the burden of showing the exemption should be more (or less). CCP §704.780(a)(2).

WHAT COURT MAY ORDER

Court Determines Whether Dwelling Is Exempt

Court must first determine whether or not dwelling is exempt. CCP §704.780(b).

If Not Exempt

If dwelling is not exempt, court will order the sale as if there were no dwelling. CCP §704.780(b); see step 42, below.

If Exempt

If debtor is entitled to homestead exemption, court will (CCP §704.780(b)):

- a. Find amount of exemption;
- b. Find fair market value of dwelling; and
- c. Order sale of property subject to the exemption, stating:
 - (1) How proceeds shall be distributed (see CCP §704.850); and
 - (2) Names and addresses of all persons entitled to any proceeds from sale.

NOTE

If you have included the principal balances and interest figures in your application, the court will find it easier to calculate the amount that should be paid to each lienholder. If the court determines that the sale of a dwelling would not be likely to produce a bid sufficient to satisfy any part of the amount due over the exemptions, then the court is not required to make the order of sale even though there is some apparent equity. Therefore, to obtain the court's order of sale, it is important to determine what the actual lien balances are to convince the court that a substantial portion of the judgment will be satisfied by this method.

CLERK TRANSMITS ORDER

Court clerk will transmit a certified copy of the court order for sale to (CCP §704.780(c)):

- a. Levying officer; and
- b. If another court entered the judgment, the clerk of the court in which the judgment was entered.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Levying on Real Property/STEP 41. IF DWELLING, SERVE ORDER FOR SALE IF DEBTOR OR SPOUSE DOES NOT APPEAR AT HEARING

STEP 41. IF DWELLING, SERVE ORDER FOR SALE IF DEBTOR OR SPOUSE DOES NOT APPEAR AT HEARING

WHEN APPLICABLE

Serve order for sale if none of the following are present at the hearing (CCP §704.790(a)):

- a. Debtor;
- b. Debtor's spouse;
- c. Debtor's attorney; or
- d. Debtor's spouse's attorney.

WHAT TO SERVE

Serve copy of (CCP §704.790(b)):

- a. Order for sale; and
- b. Notice of order contained in Declaration for Rehearing on Homestead Exemption (Judicial Council Form EJ-182).

DEADLINE TO SERVE

Deadline to serve is **10 days** after the date of the order. CCP §704.790(b).

WHOM AND HOW TO SERVE

Serve (CCP §704.790(b)):

- a. Debtor:
 - (1) Personally; or
 - (2) By mail;
- b. Debtor's spouse:
 - (1) Personally; or
 - (2) By mail;
- c. Occupant of dwelling:
 - (1) Personally; or
 - (2) By posting order on the property in a conspicuous place.

FILE PROOF OF SERVICE

File proof of service with the court. CCP §704.790(c).

ANTICIPATE DEBTOR FILING DECLARATION

Debtor has **10 days** after you serve the notice of the order to file with levying officer a declaration explaining (see CCP §704.790(d)):

- a. Why debtor was not present at the hearing; and

b. That debtor wants to assert the homestead exemption.

If Debtor Files Declaration

If debtor files declaration, court sets another hearing. See CCP §704.790(d).

If Debtor Does Not File Declaration

If debtor does not file declaration, levying officer may proceed with the sale.

NOTE

Declaration and second hearing rights apply equally to the judgment debtor's spouse.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Levying on Real Property/STEP 42.
LEVYING OFFICER CONDUCTS SALE OF REAL PROPERTY

STEP 42. LEVYING OFFICER CONDUCTS SALE OF REAL PROPERTY

REVIEW PROCEDURES FOR SALE

- a. Subject to the court order and the minimum bid (see step 42, below), levying officer proceeds to sell the real property under CCP §§701.540-701.680.
- b. Levying officer proceeds to sell the real property under CCP §§701.540-701.680.

WHEN LEVYING OFFICER GIVES NOTICE OF SALE

Levying officer gives notice of sale of real property:

Earliest Date

At earliest, **121 days** after the date notice of levy was served on judgment debtor. CCP §701.545.

Latest Date

At latest, **20 days** before the date of the sale. CCP §701.540(b).

PROVIDE LEVYING OFFICER WITH NAMES OF LIENHOLDERS

30 days after levying officer levies on the real property *and* not less than **20 days** before the sale (CCP §701.540(h)):

- a. Update or determine for the first time your list of all persons having liens on the real property; and
- b. Instruct levying officer to mail a notice of sale to each person on the list.

NOTE

Usually, you can ask the title company to update the title report at this time.

WHOM AND HOW TO SERVE

Levying officer serves:

Debtor

Personally or by mail on debtor (CCP §701.540(c)), leaving the notice, if possible, with (CCP §701.540(e)):

- a. Occupant personally; or
- b. Person of suitable age and discretion on the real property who is:
 - (1) Occupant's employee or agent; or
 - (2) Member of occupant's household.

Interested Persons

By mail to any person who has requested notice of the sale. See CCP §701.550.

Lienholders

By mail to all lienholders you provided (see above). See CCP §701.540(h).

LEVYING OFFICER POSTS IN PUBLIC PLACE

Levying officer posts a copy of the notice in (CCP §701.540(d)):

On Property

Conspicuous place on the property (CCP §701.540(d)(2)); and

In Public Place

- a. One public place in the city in which the real property is located; or
- b. One public place in the judicial district where property is located.

LEVYING OFFICER PUBLISHES NOTICE OF SALE

Levying officer publishes the notice in a newspaper of general circulation at least **20 days** before the sale. See CCP §701.540(g).

CONSIDER BIDDING AT SALE

To bid at the sale, the creditor must advance enough cash to cover the minimum bid. See CCP §701.590(b).

If Not Homestead

If property is not a homestead:

- a. The minimum bid may not be large; and
- b. Creditor could acquire the property for a credit bid without paying much cash.

If Homestead

If property is a homestead, a significant amount of cash could be required because the minimum bid will include paying:

- a. All senior liens and encumbrances; and
- b. Amount of the exemption.

CONSIDER ADVERTISING SALE

If your client is not interested in acquiring the property, you may advertise the sale in the classified or other advertising section of a newspaper of general circulation (CCP §701.555) to:

- a. Increase the number of people who know about the sale; and
- b. Increase the chances that the minimum bid will be received.

NOTE

You can recover the costs of advertising. CCP §701.555.

IF PROPERTY IS NOT HOMESTEAD DWELLING

LEVYING OFFICER MAY ACCEPT MINIMUM BID

Levying officer can accept bid that exceeds total of the amounts of:

- a. All preferred labor claims (see CCP §1206 (claim filed with the court for payment for services or work performed for debtor); CCP §701.620(a)(1));
- b. Any state tax lien (see Govt C §7162; CCP §701.620(a)(2)); or
- c. Any third party interest in the property that has been secured by a deposit with levying officer. See CCP §§701.620(a)(3), 720.260.

If Minimum Bid Not Obtained

If minimum bid is not received, levying officer must release property. CCP §701.620(c).

LEVYING OFFICER DISTRIBUTES PROCEEDS

30 days after receiving the purchase price (CCP §701.820(b)), levying officer distributes the proceeds, generally in the following order (see CCP §701.810):

- a. Satisfy preferred labor claims;
- b. Satisfy state tax liens;
- c. Refund to the creditor of any deposit made under CCP §720.260;
- d. Cover levying officer's costs;
- e. Pay judgment creditor for:
 - (1) Costs and interest accrued after the writ was issued; and
 - (2) The amount of the judgment plus costs and interest entered on the writ;
- f. Satisfy any other judgment creditors or liens subordinate to your client's judgment lien; and
- g. Pay any remaining amount to judgment debtor.

NOTE

Recognize that liens and encumbrances that are senior to your client's judgment lien are *not* paid off after the sale of *nonhomestead* property; the purchaser takes the property subject to those interests. See CCP §701.640.

IF PROPERTY IS HOMESTEAD DWELLING

LEVYING OFFICER MAY ACCEPT MINIMUM BID

Levying officer can sell the property only if he or she receives a bid that exceeds *both* (CCP §704.800):

Fair Market Value

90 percent of the fair market value that the court determined; and

Exemption and Liens

Total of:

- a. Homestead exemption as determined by the court; plus
- b. "All liens and encumbrances" (determined by the court to mean only *senior* liens and encumbrances). Rourke v Troy (1993) 17 CA4th 880, 21 CR2d 660.

If Minimum Bid Not Obtained

If minimum bid not received, levying officer must release property and (CCP §704.800):

- a. If no bid exceeded the total of exemption, liens, and judgment, you cannot seek to sell the same property for one year;
- b. If no bid exceeded 90 percent of the fair market value of the property, you may:
 - (1) Seek a new order for sale of the homestead; and
 - (2) Ask the court to allow levying officer to accept highest bid that exceeds the total of exemption, liens, and judgment.

LEVYING OFFICER DISTRIBUTES PROCEEDS

30 days after receiving the purchase price (CCP §701.820(b)), levying officer distributes the proceeds of the sale in the following order (CCP §704.850):

- a. Satisfy liens and encumbrances;
- b. Pay amount of the exemption to debtor;
- c. Pay amount of costs to levying officer;
- d. Pay judgment creditor for:
 - (1) Costs and interest accruing after the writ was issued; and
 - (2) Amount due on the judgment with cost and interest as entered on the writ; and
- e. Pay any remaining amount to debtor.

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When Levying on Particular Property

STEP 43. LEVY ON OTHER TYPES OF PROPERTY

GENERALLY

LEVYING OFFICER OR RPS SERVES DEBTOR

For all levies, levying officer or RPS must serve debtor, personally or by mail, with a copy of (CCP §700.010):

- a. Writ of execution;
- b. Notice of levy;
- c. If debtor is a natural person, the Judicial Council form list of exemptions; and
- d. Affidavit of identity of debtor listed on writ of execution. See step 46, below, and Appendix C.

GROWING CROPS

LEVYING OFFICER OR RPS RECORDS

Levying officer or RPS records with the recorder of the county where the crops are located (CCP §700.020):

- a. Writ of execution; and
- b. Notice of levy.

PERSONAL PROPERTY IN POSSESSION OF JUDGMENT DEBTOR

LEVYING OFFICER TAKES INTO CUSTODY

Levying officer generally levies by taking into custody tangible personal property in possession or under the control of judgment debtor. CCP §700.030; see step 44, below.

HOW TO LEVY IN A PRIVATE PLACE

To levy on personal property in a private place of judgment debtor, *e.g.*, a home, levying officer (CCP §699.030(a)):

- a. Demands delivery of the property sought; and
- b. Advises judgment debtor that if property is not delivered, debtor may be liable for costs and attorney fees incurred in any further proceedings to obtain the property.

If Debtor Does Not Deliver Property

If debtor does not deliver the property to levying officer:

- a. Levying officer:
 - (1) Does not make any further effort at that time; and

(2) Notifies judgment creditor that debtor failed to deliver property.

b. Creditor applies to the court, ex parte or by noticed motion if the court requires, for an order to seize the property, which includes the right to force entry, similar to a claim and delivery order. CCP §699.030(b). See Writ of Possession.

NOTE

If the judgment creditor knows the debtor has property in a private place, the judgment creditor should consider asking the court in advance for a turnover order or an order authorizing the sheriff to use force to gain entry. Some courts will grant that kind of an order, particularly if the property to be levied on is easily removed from the premises, such as antiques or artwork.

PERSONAL PROPERTY IN POSSESSION OF THIRD PERSON

WHEN APPLICABLE

Various categories of personal property in possession of third persons are subject to levy, *e.g.*:

- a. Tangible personal property in possession of a third person (CCP §700.040);
- b. Goods in a warehouse ("bailed") that are not covered by a negotiable document of title (CCP §700.060);
- c. Chattel paper (CCP §700.100);
- d. Instruments (CCP §700.110);
- e. Negotiable documents of title (CCP §700.120); and
- f. Securities. CCP §700.130; Com C §8112.

NOTE

In many cases, securities will be located outside of California. This means that an effective levy may not be possible. However, an assignment order under CCP §708.510 may be an effective method to order the debtor to assign the debtor's interest in the securities to the creditor. Should the debtor fail to make the assignment, at least the court has jurisdiction for contempt over the debtor, even if the court has no jurisdiction over the out-of-state holder of the uncertificated security.

LEVYING OFFICER SERVES THIRD PARTY

Levying officer levies ("garnishes") property in possession of third person by serving that person with (see generally CCP §§700.040-700.170):

- a. Writ of execution; and
- b. Notice of levy.

THIRD PARTY RESPONDS

Third party:

- a. Should turn over the property levied on to levying officer (CCP §701.010); or
- b. Within 10 days, must provide to levying officer a garnishee's memorandum describing debtor's property in third party's possession. CCP §701.030.

PERSONAL PROPERTY IN POSSESSION OF LEVYING OFFICER

WHEN AVAILABLE

Levying officer might have, *e.g.*:

- a. Excess proceeds after a sale under a writ of execution for a different judgment that levying officer has not yet given to judgment debtor; or
- b. Anything taken under a writ of attachment that is still in the custody of levying officer.

LEVYING OFFICER OR RPS MAKES BOOK LEVY

Levying officer or RPS levies on personal property in levying officer's possession by a "book levy," *i.e.*, levying officer makes an entry of levy on his or her own records. CCP §700.050.

PERSONAL PROPERTY USED AS DWELLING

LEVYING OFFICER OR RPS SERVES WRIT

For personal property used as a dwelling, such as a motor home, levying officer or RPS (CCP §700.080):

- a. Serves the writ of execution and notice of levy on an occupant; or
- b. If unable to serve an occupant, posts the writ of execution and notice of levy on the property.

OBTAIN COURT ORDER TO EVICT

You must notice a motion for a separate court order to evict the occupants. See CCP §700.080(c).

VEHICLE OR OTHER PROPERTY WITH CERTIFICATE OF OWNERSHIP

LEVYING OFFICER SEIZES

Levying officer physically seizes the vehicle or any other property with a certificate of ownership, such as a boat registered with the DMV.

PROPERTY FACING ACTION OR IN ESTATE OF DECEDENT

DETERMINE TYPE OF PROPERTY

Property that is subject to a pending action is reached by the normal method of levy for the type of property involved. CCP §700.180(a). See above; see also steps 23 and 36, above.

NOTE

For judgment debtor's interest in property in an estate, levy under CCP §700.200 as an alternative to creating a lien on pending action or special proceeding. See step 23, above.

FINAL MONEY JUDGMENT

LEVYING OFFICER OR RPS SERVES CLERK

Levying officer or RPS creates lien on the final money judgment by serving the clerk of the court where the judgment was entered with a copy of the writ of execution and notice of levy. CCP §700.190.

Effect

Clerk endorses statement on the final money judgment that there is a lien (CCP §700.190) and:

- a. Any abstract issued in that case will show that the lien exists; and

b. When the judgment is paid in that case, your client will be paid *before* the new judgment creditor.

INTEREST IN PERSONAL PROPERTY OF ESTATE

LEVYING OFFICER OR RPS SERVES PERSONAL REPRESENTATIVE

Levying officer or RPS personally serves the writ and notice of levy on the personal representative of decedent's estate. CCP §700.200(a).

COURT ORDERS PROPERTY DELIVERED TO LEVYING OFFICER

The court in which the estate is being administered decides whether the judgment will be paid as part of the distribution of the estate. CCP §700.200(b).

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Levying on Particular Property/STEP 44.
LEVY ON TANGIBLE PERSONAL PROPERTY OF GOING BUSINESS

STEP 44. LEVY ON TANGIBLE PERSONAL PROPERTY OF GOING BUSINESS

LEVYING ON TANGIBLE PERSONAL PROPERTY OF GOING BUSINESS

When levying on tangible personal property of a going business, you may choose either to have ([CCP §700.070](#)):

Seize the Property

Levying officer physically seize ([CCP §700.030](#)):

- a. Cash on the premises ("till tap"); and/or
- b. Inventory and other physical property of the business, including debtor's computer; or

Install a Keeper

Levying officer place keeper in charge of the business (for discussion of installing keeper, see below), who:

- a. Collects cash; and/or
- b. Seizes some or all of the property; and/or
- c. Stops credit sales; and/or
- d. Stops shipment of goods to customers.

SEIZE PROPERTY

LEVYING OFFICER SEIZES PROPERTY

Levying officer:

Cash

Seizes the cash on the premises; and

Personal Property

- a. May simply drive up with a moving van and empty debtor's business of inventory;
- b. Stores inventory property; and
- c. Gives notice of sale and sells the property. For mechanics of sale, see [CCP §§701.510-701.680](#).

DISADVANTAGES OF PROPERTY SEIZURE

You will have to pay (see [CCP §685.100](#)) costs of:

- a. Moving debtor's goods, including an advance cash deposit to commercial movers; and
- b. Storing goods during the sale procedure.

NOTE

Be aware that any time levying officer seizes bulky items that require a mover, *e.g.*, not cash or one piece of jewelry, you must pay these costs.

INSTALL KEEPER

LEVYING OFFICER INSTALLS KEEPER

Levying officer installs a person known as a "keeper" in charge of debtor's business (CCP §700.070(a)):

- a. Debtor continues to operate on a cash basis only, which includes checks as the equivalent of cash; and
- b. Keeper:
 - (1) Takes custody of all cash and checks debtor receives while the keeper is there; and
 - (2) May be instructed to seize business property.

Example: You may request a keeper for 48 hours and at the end of that time instruct keeper to seize enough of debtor's property to satisfy the judgment. For sample instructions and comment on this type of keeper, see Debt Collection §9.22.

LENGTH OF KEEPER TIME

You may place the keeper for up to 10 days. CCP §700.070(b)(3). However, if seizing only money or equipment proceeds of sales, there is no time limit. CCP §700.070(c).

Check With Levying Officer

Levying officer will usually have requirements, *e.g.*, a minimum of 8 hours, or periods of 8, 48, or 72 hours.

ADVANTAGES OF A KEEPER

Seize Cash and Checks

A keeper is able to seize cash and checks to apply toward satisfaction of the judgment before seizing assets.

Plan for Seizure and Moving Expenses

You have time while the keeper is there to:

- a. Meet levying officer on the premises to identify which goods to seize, *e.g.*, debtor's computer; and
- b. Get an estimate from the movers of the cost to move and store those items.

Example: If debtor is a manufacturer and does not ship any inventory while keeper is there, keeper could use the time to inventory the property on the premises; you could then choose which property to be seized, and obtain an estimate of moving and storage costs.

Facilitate Negotiated Settlement

Debtor can arrange for financing to pay judgment or otherwise negotiate settlement of your judgment while keeper is there, *e.g.*, client may agree to accept certain personal property in satisfaction of the judgment without having the property sold.

CONSIDER COSTS

Costs and deposit requirements for a keeper have increased significantly. Be sure to check on these amounts before deciding whether a keeper would be appropriate.

CONSIDER TIMING STRATEGIES

- a. Time your levy to take advantage of cycles in certain kinds of business:

Example 1: A keeper levy on a florist the day before Valentine's Day will be much more effective than on the day after Valentine's Day.

Example 2: For a typical retail store, the day after Thanksgiving may be a large sales day, and the store would have more

merchandise in place by the day before or after Thanksgiving than on another day.

b. Coordinate efforts if multiple stores or different sheriffs' offices are involved.

IF DEBTOR OBJECTS

Keeper must be removed at any time if judgment debtor objects to the keeper being there unless seizing only money (CCP §700.070(b)(1)):

a. Keeper then is authorized to seize, remove, store, and sell debtor's business property on the premises (see CCP §700.070(b)(1)); but

b. Consider other methods of execution, *e.g.*, in smaller cases, instruct levying officer to seize and apply to the judgment all cash on the premises (till tap).

Further Research: For a detailed explanation of keepers, see California State Sheriffs' Association Civil Procedural Manual, chap 5.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/When Levying on Particular Property/STEP 45.
EXECUTE ON PROPERTY LOCATED IN BANK

STEP 45. EXECUTE ON PROPERTY LOCATED IN BANK

REVIEW CHECKS RECEIVED FROM DEBTOR

Any time you or your client receive a check from a judgment debtor, make a note of:

- a. Name of bank;
- b. Bank branch, including address and phone number if available;
- c. Account number;
- d. Whether anyone else's name appears on the check, *e.g.*, if it is a joint account; and
- e. Debtor's name and address printed on the check if it is different from one you already know about, *e.g.*, debtor may pay you from a business account.

DETERMINE WHETHER EXCLUSIVELY IN DEBTOR'S NAME

Determine whether another party's name is on the account or safe deposit box:

If No Third Party

If account is exclusively in debtor's name, levying officer or RPS proceeds. See CCP §§700.140 (deposit account), 700.150 (safe deposit box).

If Third Party

a. If account is in debtor's name and a third person's name (CCP §700.160(b)(1)), levying officer or RPS proceeds, but cannot require the bank to deliver property until at least 15 days after levying officer serves the third party. CCP §700.160(c).

NOTE

If account is in name of debtor's spouse, whether alone or with a third party's name, provide to levying officer or RPS a declaration that the person named is debtor's spouse (CCP §700.160(b)(2)) to make the levy immediately effective; otherwise, bank can demand declaration, and in the intervening time, if the notice is not served on the third party, the money may disappear.

b. If account is exclusively in third party's name and debtor's name is not on the account, obtain a court order for a levy. CCP §700.160(a).

DETERMINE WHETHER IN FICTITIOUS BUSINESS NAME

If account is maintained under a fictitious business name, obtain a certified copy of the fictitious business name (DBA) statement, showing that the name is used by (CCP §700.160(b)(3)):

- a. Judgment debtor;
- b. Judgment debtor's spouse; or
- c. Both debtor and spouse with no others.

INSTRUCT LEVYING OFFICER OR RPS TO LEVY ON ALL PROPERTY

Instruct levying officer or RPS to levy on all property in the possession or under the control of the financial institution under CCP §§700.140, 700.150, 700.160, including, *e.g.*:

- a. Deposit accounts;

- b. Safe deposit boxes;
- c. Money;
- d. Credits;
- e. Rents;
- f. Debts;
- g. Securities (only levying officer may levy on securities);
- h. Accounts receivable; and
- i. Effects due or owing to judgment debtor.

Sample Forms: For samples of the different notice of levy forms, see Appendix L.

NOTE

Remember that each branch is considered a different entity for purposes of levy, so instruct levying officer or RPS to levy separately at each branch. CCP §684.110(c).

Do Not Limit Account Number

You do not need to specify one account number, *e.g.*:

- a. If you instruct to levy on all accounts, levying officer or RPS is not limited to any one account; but
- b. If you specify one account:
 - (1) You might specify an account that is overdrawn while debtor has others that are not; and
 - (2) You might not know about all the accounts at the branch.

LEVYING OFFICER OR RPS SERVES

Levying officer or RPS:

Financial Institution

Personally serves the writ and notice of levy on the financial institution (CCP §§700.140(a), 700.150(a)).

Third Party

Personally or by mail serves writ and notice of levy on any third person whose name is on the deposit account or safe deposit box (CCP §§700.140(b), 700.150(b)).

Debtor

Serves writ, notice, list of exemptions, and affidavit of identity (CCP §700.010(a)-(b)):

- a. Personally; or
- b. By mail.

BANK PAYS LEVYING OFFICER

If No Third Party

If no third party, financial institution pays the amount in the account at the time levying officer serves the writ and notice of levy. CCP §700.140(a).

If Third Party

If third party, **15 days** after levying officer serves the notice on the third party, levying officer may instruct the financial institution to pay the amount in the account at the time of the levy. CCP §700.160(c).

TIME THE LEVY

Knowing when to levy on a debtor's bank account is as important as knowing where the account is.

If Business

If debtor is a going business, the maximum amount of cash in the bank account probably occurs on:

- a. The business's payday, when the payroll is there to cover the paychecks being issued to its employees; or
- b. April 15, and on the dates on which other estimated tax payments are due.

If Individual

Largest amount of money will presumably be in the bank one to two days after debtor's payday, before debtor has paid his or her bills.

NOTE

Many people pay their bills twice a month at the time they get paid, and there is a small period of time after the paycheck has reached the bank and before the outgoing checks have reached the bank.

CONSIDER REPEAT LEVY

Consider repeating the levy 48 to 96 hours after the original levy to reach money that debtor may have moved to the levied account to cover checks debtor wrote before the levy that might otherwise bounce.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/After Levying on Property/STEP 46.
ANTICIPATE DEBTOR CLAIMING AN EXEMPTION

After Levying on Property

STEP 46. ANTICIPATE DEBTOR CLAIMING AN EXEMPTION

WHO MAY CLAIM EXEMPTION

Exemption may be claimed by (CCP §703.020(b)):

- a. Judgment debtor who is a natural person;
- b. Spouse of debtor; or
- c. Someone acting on behalf of debtor.

NOTE

Although the code provides that exemptions apply only to property of a natural person (CCP §703.020(a)), one court has allowed an exemption filed by a revocable living trust. See *Fisch, Spiegler, Ginsburg v Ladner v Appel* (1992) 10 CA4th 1810, 13 CR2d 471 (no requirement that title be held by natural person). But see *In re Bell* (Bankr ND Cal, Nov. 21, 2007, No 04-45847) 2007 Bankr Lexis 4001 (debtor could not claim any property of debtor's partnership as exempt, because partnership was not natural person).

WHO MAY NOT CLAIM

Corporations, limited liability companies, or partnerships may not claim exemption.

PROPERTY EXEMPT

Recognize that certain types of property are exempt or partially exempt by statute from execution, *e.g.*:

- a. Automobiles (CCP §704.010); and
- b. Social Security payments. CCP §704.080.

NOTE

Exempt funds are traceable (CCP §703.080(a)), and retain their exempt status unless limited by the original exemption. *McMullen v Haycock* (2007) 147 CA4th 753, 759, 54 CR3d 660 (rollover of fully exempt retirement plan assets to IRA did not eliminate their full exemption from execution).

Further Research: See property listed in Appendixes C and F; see also Judicial Council Form EJ-155. For discussion of homestead exemptions, see step 37, above; for specific property, see CCP §§704.710-704.850; for general provisions, see CCP §§703.010-703.140.

DEBTOR FILES CLAIM

Debtor files the appropriate form for a Claim of Exemption (different forms for wage garnishment than for other types of enforcement) with levying officer. CCP §703.520(a).

DEADLINE TO FILE

Deadline to file is **10 days** after the date levying officer or RPS served the notice of levy on debtor. CCP §703.520(a).

If Debtor Fails to File

If debtor fails to file, debtor waives exemption (CCP §703.030(a)), but:

- a. Debtor may apply for relief under CCP §473 if deadline missed;
- b. Some property may be exempt without debtor filing a claim (see CCP §703.030(b); see also Appendix C); and
- c. Other property is automatically exempt because it is not subject to enforcement (CCP §§695.010-695.070) or execution (CCP §§699.710-699.720). See CCP §704.210; see also step 15, above, and Appendixes C and F.

LEVYING OFFICER NOTIFIES YOU

Levying officer then:

- a. Notifies judgment creditor that debtor filed a claim of exemption; and
- b. Provides you with a copy of the claim, along with a copy of any financial declarations debtor filed.

REVIEW DEBTOR'S FINANCIAL STATEMENT

If judgment debtor is required to provide a financial statement (see CCP §703.530), review statement:

Wages

Determine whether debtor properly calculates and characterizes wages, *e.g.*, if debtor indicates he or she is paid weekly or biweekly, check to see if he or she incorrectly assumed that there are four weeks per month (there are actually 4.3 weeks per month).

Nonessentials

Be aware of nonessentials, including, *e.g.*:

- a. Cable TV premium channels;
- b. Payments to nonjudgment creditors;
- c. Nonessentials in credit card or department store bills;
- d. A car, which may be considered nonessential; and
- e. Supporting an adult, emancipated child, or other relative for whom there is no legal support obligation.

NOTE

Many judges will agree that there is no reason that the judgment debtor should be allowed to make normal payments on those kinds of accounts in preference to the judgment creditor.

NO EXEMPTION IF JUDGMENT IS FOR NECESSITY

If debtor is claiming exemption of wages based on the needs of debtor and family, be prepared to argue, if appropriate, that your client's judgment is for *necessities* and debtor has no right to exemption. See CCP §706.051(c)(1).

Example: If your client's judgment is for the provision of health care to debtor, and debtor claims an exemption of wages based on the amount debtor needs for support, the court should deny the exemption because the underlying debt was for necessities.

FILE AND SERVE OPPOSITION

File with the court and serve a copy on levying officer of (CCP §703.550):

- a. Notice of Opposition to the Claim of Exemption; and
- b. Notice of Motion for an Order Determining the Claim of Exemption.

DEADLINE TO FILE OPPOSITION

Deadline to file opposition is **10 days** after levying officer serves you with notice of the claim of exemption. CCP §703.550.

SERVE DEBTOR WITH OPPOSITION

10 days before the hearing, serve a copy of your opposition on debtor or the person who is claiming the exemption. CCP §703.570(b).

ATTEND HEARING

Attend the hearing set by the clerk for no later than 20 days after you filed the notice of motion (see CCP §§703.570-703.580):

- a. Use hearing to learn information that you would get in an order of examination; and
- b. Point out any errors or nonessential items in debtor's financial statement.

NO DETERMINATION MADE

If the court fails to make a determination on the exemption within the time provided in CCP §703.570, the property claimed to be exempt is released. CCP §703.580(f).

CLERK TRANSMITS ORDER

After the hearing, the clerk transmits a certified copy of the order to levying officer (CCP §703.580(e)), who will:

- a. Release the property if the court finds it is exempt; or
- b. Apply the property to the judgment if the court finds the property is *not* exempt.

Further Research: See Debt Collection §§9.56-9.57.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/After Levying on Property/STEP 47.
ANTICIPATE THIRD PARTY CLAIMS

STEP 47. ANTICIPATE THIRD PARTY CLAIMS

WHEN ARISES

Anticipate third party claim if your enforcement of the judgment affects the rights of a person who is not a party to the action, *i.e.*, a third party. See CCP §§720.010-720.800.

TYPE OF CLAIMS

Third party may (CCP §§720.110, 720.210):

- a. Claim ownership and right to possession of real or personal property; or
- b. Claim security interest or lien.

CONSIDER DEMANDING CLAIM

If judgment creditor is aware that there is a secured party or lienholder who has not filed a third party claim (CCP §§720.510-720.550):

- a. Consider demanding that the secured party file the claim; and
- b. If the secured third party fails to file within 30 days, the lien becomes junior to the levying creditor.

LEVYING OFFICER GIVES NOTICE

Levying officer gives creditor notice. Judgment creditor has 10 days (plus 5 if served by mail) to post surety bond with levying officer:

- a. If *posting bond*: Levying officer continues to hold property.
- b. If *not posting bond*: Levying officer releases property to third party. CCP §§720.610-720.610.

BOND AMOUNT

General Rule Except in Cases of Limited Civil Jurisdiction

Bond amount is lesser of \$10,000 or twice the amount of execution lien as of date of levy or other enforcement lien as of date of creation. CCP §720.160(b). On the amount necessary for a release bond, see below.

In Cases of Limited Civil Jurisdiction

In cases of limited jurisdiction, bond amount is lesser of \$2500 or twice amount of execution lien as of date of levy or other enforcement lien as of date of creation. CCP §720.160(b)(2). Generally, a "limited civil case" is one in which the amount in controversy is \$25,000 or less. See CCP §86. On the amount necessary for a release bond, see below.

THIRD PARTY MAY COUNTER BOND TO RELEASE PROPERTY

If third party wants property released, third party must post a counterundertaking. When done, levying officer releases property to third party.

AMOUNT OF THIRD PARTY UNDERTAKING

Third party undertaking must be lesser of amount required to satisfy judgment or sum equal to market value of debtor's interest in property levied on. CCP §720.630.

RELEASE BOND MUST EQUAL CREDITOR'S BOND

Code of Civil Procedure §720.630(d) requires release bond to be in same amount as creditor's bond, which may present a problem for the creditor.

Example: Assume property levied is cash in bank account totaling \$80,000. If creditor files a minimum bond of \$10,000, third party can get property released for the same \$10,000. If creditor wins hearing, and property is determined to belong to the creditor, the money is gone and creditor gets the bond amount of \$10,000, not the seized amount of \$80,000.

REQUEST HEARING ON THIRD PARTY CLAIM

When to Request

- a. File request for hearing within **15 days** after third party files claim or files bond under CCP §720.310(a).
- b. Hearing must be held within **20 days** after being requested. CCP §720.310(c).

Who May Request

Either the creditor or the third party making the claim may request hearing to determine (CCP §720.310(a)):

- a. Validity of third party claim; and
- b. Proper disposition of the property that is the subject of the claim.

Whom to Serve With Notice

Serve notice of the time and place of the hearing on (CCP §720.320):

- a. Debtor; and
- b. Either creditor or third person (whichever person is not the petitioner).

File With Levying Officer

When to Serve Notice

- a. File a copy of the notice with levying officer. CCP §720.320(a)(2).
- b. Service must be made personally or by mail (CCP §§720.320, 1005):
 - (1) **15 calendar days** before the date set for the hearing if personal service;
 - (2) **15 calendar days** before the date set for the hearing plus **2 court days** if service is by fax or by Express Mail or other overnight delivery;
 - (3) **20 calendar days** before the date set for the hearing if served by regular mail.

SUMMARY PROCEEDING

A hearing determining a third party claim of ownership is a summary proceeding and litigants are not afforded full trial rights such as discovery and right to a jury trial. See Whitehouse v Six Corp. (1995) 40 CA4th 527, 535, 48 CR2d 600.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/After Levying on Property/STEP 48. LEVYING OFFICER CONDUCTS SALE AND COLLECTION

STEP 48. LEVYING OFFICER CONDUCTS SALE AND COLLECTION

PREPARES NOTICE OF SALE

Levying officer prepares and gives written notices of sale for:

- a. Real property (CCP §701.540); and
- b. Personal property. CCP §701.530.

WHEN TO GIVE NOTICE

Levying officer must give notice at least:

- a. **10 days** before a sale of personal property (CCP §701.530); and
- b. **20 days** before a sale of real property. CCP §701.540.

HOW TO GIVE NOTICE

Levying officer (CCP §§701.530-701.540):

- a. Serves notice on debtor personally or by mail; and
- b. Posts notice in public places:
 - (1) *Personal property*: **10 days** before the sale post in three public places (CCP §701.530(c)); or
 - (2) *Real property*: **20 days** before the sale post in one public place. CCP §701.540(d).

TO POSTPONE SALE

For a sale to be postponed, levying officer must receive the request in writing signed by both:

- a. Judgment creditor; and
- b. Judgment debtor.

SET MINIMUM BID

- a. The court may set a minimum bid for real property sales; and
- b. You may set a minimum for any type of sale.

Minimum

Always set the minimum to be the costs of the levy:

- a. If someone comes to bid, they cannot buy property for \$.01.

NOTE

If you received only \$.01 from the levy, your judgment would be increased by the costs of the levy less only \$.01.

- b. If no one bids, judgment creditor may instruct levying officer to bid the costs of the levy, so that the judgment remains in the full amount. See below.

Further Research: For statutory provisions regarding minimum bids, see CCP §701.620 (general minimum bid requirements) and CCP §704.800 (real property or other dwelling subject to homestead exemptions).

LEVYING OFFICER SELLS PROPERTY

Levying officer sells property in accordance with requirements of CCP §701.590, *i.e.*:

Cash

Sales are for cash; except:

Credit

- a. Judgment creditor may bid partial satisfaction of the judgment;
- b. Purchaser may pay 10 percent down and the balance within 10 days, if the bid is for:
 - (1) Real property and more than \$5000; or
 - (2) Personal property and more than \$2500.

NOTE

Creditor must be prepared to pay in cash any applicable exemption amounts. CCP §701.590(b).

IF CREDIT BIDDER DEFAULTS

- a. If a credit bidder defaults, levying officer conducts a new sale.
- b. If default occurs at time of sale, levying officer sells property to next highest bidder.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/After Levying on Property/STEP 49. LEVYING OFFICER RETURNS WRIT TO COURT

STEP 49. LEVYING OFFICER RETURNS WRIT TO COURT

REQUIRED ACTION BY LEVYING OFFICER

Levying officer files the writ with the clerk together with (CCP §699.560(a)):

- a. Report of actions taken to execute writ; and
- b. Accounting of:
 - (1) Amounts collected; and
 - (2) Costs incurred.

NOTE

Make sure you get a copy of levying officer's report unless judgment is paid in full; if you need to prepare a new writ and compute ongoing interest, it will be much easier if you have the report.

WHEN LEVYING OFFICER SHOULD RETURN WRIT

Levying officer should return writ at the earliest of (CCP §699.560(a)):

- a. **2 years** from the date the writ was issued;
- b. When you request the return in writing;

NOTE

When you send the writ to levying officer or RPS with instructions, you can also specify when writ should be returned, *e.g.*, when judgment is satisfied.

- c. Promptly after completing all levies and sale you have requested;
- d. If levying officer does not make a levy, promptly after the 180th day following the issuance of the writ; or
- e. When judgment expires. See [step 8](#), above.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/After Levying on Property/STEP 50. PROVIDE SATISFACTION OF JUDGMENT FORM, IF APPLICABLE

STEP 50. PROVIDE SATISFACTION OF JUDGMENT FORM, IF APPLICABLE

WHEN APPLICABLE

Provide satisfaction of judgment form if judgment debtor pays judgment (CCP §724.010-724.260):

- a. In full;
- b. Partially; or
- c. In the case of an installment judgment, in matured installments.

EXPECT DEMAND FROM JUDGMENT DEBTOR

If you do not provide a satisfaction of judgment form, judgment debtor has a right to demand one. See CCP §724.050(b) for mandatory language.

Deadline for Providing Form After Demand

Within **15 days**, provide completed satisfaction of judgment form.

If Creditor Fails to Provide Form

If judgment debtor makes a proper statutory demand (CCP §724.050) and judgment creditor fails to comply (CCP §724.050(e)):

- a. Statutory penalty of \$100 will be ordered against judgment creditor; and
- b. Judgment creditor may be liable for all other consequential damages that flow from the failure to provide a satisfaction of judgment.

COMPLETE FORM

Complete Judicial Council Form EJ-100 (see CCP §724.060 (full satisfaction), §724.120 (partial satisfaction), or §724.250 (matured installment)):

Heading

Check box that indicates whether satisfaction is:

- a. Full;
- b. Partial; or
- c. Matured installment.

Item 1

Check box indicating type of satisfaction.

Item 2

Provide judgment creditor's name and address.

Item 3

Provide name and address of any assignee of judgment creditor.

Item 4

Provide judgment debtor's name and address.

Item 5

State where and when judgment was entered.

Item 6

If an abstract has been recorded, state where and when.

Item 7

If a JL-1 has been filed, provide file number.

HAVE NOTARIZED

Have the form notarized. Although the Judicial Council form does not have a place for a notary to sign, the code requires the form to be notarized (CCP §724.060(b)) regardless of whether or not an abstract of judgment has been recorded.

FORM

You may either:

- a. File the original form with the court and send copies to debtor; or
- b. Send the original and copies to debtor, and instruct debtor to file the form.

OBTAIN EXTRA COPIES

When you have recorded an abstract, ask clerk to file-stamp several copies with *original* signatures to provide enough copies to record and remove the lien.

RECORD FORM TO RELEASE LIENS

It is not judgment creditor's responsibility to record the satisfaction to release the judgment liens; you may either:

Have Debtor Record

- a. Give the satisfaction forms to debtor; or
- b. Instruct debtor to record the form (see Notice to Debtor at bottom of Judicial Council Form EJ-100):
 - (1) In each county where you recorded an abstract; and
 - (2) With the Secretary of State if you filed a JL-1.

Debtor should bear the costs of recording the document.

Consider Having Creditor Record

Recognize that debtors sometimes forget to do the necessary steps for the release. It may be easier to do it yourself rather than to try to find the closed file years later when debtor, who neglected to file or record the necessary papers, requests a new satisfaction to clear title.

NOTE

If the satisfaction was filed with the court, consider having debtor obtain a certified copy to record from the court.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/After Levying on Property/STEP 51. DEBTS DUE FROM LOCAL PUBLIC ENTITY

STEP 51. DEBTS DUE FROM LOCAL PUBLIC ENTITY

GOVERNING LAW

Judgments against local public entities are enforced under the terms of Govt C §§970-978.8, not under the terms of the Enforcement of Judgments law.

LOCAL PUBLIC ENTITIES

- a. "Local public entities" include counties, cities, districts, public authorities, public agencies, and any other political subdivisions or public corporations. Govt C §970(c).
- b. The term "local public entity" does not include the Regents of the University of California, the state, or the state's officers, departments, divisions, bureaus, boards, or commissions. Claims against these entities are paid by warrants drawn by the Controller. Govt C §970(c).

TIME LIMITS ON ENFORCEMENT

Judgments must be enforced within **10 years** after the judgment becomes final, or, if payable in installments, within 10 years after the final installment became due. Govt C §970.1. There is no provision for renewal of a judgment for a subsequent 10-year period.

TIME LIMITS ON PAYMENT OF JUDGMENT

In general, local public entities must pay off judgments with interest in the fiscal year during which the judgment becomes final. Govt C §970.4. Nonetheless, the following exceptions apply:

- a. If a local public entity does not pay a judgment with interest during the fiscal year in which it becomes final, it must pay the judgment with interest during the following fiscal year immediately on obtaining sufficient funds for that purpose. Govt C §907.5.
- b. Under Govt C §907.6, the court entering judgment must order payment of the judgment with interest in 10 equal annual installments if the following conditions are satisfied:
 - (1) The entity adopts an ordinance or resolution finding that an unreasonable hardship will result unless the judgment is paid in installments; and
 - (2) The court, after hearing, has found that payment of the judgment in installments is necessary to avoid an unreasonable hardship.

LOCAL PUBLIC ENTITIES' DUTY TO PAY

Local public entities are required to provide funds sufficient to pay judgments. Govt C §970.8. Limitations on taxes, assessments or rates, charges, and indebtedness levels do not apply if the funds are needed to satisfy judgments resulting from nondiscretionary acts. Govt C §971. If necessary, a local public entity may issue bonds to pay judgments. See Govt C §§975-978.8.

COMPELLING LOCAL PUBLIC ENTITY TO PAY JUDGMENT

If a local public entity does not pay a judgment, the creditor may use a writ of mandate to compel payment. Govt C §970.2.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX A A Glossary of Terms Used in Enforcement of Judgments

APPENDIX A

A Glossary of Terms Used in Enforcement of Judgments

Abstract/Abstract of Judgment

Form issued by the court clerk (Judicial Council Form 982(a)(1)) and recorded by creditor that creates a lien on debtor's real property in the county where recorded. See CCP §674; see also step 28.

Assignee of Judgment/Assignee of Record

Person to whom the right to receive performance under a judgment has been transferred by judgment creditor. See CCP §673 (contents of assignment), §681.020 (assignee's requirements before enforcing judgment). See step 11.

Assignment Order

Method of enforcement of judgment to reach:

- a. Assets that may be contingent on a future occurrence (*e.g.*, future rents, commissions); or
- b. Method of reaching assets out of state but under control of debtor over whom court has jurisdiction, *e.g.*, out-of-state bank account, or out-of-state tangible real or personal property.

Creditor

Used in this Action Guide for judgment creditor.

Debtor

Used in this Action Guide for judgment debtor.

Enforcement

Generic term for the process of enforcing the terms of any judgment, including several methods of enforcement. See steps 1, 22-23.

Execution

One method of enforcement of a judgment (see steps 1 and 22), which requires a writ of execution (see steps 32-33) and a levy on specific types of property (see steps 36-45). See CCP §§699.510-699.560 (writ), §§700.010-700.200.

Exemptions

Judgment debtor's property that by public policy has been declared to be not subject to enforcement or execution. See generally CCP §§704.010-704.210; see also Appendix B, below.

Garnishment

Nonpossessory form of execution where a demand is made on a third person to turn over money or property due to, or that belongs to, judgment debtor, to be used to satisfy, or partially satisfy, the judgment. See CCP §§700.010-700.200.

Note: Garnishment sometimes refers to "wage garnishments." See CCP §§706.010-706.154; see also step 25.

Homestead

Principal dwelling that is the basis of a homestead exemption (CCP §§704.710(c), 704.720; see step 37):

- a. Where judgment debtor or judgment debtor's spouse resided on the date judgment creditor's lien attached to the dwelling; and
- b. Where judgment debtor or judgment debtor's spouse resided continuously from date the lien attached until date the court determines the dwelling is a homestead.

Note: Until the community property is divided between debtor and debtor's separated or former spouse or until specified by court order, debtor not currently residing in the homestead is entitled to a homestead exemption if debtor's spouse continues to reside in or exercise control over possession of the homestead. CCP §704.120(d).

Judgment Creditor

"Creditor" in this Action Guide: the person in whose favor a judgment is rendered, or person who has been assigned rights under the judgment. Also may include judgment creditor's or assignee's (see CCP §§680.240, 688.040(a)):

- a. Guardian or conservator of the estate;
- b. Personal representative; or
- c. Other successor in interest.

Judgment Debtor

"Debtor" in this Action Guide: the person against whom a judgment is rendered. See CCP §§680.250, 688.040(b).

Keeper

Natural person employed by a levying officer and placed in charge of judgment debtor's business. See CCP §700.070. See step 44.

Levy

Generic term describing the actions taken by a levying officer or RPS to serve and enforce a writ of execution. See CCP §700.010-700.200 (levy on specific types of property). See steps 22 and 36-45.

Levying Officer

Sheriff or marshal (CCP §680.260) who levies on property. See step 35.

Lien

A charge imposed on specific property by which the property is made security for the performance of an act. See CC §2872; CCP §1180; see also step 27.

Lien Priority

Different liens on the same property are entitled to performance based on the time of the creation of the lien. See CC §2897; see also step 27.

Personal Property

Anything not real property, including (see CCP §680.290):

- a. *Tangible*: Physical things such as money, furniture, automobiles. See CCP §680.370.
- b. *Intangible*: Things that are not physical, such as a right to payment under a contract. See CCP §680.210; Com C §9106.

Real Property

Immovable property consisting of (see CC §658; CCP §680.310):

- a. Land (see CC §659);
- b. That which is affixed to land (see CC §660);
- c. That which is incidental or appurtenant to land, *e.g.*, an easement (see CC §662); or
- d. That which is immovable by law.

Registered Process Server (RPS)

Person registered with county clerk under Bus & P C §22350 who is qualified to serve certain kinds of levies.

Return

Process of levying officer reporting to the court the results of the execution. CCP §699.560. See step 49.

Stay

Court order that (see CCP §§916-936.1; 11 USC §362; see also step 10):

- a. Halts all proceedings for a fixed or indeterminate period of time; and
- b. Freezes rights and obligations of the parties as of the time of the stay.

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APPENDIX B
Sample Application for and Renewal of Judgment



EJ-190

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): TEL NO.:
 Recording requested by and return to: 310/417-4141 Fax: 310/416-5060
 Raymond R. Goldstein, 168981
 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT
 5855 Green Valley Circle, #315
 Culver City, CA 90230
 ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

NAME OF COURT: Superior Court of California, County of Los Angeles
 STREET ADDRESS: 111 N. Hill Street
 MAILING ADDRESS: 111 N. Hill Street
 CITY AND ZIP CODE: Los Angeles 90012
 BRANCH NAME: Central

FOR RECORDER'S USE ONLY
 CASE NUMBER:
 01-999999

PLAINTIFF: Peter Plaintiff
 DEFENDANT: David Defendant

FOR COURT USE ONLY

APPLICATION FOR AND RENEWAL OF JUDGMENT

Judgment creditor
 Assignee of record
 applies for renewal of the judgment as follows:

1. Applicant (name and address):
 Peter Plaintiff
 C/O Raymond R. Goldstein, Esq.
 5855 Green Valley Circle, #315
 Culver City, CA 90230
2. Judgment debtor (name and last known address):
 David Defendant
 123 Coffee Street
 Clear Town, CA 95618
3. Original judgment
 - a. Case number (specify):
01-999999
 - b. Entered on (date):
8/4/99
 - c. Recorded:
 - (1) Date:
 - (2) County:
 - (3) Instrument No.:
4. Judgment previously renewed (specify each case number and date):

5. Renewal of money judgment

a. Total judgment	\$ 1,000,000.00
b. Costs after judgment	\$ 1,000.00
c. Subtotal (add a and b)	\$ 1,001,000.00
d. Credits after judgment	\$ 0.00
e. Subtotal (subtract d from c)	\$ 1,001,000.00
f. Interest after judgment	\$ 700,000.00
g. Fee for filing renewal application	\$ 20.00
h. Total renewed judgment (add e, f, and g)	\$ 1,701,020.00

i. The amounts called for in items a-h are different for each debtor.
 These amounts are stated for each debtor on Attachment 5.

SHORT TITLE: Peter Plaintiff v. David Defendant	CASE NUMBER: 01-999999
--	---------------------------

6. Renewal of judgment for possession.
 sale.

a. If judgment was not previously renewed, terms of judgment as entered:

b. If judgment was previously renewed, terms of judgment as last renewed:

c. Terms of judgment remaining unsatisfied:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 7, 2008

Raymond R. Goldstein
(TYPE OR PRINT NAME)


(SIGNATURE OF DECLARANT)

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX C Assets for Which Exemptions Exist

APPENDIX C

Assets for Which Exemptions Exist

Note: Unless otherwise indicated for each property, the property listed in this appendix is exempt only if debtor makes a timely claim of exemption. See generally CCP §703.030. See also the list of additional exemptions from Judicial Council Form EJ-155 below.

Asset	Statute
Motor vehicle (if debtor has only one car, \$2300 of proceeds if sold are exempt without debtor making claim)	<u>CCP §704.010</u>
Household furnishings and personal effects	<u>CCP §704.020</u>
Materials for repair or improvement of dwelling	<u>CCP §704.030</u>
Jewelry, heirlooms, works of art	<u>CCP §704.040</u>
Hearing aids	<u>CCP §704.050</u>
Personal property used in trade, business, or profession	<u>CCP §704.060</u>
Paid earnings	<u>CCP §704.070</u>
Deposit account with Social Security direct deposit (portion exempt without debtor making claim)	<u>CCP §704.080</u>
Inmate's trust account (portion exempt without debtor making claim)	<u>CCP §704.090</u>
Life insurance, endowment, annuity policies (some portion is exempt without making claim)	<u>CCP §704.100</u>
Public employee retirement benefits (some benefits exempt without debtor making claim)	<u>CCP §704.110</u>
Public employee vacation credits (some benefits exempt without debtor making claim)	<u>CCP §704.113</u>
Private retirement benefits	<u>CCP §704.115</u>
Unemployment and strike benefits (some benefits exempt without debtor making claim)	<u>CCP §704.120</u>
Disability and health benefits (some benefits exempt without debtor making claim)	<u>CCP §704.130</u>
Damages for personal injury (cause of action exempt without debtor making claim)	<u>CCP §704.140</u>
Damages for wrongful death (cause of action exempt without debtor making claim)	<u>CCP §704.150</u>
Workers' compensation benefits (some benefits are exempt without debtor making claim)	<u>CCP §704.160</u>
Welfare (some benefits are exempt without debtor making claim)	<u>CCP §704.170</u>
Relocation benefits (some benefits are exempt without debtor making claim)	<u>CCP §704.180</u>
Student aid by educational institution (some benefits are exempt without debtor making claim)	<u>CCP §704.190</u>
Cemetery plot (exempt without debtor making claim)	<u>CCP §704.200</u>
Property not subject to enforcement of a judgment	<u>CCP §704.210</u>

Exemptions From the Enforcement of Judgments

(Based on Judicial Council Form EJ-155, Revised January 1, 2005)

The following is a list of assets that may be exempt from levy on a judgment.

Exemptions are found in the United States Code (USC) and in the California codes, primarily in the Code of Civil Procedure (CCP).

Because of periodic changes in the law, the list may not include all exemptions that apply in your case. The exemptions may not apply in full or under all circumstances. Some are not available after a certain period of time. You or your attorney should read the statutes.

If you believe the assets that are being levied on are exempt, file a claim of exemption, which you can get from the levying officer.

A list of the amounts of exemptions from a judgment under [CCP §703.150](#) is available from the California Courts web site at www.courtinfo.ca.gov/forms/documents/exemptions.pdf.

Type of Property	Code and Section
Accounts (<i>see</i> Deposit Accounts)	
Appliances	CCP §704.020
Art and Heirlooms	CCP §704.040
Automobiles	CCP §704.010
BART District Benefits	CCP §704.110
	Pub Util C §28896
Benefit Payments:	
BART District Benefits	CCP §704.110
Charity	CCP §704.170
Civil Service Retirement Benefits (Federal)	5 USC §8346
County Employees Retirement Benefits	CCP §704.110
Disability Insurance Benefits	CCP §704.130
Fire Service Retirement Benefits	CCP §704.110
Fraternal Organization Funds Benefits	CCP §704.130
	CCP §704.170
Health Insurance Benefits	CCP §704.130
Irrigation System Retirement Benefits	CCP §704.110
Judges Survivors Benefits (Federal)	28 USC §376(n)
Legislators Retirement Benefits	CCP §704.110
	Govt C §9359.3
Life Insurance Benefits	
Group	CCP §704.100
Individual	CCP §704.100
Lighthouse Keepers Widows Benefits	33 USC §775
Longshore & Harbor Workers' Compensation or Benefits	33 USC §916
Military Benefits	
Retirement	10 USC §1440
Survivors	10 USC §1440
Municipal Utility District Retirement Benefits	CCP §704.110
	Pub Util C §12337
Peace Officers Retirement Benefits	CCP §704.110
	Govt C §31913
Pension Plan (and Death Benefits)	
Private	CCP §704.115
Public	CCP §704.110
Public Assistance	CCP §704.170
	Welf & I C §17409
Public Employees	
Death Benefits	CCP §704.110
Pension	CCP §704.110
Retirement Benefits	CCP §704.110
Vacation Credits	CCP §704.113
Railroad Retirement Benefits	45 USC §231m
Railroad Unemployment Insurance	45 USC §352(e)
Relocation Benefits	CCP §704.180
Retirement Benefits and Contributions	
Private	CCP §704.115
Public	CCP §704.110
Segregated Benefit Funds	Ins C §10498.5
Social Security Benefits	42 USC §407
Strike Benefits	CCP §704.120
Transit District Retirement Benefits (Alameda & Contra Costa Counties)	CCP §704.110

Unemployment Benefits and Contributions	<u>Pub Util C §25337</u>
Veterans Benefits	<u>CCP §704.120</u>
Veterans Medal of Honor Benefits	<u>38 USC §5301</u>
Welfare Payments	<u>38 USC §1562</u>
	<u>CCP §704.170</u>
	<u>Welf & I C §17409</u>
Workers' Compensation	<u>CCP §704.160</u>
Boats	<u>CCP §704.060</u>
	<u>CCP §704.710</u>
Books	<u>CCP §704.060</u>
Building Materials (Residential)	<u>CCP §704.030</u>
Business:	
Licenses	<u>CCP §695.060</u>
Tools of Trade	<u>CCP §704.060</u>
Cars and Trucks (including proceeds)	<u>CCP §704.010</u>
Cash	<u>CCP §704.070</u>
Cemeteries:	
Land Proceeds	<u>Health & S C §7295</u>
Plots	<u>CCP §704.200</u>
Charity	<u>CCP §704.170</u>
Claims, Actions, and Awards:	
Personal Injury	<u>CCP §704.140</u>
Workers' Compensation	<u>CCP §704.160</u>
Wrongful Death	<u>CCP §704.150</u>
Clothing	<u>CCP §704.020</u>
Condemnation Proceeds	<u>CCP §704.720(b)</u>
County Employees Retirement	<u>CCP §704.110</u>
	<u>Govt C §31452</u>
Damages (<i>see</i> Personal Injury and Wrongful Death)	
Deposit Accounts:	
Escrow or Trust Funds	<u>Fin C §17410</u>
Social Security Direct Deposits	<u>CCP §704.080</u>
Direct Deposit Account—Social Security	<u>CCP §704.080</u>
Disability Insurance Benefits	<u>CCP §704.130</u>
Dwelling House	<u>CCP §704.740</u>
Earnings	<u>CCP §704.070</u>
	<u>CCP §706.050</u>
	<u>15 USC §1673</u>
Educational Grants	<u>Ed C §21116</u>
Employment Bonds	<u>Lab C §404</u>
Financial Assistance:	
Charity	<u>CCP §704.170</u>
Public Assistance	<u>CCP §704.170</u>
	<u>Welf & I C §17409</u>
Student Aid	<u>CCP §704.190</u>
Welfare (<i>see</i> Public Assistance)	
Fire Service Retirement	<u>CCP §704.110</u>
	<u>Govt C §32210</u>
Fraternal Organization Funds and Benefits	<u>CCP §704.130</u>
	<u>CCP §704.170</u>
Fuel for Residence	<u>CCP §704.020</u>
Furniture	<u>CCP §704.020</u>
General Assignment for Benefit of Creditors	<u>CCP §1801</u>

Health Aids	<u>CCP §704.050</u>
Health Insurance Benefits	<u>CCP §704.130</u>
Home:	
Building Materials	<u>CCP §704.030</u>
Dwelling House	<u>CCP §704.740</u>
Homestead	<u>CCP §704.020</u>
	<u>CCP §704.030</u>
Houstrailer	<u>CCP §704.710</u>
Mobilehome	<u>CCP §704.710</u>
Homestead	<u>CCP §704.020</u>
	<u>CCP §704.030</u>
Household Furnishings	<u>CCP §704.020</u>
Irrigation System Retirement Benefits	<u>CCP §704.110</u>
Insurance:	
Disability Insurance	<u>CCP §704.130</u>
Fraternal Benefit Society	<u>CCP §704.110</u>
Group Life	<u>CCP §704.100</u>
Health Insurance Benefits	<u>CCP §704.130</u>
Individual	<u>CCP §704.100</u>
Insurance Proceeds—Motor Vehicle	<u>CCP §704.010</u>
Jewelry	<u>CCP §704.040</u>
Judges Survivors Benefits (Federal)	28 USC §376(n)
Legislators Retirement Benefits	<u>CCP §704.110</u>
	<u>Govt C §9359.3</u>
Licenses	<u>CCP §695.060</u>
Lighthouse Keepers Widows Benefits	33 USC §775
Longshore & Harbor Workers' Compensation or Benefits	33 USC §916
Military Benefits:	
Retirement	10 USC §1440
Survivors	10 USC §1450
Military Personnel—Property	50 USC Appx §524
Motor Vehicle (including proceeds)	<u>CCP §704.010</u>
	<u>CCP §704.060</u>
Municipal Utility District Benefits	<u>CCP §704.110</u>
	<u>Pub Util C §12337</u>
Peace Officers Retirement Benefits	<u>CCP §704.110</u>
	<u>Govt C §31913</u>
Personal Effects	<u>CCP §704.020</u>
Personal Injury Actions or Damages	<u>CCP §704.140</u>
Pension Plans:	
Private	<u>CCP §704.115</u>
Public	<u>CCP §704.110</u>
Prisoner's Funds	<u>CCP §704.090</u>
Property Not Subject to Enforcement of Money Judgments	<u>CCP §704.210</u>
Prosthetic & Orthopedic Devices	<u>CCP §704.050</u>
Provisions (for Residence)	<u>CCP §704.020</u>
Public Assistance	<u>CCP §740.170</u>
	<u>Welf & I C §17409</u>
Public Employees:	
Death Benefits	<u>CCP §704.110</u>
Pension	<u>CCP §704.110</u>
Retirement Benefits	<u>CCP §704.110</u>
Vacation Credits	<u>CCP §704.113</u>
Railroad Retirement Benefits	45 USC §231m
Railroad Unemployment Insurance	45 USC §352(e)

Relocation Benefits	<u>CCP §704.180</u>
Retirement Benefits & Contributions—	
Private	<u>CCP §704.115</u>
Public	<u>CCP §704.110</u>
Segregated Benefit Funds	<u>Ins C §10498.5</u>
Social Security	<u>Ins C §10498.6</u>
Social Security Direct Deposit Account	42 USC §407
Soldiers' and Sailors' Property	<u>CCP §704.080</u>
Strike Benefits	50 USC Appx §524
Student Aid	<u>CCP §704.120</u>
Tools of Trade	<u>CCP §704.190</u>
Transit District Retirement Benefits (Alameda & Contra Costa Counties)	<u>CCP §704.060</u>
	<u>CCP §704.110</u>
Travelers Check Sales Proceeds	<u>Pub Util C §25337</u>
Unemployment Benefits and Contributions	<u>Fin C §1875</u>
Uniforms	<u>CCP §704.120</u>
Vacation Credits (Public Employees)	<u>CCP §704.060</u>
Veterans Benefits	<u>CCP §704.113</u>
Veterans Medal of Honor Benefits	38 USC §5301
Wages	38 USC §1562
	<u>CCP §704.070</u>
	<u>CCP §706.050</u>
	<u>CCP §706.051</u>
Welfare Payments	<u>CCP §704.170</u>
	<u>Welf & I C §17409</u>
Workers' Compensation Claims or Awards	<u>CCP §704.160</u>
Wrongful Death Actions or Damages	<u>CCP §704.150</u>

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX D Questions to Consider for Examination

APPENDIX D

Questions to Consider for Examination

SAMPLE EXAMINATION QUESTIONNAIRE

Complete the first four lines BEFORE the examination.

Date of examination: _____ Case No. _____

Person to be examined: _____

Judgment for: _____ Entered: _____, 2 _ _ _

Balance Due: \$ _____

To expedite matters, begin the questionnaire by asking, "Can you pay this debt?"

A. Identity of Debtor

1. Name and address: _____

2. Telephone number: _____

3. Date of birth: _____

Place: _____

4. Are you married? _____

If so, give your spouse's first and maiden names. _____

5. Do you have any children? _____

If so, give names, ages, and addresses. _____

6. Have you been married before? _____

If so, give names and addresses of former spouses, dates of marriage, and dates of divorce or death.

7. Do you live in an apartment or a private home? _____

8. If you live in a private home, who owns it? _____

If it is owned by you or by a relative, state when purchased, how much it cost, and whose money was used.

9. How many rooms do you occupy? _____

10. Do you have a lease? _____

11. Landlord's name and address:

12. How much is the rent? _____

13. Who pays the rent? _____

14. Is it paid by cash or check? _____

15. Are your rent payments up to date? _____

16. Do you have any boarders or subtenants? _____

If so, give their names and the amount of rent paid by each. _____

B. Employment

17. What is your occupation? _____

18. Are you employed or in business? _____

If so, give name, address, and phone number of your employer or business. _____

19. What is your social security number? _____

Verify social security and employment/self-employment testimony if the judgment debtor will agree to give you a letter addressed to the Social Security Administration, Department of Health and Human Services (nearest local office), requesting a transcript of the debtor's account over last year.

20. If you are currently employed, give full details of any contract of employment and the amount of salary, commissions, or other compensation you receive, pay periods, and the amount of any sums owed to you.

21. Do you have any part-time employment? _____

If so, please describe. _____

22. What, if any, are your hobbies? _____

Have you received any income from them? _____

23. Are your spouse or any of your children employed or in business? _____

If so, give the name and address of such employment or business and the salary or income derived:

24. If you are not the sole support of your family, state the amount of contribution of each member of your family toward the support of your home.

25. If you are employed or in business, state whether you or any members of your family or other relatives are, or at any time were, proprietors, part owners, stockholders, directors, or officers of any such business.

26. State the business you conduct or have conducted and the positions you have held in the last 15 years, together with the income you received from the business or position.

27. Are you an officer, director, or stockholder of any corporation? _____

If so, give full details. _____

C. Cash, Bank Deposits, Other Assets

28. Do you have, in your own name or jointly, any bank account—commercial, savings, credit union, or otherwise?

If so, state the institution's name, branch address where the account is located, and the amount of the balance.

Make sure you ask specifically about many kinds of bank accounts, e.g., special checking, Christmas clubs, special savings or thrift accounts, credit union savings, mutual thrift or saving companies, savings and loan, company savings and "share" accounts, and postal savings. Unless you ask specifically, debtor may avoid giving an informative answer. Be sure to ask about IRAs. Although there is an exemption for them, they are not automatically exempt 100 percent. See Schwartzman v Wilshinsky (1996) 50 CA4th 619, 57 CR2d 790; Gonzalez v Davis (BAP 9th Cir 2005) 325 BR 732.

29. Do you have a bank account subject to your control? _____

If so, please describe. _____

30. When and where did you last have a bank account?

31. When did you make your last deposit? _____

32. When did you draw your last check? _____

33. Do you have power of attorney or other authority to sign checks or other instruments for the payment of money on any bank account? _____

34. Does your spouse have a bank account? _____

If so, state the name and address of the bank and the amount of the balance. _____

35. Explain the source of the money in your spouse's bank account.

36. Do you or your spouse have a safe deposit box? _____

If not, when did you last have one? _____

37. Give the name and address of any bank or safe deposit company in which a safe deposit box is or was maintained.

38. Do you have the right of access to any safe deposit box? _____

39. How much cash do you have with you at this time? _____

40. What property have you disposed of since this order was served on you, either cash or other personal or real property?

D. Insurance

41. Do you have any accident, health, disability, annuity or income, retirement, pension, or life insurance?

If so, complete the following:

(a) Name of each insurance company or insurer:

(b) The amount, type, and date of issuance of each policy:

(c) Number of each policy:

(d) Annual premium paid for each life insurance policy: \$ _____

(e) Annual premium paid for disability insurance: \$ _____

(f) Annual premium paid for health insurance: \$ _____

(g) Particulars of any assignment or assignments of any insurance policy:

(h) Dates and amounts of any loans against such policies:

42. If you have borrowed on any insurance policy, what did you do with the money?

43. Are you receiving or do you have any claim for disability payments on any insurance policy? _____

If so, state name of company, number and particulars of policy, and the amount.

44. Do you have fire insurance on the contents of your home? _____

If so, state the amount, the name of the insurance company, and in whose name it is issued.

45. Where do you keep your insurance policies? _____

46. Will you make the policies available for inspection after this examination is adjourned? _____

E. Automobile

47. Do you have a driver's license? _____

If so, supply license number and name of state. _____

A chauffeur's license? _____

If so, supply license number and name of state. _____

48. Does your spouse have a driver's license? _____

If so, supply license number and name of state: _____

49. What make, model, and year car do you drive? _____

Do you own it? _____

If mortgaged, state to whom and in what amount. _____

F. Properties

50. Do you or your spouse own or have any interest in any of the following, either in California or elsewhere?

(a) Real estate, land, buildings, condominiums, *etc.* _____

If so, describe. _____

(b) Stocks, bonds, or other securities of any description, either in your possession or held by someone else for you.

If so, describe. _____

(c) Mortgages or trust deeds on real or personal property. _____

If so, describe. _____

(d) Promissory notes, drafts, bills of exchange, or other commercial paper. _____

If so, describe. _____

(e) Judgments. _____

If so, describe. _____

(f) A watch, diamonds, other jewelry, or antiques of any character. _____

If so, describe. _____

(g) Stamp or coin collections. _____

If so, describe. _____

(h) Defense, war savings, or savings bonds. _____

If so, describe. _____

(i) Credit union accounts. _____

If so, describe. _____

(j) Any automobile or truck. _____

If so, describe. _____

Any other vehicle, livestock, or farm implements. _____

If so, describe. _____

(k) Patents, inventions, trade names, trademarks, or copyrights. _____

If so, describe. _____

(l) Joint ventures or other business enterprises. _____

If so, describe. _____

(m) Warehouse receipts, bills of lading, or other documents of title. _____

If so, describe. _____

(n) Musical instruments. _____

If so, describe. _____

51. Do you or your spouse own any other property not enumerated above? _____

If so, give full details. _____

52. If any such property is mortgaged, pledged, encumbered, or subject to any conditional bill of sale, give full details, including current status.

53. Have you or your spouse any personal property in pawn? _____

If so, give full details. _____

54. Have you or your spouse purchased or are you or your spouse purchasing any article on an installment plan?

If so, give full details concerning each purchase, the amount, and how installment payments are being made.

55. Have you or your spouse any interest in the estate of any deceased person? _____

If so, give full details. _____

56. Are you or your spouse the beneficiary of any trust? _____

If so, give full details. _____

57. Have you or your spouse inherited any money or property? _____

If so, give full details. _____

58. Are you the beneficiary of or do you have any interest in any will or insurance policy? _____

If so, give full details. _____

59. Have you made a will? _____

If so, where is it? _____

Would you produce it for inspection after this hearing is adjourned? _____

60. Have you any securities with any stock brokerage firm? _____

If so, describe. _____

61. Have you any account with any stockbroker or commodity broker? _____

If so, give full details. _____

62. When did you last have any such account? _____

Give full details. _____

63. Have you now or did you ever have power of attorney or authority over any other stock, bond, or other security or commodity account? _____

If so, give full details. _____

64. Within the past year, have you received any payments of money other than those already described?

If so, state when, the amounts, and all particulars, including what was done with the money.

65. Have you assigned any cause of action, judgment, insurance policy, salary, income, or disability payments?

If so, describe what was assigned and give full details of any such assignment.

66. Have you transferred any other property within the past five years? _____

If so, describe the property and give full details of any such transfer. _____

67. Have you filed any trade name certificates or partnership certificates? _____

If so, under what name? _____

68. Do you belong to any organizations, clubs, or unions? _____

If so, please list. _____

69. Has any kind of license, permit, or appointment been issued or granted to you by any state, city, county, or federal government or agency or department? _____

If so, give full details. _____

70. Are you entitled to any money from any state, city, county, or federal government or agency or department?

If so, give full details. _____

71. Does anyone owe you money? _____

If so, give full details. _____

72. Are you acting as executor, administrator, trustee, receiver, guardian, or in any other capacity under any will, agreement, or court appointment? _____

If so, give full details. _____

G. Books and Records; Tax Returns

73. What books and records showing your receipts and disbursements do you keep?

(a) Where do you keep them? _____

(b) Are you willing to produce them for inspection after the adjournment of this hearing? _____

74. Did you file federal or state income tax returns in the last five years? _____

(a) If so, are those returns available for inspection after this hearing adjourns? _____

(b) Were any items on the return questioned by either the state or federal government? _____

If so, give full details. _____

(c) Are you expecting any refund? _____

If so, give full details and amount. _____

(d) Do you have an accountant? _____

If so, what is his or her name and address? _____

H. Loans and Obligations; Judgments Against Debtor; Other Court Proceedings

75. What are your average monthly expenses, and how are they met?

76. Are you making any payments to any creditor? _____

If so, give full details. _____

77. What is the total of your liabilities, exclusive of this judgment? \$ _____

What are the names and addresses of your creditors? _____

78. When and for what purposes were these liabilities incurred?

79. Have you applied for a loan from any bank, finance company, or other lending institution in the last five years?

If so, what happened to such application? _____

80. If a loan was obtained, what did you do with the proceeds?

81. Have you in the past five years acted as a comaker, endorser, or guarantor of any loan? _____

If so, please give full details. _____

82. Have you issued any financial statement in the past five years? _____

If so, to whom, why, and when? _____

83. Are you unable to pay your debts? _____

84. Are you a party to any contract of any kind? _____

If so, please describe: _____

85. Have you ever been in bankruptcy? _____

If so, state when, where, and the disposition. _____

86. Have you ever made an assignment for the benefit of creditors? _____

If so, when and where? _____

87. Are you or your spouse plaintiff or defendant in any court action or proceeding? _____

If so, give full details. _____

88. Are there any judgments of record against you? _____

If so, give dates, amounts, court where rendered, and name of judgment creditor. _____

89. Have you made any payments on any such judgments? _____

If so, give full details, including when payment was made and the amount paid. _____

90. Has a court ever appointed a receiver of your property? _____

If so, give full details. _____

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX E Sample Turnover Order

APPENDIX E
Sample Turnover Order



1 Raymond R. Goldstein, Esq. (SB #168981)
Center for Enforcement of Family Support
2 5855 Green Valley Circle, Suite 315
Culver City, CA 90230
3 TEL: (310) 417-4141 FAX: (310) 417-5060

4 Attorney for Plaintiff

5 SUPERIOR COURT OF THE STATE OF CALIFORNIA
6 FOR THE COUNTY LOS ANGELES

7 PETER PLAINTIFF, | Case No: 01-999999
8 |
Plaintiff | TURNOVER ORDER
9 vs. |
10 DAVID DEFENDANT, | DATE:
| TIME:
11 | DEPT:
Defendants | TRIAL DATE: Post Judgment

12 It appears from the examination of __[name]__, __[the judgment debtor/a third
13 person]__, that the judgment debtor has an interest in the following property in the
14 possession or under the control of __[the judgment debtor/a third person]__ that is not
15 exempt from enforcement of the money judgment __[Describe property]__.

16 Cash on his person in the amount of \$1,000.00

17 IT IS ORDERED that __[name]__, __[the judgment debtor/a third person]__,
18 __[immediately/within __[number]__ days after the date of this order]__ deliver to the __
19 __[judgment creditor/sheriff of __[name of county]__ County]__ the __[describe
20 property/sum of \$ __[amount]__]__, which is to be applied toward the satisfaction of the
21 judgment.

22 Dated: _____ [Signature]__

23 _____ [Typed name]__

24 _____ [Judge/Referee]__

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX F Property Not Subject to Enforcement by Execution

APPENDIX F

Property Not Subject to Enforcement by Execution

ABC License

Ask court to appoint a receiver to transfer an Alcoholic Beverage Control Commission license. CCP §699.720(a)(1); CCP §708.630. See step 23.

Cause of Action

File a notice of lien in pending or special action to reach debtor's interest in a pending cause of action or special proceeding. CCP §699.720(a)(3). See CCP §708.410-708.480 for complete procedures; see also step 23.

Commissions

To reach commissions that will be payable in the future (execution would be limited to the amount due at the time of levy; see CCP §700.170), use an assignment order. See step 24.

Conservatorship Property

Reach property held for debtor by conservator (CCP §699.720(a)(10)) by filing motion in court where the conservatorship is pending to have conservator pay the judgment. CCP §709.030. See step 23.

Contingent Interests

If judgment creditor has an interest that is not yet vested (*e.g.*, contingent remainder, executory interest, or other interest; see CCP §699.720(a)(9)), petition the court for an order to apply this interest to satisfy the judgment. CCP §709.020. See step 23.

Copyright Payments

Copyright payments due in the future (execution would be limited to the amount due at the time of levy; see CCP §700.170) are reached by assignment order. See step 24.

Debt of Public Entity

Reach debt due to debtor from a public entity (CCP §699.720(a)(5)) by (see CCP §§708.710-708.795; see also step 23):

- a. Obtaining an abstract of judgment from the clerk of the court; and
- b. Serving that abstract on the public entity.

Franchise Granted by Public Entity

Reach debtor's franchise granted by a public entity (CCP §699.720(a)(7)) by serving a noticed motion on *both* (CCP §§708.910-708.930; see step 23):

- a. Judgment debtor; and
- b. Public entity that granted the franchise.

Guardianship Property

Reach property held for debtor by guardian (CCP §699.720(a)(10)) by filing motion in court where the guardianship is pending to have guardian pay the judgment. CCP §709.030. See step 23.

Insurance Contract

To reach loan value of unmaturing insurance, endowment, or annuity policy, use an assignment order. CCP §699.720(a)(6). See step 24.

Judgment Not Final

Use the same procedure as for a pending cause of action (see Cause of Action, above) to reach a judgment in favor of debtor that is not final as to the debtor (CCP §699.720(a)(4)), *e.g.*, judgment not final because of an appeal, a motion for a new trial, or other reasons. See step 23.

Partnership Interest

Ask court for a charging order (CCP §§708.310-708.320; Corp C §§15673, 16504, 17302) to reach a partner's interest in partnership (CCP §699.720(a)(2)), including a limited liability partnership. See Corp C §§16951-16962. See step 23.

Patent Payments

Patent payments due in the future (execution would be limited to the amount due at the time of levy; see CCP §700.170) are reached by assignment order. See step 24.

Rents

Rents that debtor is entitled to receive in the future are not reachable by execution but are reachable by assignment order. See Hustead v Superior Court (1969) 2 CA3d 780, 789, 83 CR 26. See steps 23-24.

Royalties

Royalties that will be payable in the future (execution would be limited to the amount due at the time of levy; see CCP §700.170) are reached by assignment order. See step 24.

Trust Interest of Beneficiary

File a petition in the court having jurisdiction over administration of the trust (CCP §709.010) to reach debtor's trust interest. See Prob C §82; CCP §699.720(a)(8); see also step 23.

Wages

To reach earnings before payment to debtor, use a wage garnishment. See steps 22-25.

Note: Federal wages are subject to an Earnings Withholding Order (EWO) as of January 1, 1995, by the Hatch Act (5 USC §5520(a)). Assignment orders are still useable, but much more cumbersome than new direct EWO. For specifics on EWO, see discussion in step 25.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX G Sample Notice of Motion and Motion for Assignment Order; Declaration; Supporting Memorandum; and Order

APPENDIX G

Sample Notice of Motion and Motion for Assignment Order; Declaration; Supporting Memorandum; and Order



1 Raymond R. Goldstein, Esq. (SB #168981)
Center for Enforcement of Family Support
2 5855 Green Valley Circle, Suite 315
Culver City, CA 90230
3 TEL: (310) 417-4141 FAX: (310) 417-5060
4
5
6

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY LOS ANGELES

8 PETER PLAINTIFF,) Case No: 01-999999
9)
10 Plaintiff,) NOTICE OF MOTION AND MOTION FOR
) ASSIGNMENT ORDER
11 And)
12 DAVID DEFENDANT,) Date:
13 Defendant) Time:
) Ctrm:
) Trial Date: Post Judgment

14 TO JUDGMENT debtor or his attorney of record:

15 At the date, time and place noted above, the Judgment Creditor will move the Court
16 for an order under Section 708.510 of the Code of Civil Procedure to order the judgment
17 debtor to assign to the judgment creditor all or part of a right to a payment due or to become
18 due based on [state reason: e.g. commissions due as an independent sales agent, and for
19 periodic accountings of those commissions]. This motion is made on the ground that the
20 money judgment in this action has become final and remains unsatisfied. C.C.P. 708.510
21 provides that this is a proper method of enforcement judgment against debtor's right to
22 payment.

23 /////

24 /////

1 This motion is based on this notice, all of the pleadings, records, and papers filed
2 herein, the declaration and supporting memorandum attached hereto and oral and
3 documentary evidence as may be presented at the hearing on the motion.

4 DATED: August 13, 2008

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Raymond R. Goldstein, Esq.

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1 Raymond R. Goldstein, Esq. (SB #168981)
Center for Enforcement of Family Support
2 5855 Green Valley Circle, Suite 315
Culver City, CA 90230
3 TEL: (310) 417-4141 FAX: (310) 417-5060

4 SUPERIOR COURT OF THE STATE OF CALIFORNIA
5 FOR THE COUNTY LOS ANGELES

6) Case No: 01-999999
)
7 PETER PLAINTIFF,) DECLARATION IN SUPPORT OF MOTION
) FOR ASSIGNMENT ORDER
8 Plaintiff,)
vs.)
9) Date:
10 DAVID DEFENDANT,) Time:
) Ctrm:
11 Defendant) Judge: Post Judgment
)

12 I, the undersigned, declare:

13 1. I am the attorney for Peter Plaintiff, Plaintiff herein.

14 2. [State reasons e.g. At a Judgment Debtor examination that I conducted on
15 May 10, 2008, the Judgment Debtor testified that he is an independent sales agent who
16 is paid by commissions. As an independent sales agent, he keeps his commission and
17 remits the net premium to the telecommunications company.]

18 3. As of the date of the hearing, the balance to satisfy the judgment is
19 \$ _____
20

21 I declare under penalty of perjury, under the laws of the State of California, that
22 the foregoing is true and correct and that this declaration is executed at Los Angeles,
23 California, on August 13, 2008

24
25 _____
26 RAYMOND R. GOLDSTEIN
Attorney for Plaintiff

1 Raymond R. Goldstein, Esq. (SB #168981)
Center for Enforcement of Family Support
2 5855 Green Valley Circle, Suite 315
Culver City, CA 90230
3 TEL: (310) 417-4141 FAX: (310) 417-5060
4
5

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY LOS ANGELES

7 PETER PLAINTIFF,) Case No: 01-999999
8)
9 Plaintiff,) MEMORANDUM IN SUPPORT OF
MOTION FOR ASSIGNMENT ORDER
10 And)
DAVID DEFENDANT,) DATE:
11) TIME:
12 Defendant) DEPT:
TRIAL DATE: Post Judgment

13 SUPPORTING MEMORANDUM

14 1. "(a) Except as otherwise provided by law, upon application of the judgment creditor on
15 noticed motion, the court may order the judgment debtor to assign to the judgment creditor or
16 to a receiver appointed pursuant to Article 7 (commencing with Section 708.610) all or part of
a right to payment due or to become due, whether or not the right is conditioned on future
developments, including but not limited to the following types of payments:
17 (1) Wages due from the federal government that are not subject to withholding
under an earnings withholding order.
18 (2) Rents.
19 (3) Commissions.
20 (4) Royalties.
21 (5) Payments due from a patent or copyright.
(6) Insurance policy loan value.
(b) The notice of the motion shall be served on the judgment debtor. Service shall be
made personally or by mail.
(c) Subject to subdivisions (d), (e), and (f), in determining whether to order an
22 assignment or the amount of an assignment pursuant to subdivision (a), the court may take into
consideration all relevant factors, including the following:
23 (1) The reasonable requirements of a judgment debtor who is a natural person and of
24 persons supported in whole or in part by the judgment debtor.
(2) Payments the judgment debtor is required to make or that are deducted in
25 satisfaction of other judgments and wage assignments, including earnings assignment orders
for support.
26 (3) The amount remaining due on the money judgment.

Center for Enforcement of Family Support
(310) 417-4141

1 (4) The amount being or to be received in satisfaction of the right to payment that
2 may be assigned.

3 (d) A right to payment may be assigned pursuant to this article only to the extent
4 necessary to satisfy the money judgment.

5 (e) When earnings or periodic payments pursuant to a pension or retirement plan are
6 assigned pursuant to subdivision (a), the amount of the earnings or the periodic payments
7 assigned shall not exceed the amount that may be withheld from a like amount of earnings
8 under Chapter 5 (commencing with Section 706.010) (Wage Garnishment Law).

9 (f) Where a specific amount of the payment or payments to be assigned is exempt by
10 another statutory provision, the amount o the payment or payments to be assigned pursuant to
11 subdivision (a) shall not exceed the amount by which the payment or payments exceed the
12 exempt amount.”

13 CCP Section 708.510(a)

14 2. The above quoted section provides the only method to reach a contingent asset, such as
15 the future commissions from the sales of real estate, available under the Enforcement of
16 Judgments Law.

17 3. Although nothing in the statute prohibits assigning 100% of future commissions from
18 the sales of real estate, Judgment Creditor chooses to treat such monies as if they were wages,
19 and requests that the court assign only ___% of said monies.

20 4. As the Declaration of Peter Plaintiff served and filed herewith demonstrates the amount
21 of this unsatisfied judgment, as of the date of the hearing herein is \$_____. Wherefore
22 the judgment creditor and moving party respectfully requests that this court issue its order
23 assigning those proceeds which would otherwise be paid the Judgment Debtor to the judgment
24 creditor herein, up to the amount necessary to satisfy this judgment

25 DATED: August 13, 2008

26 _____
27 Raymond R. Goldstein, Esq.

1 Raymond R. Goldstein, Esq. (SB #168981)
Center for Enforcement of Family Support
2 5855 Green Valley Circle, Suite 315
Culver City, CA 90230
3 TEL: (310) 417-4141 FAX: (310) 417-5060

4 SUPERIOR COURT OF THE STATE OF CALIFORNIA
5 FOR THE COUNTY LOS ANGELES

6 PETER PLAINTIFF,) Case No: 01-999999
7 Plaintiff,)
8 vs.) ASSIGNMENT ORDER
9 DAVID DEFENDANT,)
10 Defendant.)

11 Judgment Creditor's motion for an Assignment Order came on regularly for hearing
12 with Judgment Creditor submitting his motion on the moving papers and Judgment Debtor
13 [appearing by [[their attorney (s)]] / not appearing].

14 Upon consideration of the declarations(s) submitted in support of said motion, and
15 good cause appearing therefor,

16 IT IS ORDERED that the said Defendant assign to the Judgment Creditor the
17 following:
18 [e.g., 25% of all commissions earned in the sale of telecommunications packages until the
19 judgment is satisfied. IT IS FURTHER ORDERED that the Judgment Debtor file and serve
20 an accounting of those commissions, every thirty days, commencing on the thirtieth day after
21 service with this order.]

22 FAILURE TO COMPLY WITH THIS ORDER MAY SUBJECT YOU
23 TO BEING HELD IN CONTEMPT OF COURT AND PUNISHABLE BY JAIL.

24 Date: August 5, 2008

25 _____
26 Judge

27 Page 1

28 ASSIGNMENT ORDER

APPENDIX H
Sample Abstract of Judgment

Print

EJ-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and address, State Bar number, and telephone number):
Recording requested by and return to: 310/417-4141 310/417-5060
Raymond R. Goldstein, 168981
CENTER FOR ENFORCEMENT OF FAMILY SUPPORT
5855 Green Valley Circle, #315
Culver City, CA 90230
 ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS: 111 N. Hill Street
CITY AND ZIP CODE: Los Angeles 90012
BRANCH NAME: Central

FOR RECORDER'S USE ONLY

PLAINTIFF: Peter Plaintiff
DEFENDANT: David Defendant

CASE NUMBER:
01-999999

ABSTRACT OF JUDGMENT - CIVIL Amended
AND SMALL CLAIMS

FOR COURT USE ONLY

1. The judgment creditor assignee of record applies for an abstract of judgment and represents the following:
a. Judgment debtor's
Name and last known address
David Defendant
123 Coffee Street
Clear Town, CA 95618
b. Driver's license no. [last 4 digits] and state: Unknown
c. Social security no. [last 4 digits]: xxx-xx-6789 Unknown
d. Summons or notice of entry of sister-state judgment was personally served or mailed to (name and address): David Defendant
123 Coffee Street, Clear Town, CA 95618

2. Information on additional judgment debtors is shown on page 2.
3. Judgment creditor (name and address):
Peter Plaintiff
C/O Raymond R. Goldstein
5855 Green Valley Circle, #315 Culver City, CA 90230
Date: July 15, 2008
Raymond R. Goldstein
(TYPE OR PRINT NAME)

4. Information on additional judgment creditors is shown on page 2.
5. Original abstract recorded in this county:
a. Date:
b. Instrument No.:
(SIGNATURE OF APPLICANT OR ATTORNEY)

6. Total amount of judgment as entered or last renewed:
\$500,000.00
7. All judgment creditors and debtors are listed on this abstract.
8. a. Judgment entered on (date): 07/08/98
b. Renewal entered on (date): 12/31/03
9. This judgment is an installment judgment.

10. An execution lien attachment lien is endorsed on the judgment as follows:
a. Amount: \$
b. In favor of (name and address):
11. A stay of enforcement has
a. not been ordered by the court.
b. been ordered by the court effective until (date):
12. a. I certify that this is a true and correct abstract of the judgment entered in this action.
b. A certified copy of the judgment is attached.

(SEAL)

This abstract issued on (date):

Clerk, by _____, Deputy

PLAINTIFF: Peter Plaintiff	CASE NUMBER: 01-999999
DEFENDANT: David Defendant	

NAMES AND ADDRESSES OF ADDITIONAL JUDGMENT CREDITORS:

13. Judgment creditor (*name and address*):

14. Judgment creditor (*name and address*):

15. Continued on Attachment 15.

INFORMATION ON ADDITIONAL JUDGMENT DEBTORS:

16. Name and last known address

17. Name and last known address

Driver's license no. [last 4 digits] Unknown and state:

Driver's license no. [last 4 digits] Unknown and state:

Social security no. [last 4 digits]: Unknown

Social security no. [last 4 digits]: Unknown

Summons was personally served at or mailed to (*address*):

Summons was personally served at or mailed to (*address*):

18. Name and last known address

19. Name and last known address

Driver's license no. [last 4 digits] Unknown and state:

Driver's license no. [last 4 digits] Unknown and state:

Social security no. [last 4 digits]: Unknown

Social security no. [last 4 digits]: Unknown

Summons was personally served at or mailed to (*address*):

Summons was personally served at or mailed to (*address*):

20. Continued on Attachment 20.

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX I Sample Notice of Judgment Lien on Personal Property

APPENDIX I
Sample Notice of Judgment Lien on Personal Property

Print



NOTICE OF JUDGMENT LIEN

FOLLOW INSTRUCTIONS CAREFULLY (front and back of form)

A. NAME & PHONE OF FILER'S CONTACT (optional)

B. SEND ACKNOWLEDGMENT TO: (NAME AND ADDRESS)

Raymond R. Goldstein, Esq. (SB #168981)
Center for Enforcement of Family Support
5855 Green Valley Circle, Suite 315
Culver City, CA 90230
TEL: (310) 417-4141 FAX: (310) 417-5060

THIS SPACE FOR FILING OFFICE USE ONLY

1. JUDGMENT DEBTOR'S EXACT LEGAL NAME - Insert only one name, either 1a or 1b. Do not abbreviate or combine names.

1a. ORGANIZATION'S NAME

1b. INDIVIDUAL'S LAST NAME

Defendant

FIRST NAME

David

MIDDLE NAME

SUFFIX

1c. MAILING ADDRESS

456 Main Street

CITY

Los Angeles

STATE

CA

POSTAL CODE

90000

COUNTRY

2. JUDGMENT CREDITOR'S NAME - Do not abbreviate or combine names.

2a. ORGANIZATION'S NAME

2b. INDIVIDUAL'S LAST NAME

Plaintiff

FIRST NAME

Peter

MIDDLE

SUFFIX

2c. MAILING ADDRESS

123 Main Street

CITY

Pasadena

STATE

CA

POSTAL CODE

01100

COUNTRY

3. ALL PROPERTY SUBJECT TO ENFORCEMENT OF A MONEY JUDGMENT AGAINST THE JUDGMENT DEBTOR TO WHICH A JUDGMENT LIEN ON PERSONAL PROPERTY MAY ATTACH UNDER SECTION 697.530 OF THE CODE OF CIVIL PROCEDURE IS SUBJECT TO THIS JUDGMENT LIEN.

A. Title of court where judgment was entered: Superior Court of California, City of Los Angeles

B. Title of the action: Peter Plaintiff v. David Defendant

C. Number of this action: 01-999999

D. Date judgment was entered: August 4, 1999

E. Date of subsequent renewals of judgment (if any): August 4, 2006

F. Amount required to satisfy judgment at date of this notice: \$ 1,701,020.00

G. Date of this notice: August 4, 2006

4. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

SIGNATURE - SEE INSTRUCTION NO. 4

FOR: Attorney for Peter Plaintiff

Dated: August 4, 2006

(If not indicated, use same as date in item 3G.)

JL FILING INSTRUCTIONS

Please type or laser-print information on this form. Be sure information provided is legible. Read all instructions and follow them completely. Complete the form very carefully as mistakes may have important legal consequences. Do not insert anything in the open space in the upper right portion of this form as it is reserved for filing office use. Do not staple or otherwise mutilate the barcode in the upper left corner of the document, this will render the barcode ineffective.

To provide the requester with an acknowledgment of filing, the original and a duplicate copy of the notice must be presented for filing. This Notice of Judgment Lien must be filed according to provisions of Section 697.510 of the Code of Civil Procedure.

- Section A:** To assist filing office communication with the filer, information in this section should be provided.
- Section B:** Enter name and mailing address of requester in this section. This is required information.
- ITEM 1a or 1b:** Enter the exact legal name of the organization or the name of the individual that is the debtor appearing on the court judgment. Use the judgment lien addendum to add additional judgment debtor names.
- ITEMS 1c:** Enter the last known mailing address of the judgment debtor.
- ITEM 2a or 2b:** Enter the exact legal name of the organization or the name of the individual that is the creditor appearing on the court judgment. Use the judgment lien addendum for additional judgment creditor names.
- ITEMS 2c:** Enter the last known mailing address of the judgment creditor.
- ITEM 3A-E:** Enter information from the court judgment.
- ITEM 3F:** Enter the amount of the court judgment adjusted for interest and payments to the date of the notice.
- ITEM 3G:** The date of the statement will normally be the date the notice is executed.
- ITEM 4:** The signature of either the judgment creditor or the judgment creditor's attorney is required. (Section 697.550, Code of Civil Procedure)

If the individual signing the statement signs on behalf of a law firm, which is the attorney of record, the name of the law firm should be entered BENEATH, not above, the signature. If the signature is for a judgment creditor, which is an entity, the name of the entity should be entered BENEATH, not above, the signature of the person signing for the judgment creditor.

The Judgment Lien must be submitted with a filing fee of ten dollars (\$10.00) if the original document is two pages or less and twenty dollars (\$20.00) if the original document is three pages or more. Please send a check made payable to the **Secretary of State**. DOCUMENTS NOT ACCOMPANIED BY THE FILING FEE WILL NOT BE PROCESSED.

When properly completed, send **payment**, and the **original** and a **duplicate copy** of the notice to:

**Secretary of State
P.O. Box 942835
Sacramento, CA 94235-0001**

JUDGMENT LIEN ADDENDUM

FOLLOW INSTRUCTIONS CAREFULLY (FRONT AND BACK OF FORM)

5. NAME OF JUDGMENT DEBTOR: (NAME OF FIRST DEBTOR ON RELATED JUDGMENT LIEN)

5a. ORGANIZATION'S NAME			
5b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

6. ADDITIONAL JUDGMENT DEBTOR – insert only one name (6a or 6b):

6a. ORGANIZATION'S NAME			
6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
6c. MAILING ADDRESS	CITY	STATE	POSTAL CODE COUNTRY

7. ADDITIONAL JUDGMENT DEBTOR – insert only one name (7a or 7b):

7a. ORGANIZATION'S NAME			
7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE COUNTRY

8. ADDITIONAL JUDGMENT DEBTOR – insert only one name (8a or 8b):

8a. ORGANIZATION'S NAME			
8b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
8c. MAILING ADDRESS	CITY	STATE	POSTAL CODE COUNTRY

9. ADDITIONAL JUDGMENT CREDITOR – insert only one name (9a or 9b):

9a. ORGANIZATION'S NAME			
9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
9c. MAILING ADDRESS	CITY	STATE	POSTAL CODE COUNTRY

10. ADDITIONAL JUDGMENT CREDITOR – insert only one name (10a or 10b):

10a. ORGANIZATION'S NAME			
10b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
10c. MAILING ADDRESS	CITY	STATE	POSTAL CODE COUNTRY



JUDGMENT LIEN ADDENDUM INSTRUCTIONS

This form is to be used for listing additional judgment debtors and/or creditors to the NOTICE OF JUDGMENT LIEN.

Please type or laser-print information on this form. Be sure information provided is legible. Read all instructions and follow them completely. Complete the form very carefully as mistakes may have important legal consequences. **Attach this ADDENDUM to the completed NOTICE OF JUDGMENT LIEN.**

ITEM 5: Provide the name of the judgment debtor shown in Item 1 of the original NOTICE OF JUDGMENT LIEN. Provide only one name by completing either 5a or 5b, as applicable.

ITEMS 6, 7, 8: To add additional debtor names to the judgment lien record, enter the appropriate information in Item 6, 7 or 8, as needed. For each of these items, enter either an organization name or an individual name, not both.

Provide the complete mailing address for each judgment debtor.

ITEMS 9, 10: To add additional creditor names to the judgment lien record, enter the appropriate information in Item 9 or 10, as needed. For each of these items, enter either an organization name or an individual name, not both.

Provide the complete mailing address for each judgment creditor.

APPENDIX J
Sample Writ of Execution

Form I: No Costs or Accrued Interest



EJ-130

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address): Raymond R. Goldstein, 168981 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT 5855 Green Valley Circle, #315 Culver City, CA 90230 TELEPHONE NO.: 310/417-4141 FAX NO. (Optional): 310/417-5060 E-MAIL ADDRESS (Optional): Goldstein@EnforceSupport.com ATTORNEY FOR (Name): Peter Plaintiff <input checked="" type="checkbox"/> ATTORNEY FOR <input checked="" type="checkbox"/> JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Central	
PLAINTIFF: Peter Plaintiff DEFENDANT: David Defendant	
WRIT OF <input checked="" type="checkbox"/> EXECUTION (Money Judgment) <input type="checkbox"/> POSSESSION OF <input type="checkbox"/> Personal Property <input type="checkbox"/> Real Property <input type="checkbox"/> SALE	CASE NUMBER: 01-999999

1. To the Sheriff or any Marshal or Constable of the County of:

Los Angeles

You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. To any registered process server: You are authorized to serve this writ only in accord with CCP 699.080 or CCP 715.040.

3. (Name): Peter Plaintiff

is the judgment creditor assignee of record whose address is shown on this form above the court's name.

4. Judgment debtor (name and last known address):

David Defendant 123 Coffee Street Clear Town, CA 95618
--

9. See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.
 10. This writ is issued on a sister-state judgment.
- | | |
|---|--------------|
| 11. Total judgment | \$ 33,557.14 |
| 12. Costs after judgment (per filed order or memo CCP 685.090) | \$ 0.00 |
| 13. Subtotal (add 11 and 12) | \$ 33,557.14 |
| 14. Credits | \$ 0.00 |
| 15. Subtotal (subtract 14 from 13) | \$ 33,557.14 |
| 16. Interest after judgment (per filed affidavit CCP 685.050) (not on GC 6103.5 fees) | \$ |
| 17. Fee for issuance of writ | \$ 15.00 |
| 18. Total (add 15, 16, and 17) | \$ 33,572.14 |

additional judgment debtors on next page

5. Judgment entered on (date): December 27, 2000

6. Judgment renewed on (dates):

7. Notice of sale under this writ

- a. has not been requested
 b. has been requested (see next page)

8. Joint debtor information on next page.

19. Levying officer:
 (a) Add daily interest from date of writ (at the legal rate on 15) (not on GC 6103.5 fees) of \$ 9.19
 (b) Pay directly to court costs included in 11 and 17 (GC 6103.5, 68511.3, CCP 699.520(i)) \$ 0.00
 20. The amounts called for in items 11-19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.

[SEAL]

Issued on (date): _____ Clerk, by _____, Deputy

NOTICE TO PERSON SERVED: SEE NEXT PAGE FOR IMPORTANT INFORMATION.



SHORT TITLE:
Peter Plaintiff v. David Defendant

CASE NUMBER:
01-999999

— Items continued from page 1 —

21. Additional judgment debtor (name and last known address):

22. Notice of sale has been requested by (name and address):

23. Joint debtor was declared bound by the judgment (CCP 989-994)

a. on (date):

a. on (date):

b. name and address of joint debtor:

b. name and address of joint debtor:

c. additional costs against certain joint debtors (itemize):

24. (Writ of Possession or Writ of Sale) Judgment was entered for the following:

a. Possession of real property: The complaint was filed on (date):

(Check (1) or (2)):

(1) The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46
The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.

(2) The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.

(a) \$ _____ was the daily rental value on the date the complaint was filed.

(b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following
dates (specify):

b. Possession of personal property

If delivery cannot be had, then for the value (itemize in 9e) specified in the judgment or supplemental order.

c. Sale of personal property

d. Sale of real property

e. Description of property:

NOTICE TO PERSON SERVED

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying *Notice of Levy* (Form EJ-150).

WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will make a demand upon you for the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

► A Claim of Right to Possession form accompanies this writ (unless the Summons was served in compliance with CCP 415.46).

Form 2: Includes Costs and Accrued Interest; No Payments



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address): Raymond R. Goldstein, 168981 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT 5855 Green Valley Circle, #315 Culver City, CA 90230 TELEPHONE NO.: (310) 417-4141 FAX NO. (Optional): (310) 417-5060		FOR COURT USE ONLY	
E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Peter Plaintiff <input checked="" type="checkbox"/> ATTORNEY FOR <input checked="" type="checkbox"/> JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Central			
PLAINTIFF: Peter Plaintiff DEFENDANT: David Defendant			
WRIT OF <input checked="" type="checkbox"/> EXECUTION (Money Judgment) <input type="checkbox"/> POSSESSION OF <input type="checkbox"/> Personal Property <input type="checkbox"/> SALE <input type="checkbox"/> Real Property		CASE NUMBER: 01-999999	

1. To the Sheriff or any Marshal or Constable of the County of:

Los Angeles

You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. To any registered process server: You are authorized to serve this writ only in accord with CCP 699.080 or CCP 715.040.

3. (Name): Peter Plaintiff

is the judgment creditor assignee of record whose address is shown on this form above the court's name.

4. Judgment debtor (name and last known address):

David Defendant
123 Coffee Street
Clear Town, CA 95618

9. See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.

10. This writ is issued on a sister-state judgment.

11. Total judgment \$ 38,900.00

12. Costs after judgment (per filed order or memo CCP 685.090) \$ 188.00

13. Subtotal (add 11 and 12) \$ 39,088.00

14. Credits \$ 0.00

15. Subtotal (subtract 14 from 13) \$ 39,088.00

16. Interest after judgment (per filed affidavit CCP 685.050) (not on GC 6103.5 fees) \$ 916.55

17. Fee for issuance of writ \$ 15.00

18. Total (add 15, 16, and 17) \$ 40,019.55

19. Levying officer:

(a) Add daily interest from date of writ (at the legal rate on 15) (not on GC 6103.5 fees) of \$ 10.69

(b) Pay directly to court costs included in 11 and 17 (GC 6103.5, 68511.3, CCP 699.520(i)) \$ 0.00

20. The amounts called for in items 11-19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.

additional judgment debtors on next page

5. Judgment entered on (date): 3/8/06

6. Judgment renewed on (dates):

7. Notice of sale under this writ

a. has not been requested

b. has been requested (see next page)

8. Joint debtor information on next page.

[SEAL]

Issued on (date): _____ Clerk, by _____, Deputy

NOTICE TO PERSON SERVED: SEE NEXT PAGE FOR IMPORTANT INFORMATION.



— Items continued from page 1 —

21. Additional judgment debtor (name and last known address):

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

22. Notice of sale has been requested by (name and address):

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

23. Joint debtor was declared bound by the judgment (CCP 989-994)

a. on (date):

a. on (date):

b. name and address of joint debtor:

b. name and address of joint debtor:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

c. additional costs against certain joint debtors (itemize):

24. (Writ of Possession or Writ of Sale) Judgment was entered for the following:

a. Possession of real property: The complaint was filed on (date):

(Check (1) or (2)):

(1) The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46

The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.

(2) The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.

(a) \$ _____ was the daily rental value on the date the complaint was filed.

(b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates (specify):

b. Possession of personal property

If delivery cannot be had, then for the value (itemize in 9e) specified in the judgment or supplemental order.

c. Sale of personal property

d. Sale of real property

e. Description of property:

NOTICE TO PERSON SERVED

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying Notice of Levy (Form EJ-150).

WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will make a demand upon you for the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

► A Claim of Right to Possession form accompanies this writ (unless the Summons was served in compliance with CCP 415.46).



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Raymond R. Goldstein, 168981 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT 5855 Green Valley Circle, #315 Culver City, CA 90230 TELEPHONE NO.: (310) 417-4141 FAX NO. (Optional): (310) 417-5060 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Peter Plaintiff	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Central	
PLAINTIFF/PETITIONER: Peter Plaintiff DEFENDANT/RESPONDENT: David Defendant	
DECLARATION	CASE NUMBER: 01-999999

1. I am the attorney for Judgment Creditor herein.
2. Interest is calculated first by taking the judgment amount and multiplying by 10% to obtain the yearly amount of interest; then dividing that yearly amount by 365 to obtain the daily amount of interest.
3. The yearly amount of interest is calculated for each full year from the date of entry of judgment (or, if appropriate, from the last payment or interest calculation). The daily amount of interest is then multiplied by the number of days since entry of judgment (or if appropriate since the last payment or interest calculation).
4. Judgment was entered on: 3/8/2006
5. Yearly amount of interest is: \$3,890.00
6. Full years from date of entry of judgment: zero
7. Amount of full year interest: \$0.00
8. The daily amount of interest is : \$10.6575
9. Days from entry of judgment to today: 86
10. Amount of daily accrued interest: \$916.55

(Continued on Additional Page form MC-020)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2008

Raymond R. Goldstein

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

- Attorney for
 Plaintiff
 Petitioner
 Defendant
 Respondent
 Other (Specify):



SHORT TITLE:

CASE NUMBER:

Peter Plaintiff v. David Defendant

01-999999

1 Interest declaration continued.

2

3 11. Total accrued interest (line 7 plus line 10): \$916.55

4 12. Total payments made: \$0.00

5 13. Payments applied to accrued interest: \$

6 14. Total applied to Sheriff's disbursement fees: \$

7 15. Total applied to judgment: \$

8

9

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26 (Required for verified pleading) The items on this page stated on information and belief are (specify item numbers, not line numbers):

27 This page may be used with any Judicial Council form or any other paper filed with the court.



PAYMENT RECORD FOR CLAIM/JUDGMENT

File #	CEB-1	Contingency	30% Pay Day	0	Interest Rate	10.00%	
Debtor(s)	David Defendant	Claim/Judgment Amount	\$ 38,900.00	Case #	01-999998	Date	4/2/01

Total: Costs \$ 161.00 Interest \$19,112.11 Payments \$ 37,544.33 Balance \$ 20,628.78

Trans Date	Notes	Daily Interest Amount	# of Days	Current Interest Due	Automatic Levy Costs	Costs Description	PostJudg Taxed Costs	Costs Description	Payment Amount	Remaining Total Interest Due
8/30/01	Interest calculation	10.6575	150	\$1,598.63					\$ 1,000.00	\$1,598.63
4/2/02	Interest calculation	10.6575	215	\$2,291.37					\$ 1,544.33	\$2,890.00
4/2/03	Interest calculation	10.6575	365	\$3,890.00	\$ 37.00	Writ, levy & disb fee			\$ 5,000.00	\$5,235.67
5/3/03	Interest calculation	10.6575	31	\$330.38			\$ 50.00	RPS fee by motion		
6/2/03	Interest calculation	10.6712	30	\$320.14			\$ 74.00	Memo of Costs		\$923.19
2/28/04	Interest calculation	10.6915	271	\$2,897.40						\$3,820.59
2/29/04	Interest calculation	0.0000	1	\$0.00						\$3,820.59
6/2/04	Interest calculation	10.6915	94	\$1,005.00					\$ 10,000.00	\$4,825.59
6/3/06	Interest calculation	9.2739	731	\$6,779.19					\$ 20,000.00	\$6,779.19

8/16/2006

PAYMENT APPLIED TO:

AutoLevy Costs	Accrued Interest	Principal Judgment Amount	New Principal Judgment Balance	Total Accrued Interest	Total Paid
\$ -	\$ 1,000.00	\$ -	\$ 38,900.00	\$ 1,598.63	\$ 1,000.00
\$ -	\$ 1,544.33	\$ -	\$ 38,900.00	\$ 3,890.00	\$ 2,544.33
\$ 37.00	\$ 4,963.00	\$ -	\$ 38,900.00	\$ 7,780.00	\$ 7,544.33
\$ -	\$ -	\$ -	\$ 38,950.00	\$ 8,110.38	\$ 7,544.33
\$ -	\$ -	\$ -	\$ 39,024.00	\$ 8,430.52	\$ 7,544.33
\$ -	\$ -	\$ -	\$ 39,024.00	\$ 11,327.92	\$ 7,544.33
\$ -	\$ -	\$ -	\$ 39,024.00	\$ 11,327.92	\$ 7,544.33
\$ -	\$ 4,825.59	\$ 5,174.41	\$ 33,849.59	\$ 12,332.92	\$ 17,544.33
\$ -	\$ 6,779.19	\$ 13,220.81	\$ 20,628.78	\$ 19,112.11	\$ 37,544.33

Payment Record for Claim/Judgment



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Raymond R. Goldstein, 168981 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT 5855 Green Valley Circle, #315 Culver City, CA 90230 TELEPHONE NO: (310) 417-4141 FAX NO: (310) 417-5060 ATTORNEY FOR (Name): Peter Plaintiff	FOR COURT USE ONLY
NAME OF COURT: Superior Court of California STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Central	
PLAINTIFF: Peter Plaintiff DEFENDANT: David Defendant	
MEMORANDUM OF COSTS AFTER JUDGMENT, ACKNOWLEDGMENT OF CREDIT, AND DECLARATION OF ACCRUED INTEREST	CASE NUMBER: 01-999999

1. I claim the following costs after judgment incurred within the last two years (indicate if there are multiple items in any category):

		Date Incurred	Amount
a	Preparing and issuing abstract of judgment	3/8/08	\$ 15.00
b	Recording and indexing abstract of judgment	3/8/08	\$ 18.00
c	Filing notice of judgment lien on personal property	3/8/08	\$ 20.00
d	Issuing writ of execution, to extent not satisfied by Code Civ. Proc., § 685.050 (specify county): Los Angeles	3/8/08	\$ 15.00
e	Levying officer's fees, to extent not satisfied by Code Civ. Proc., § 685.050 or wage garnishment	3/10/08	\$ 30.00
f	Approved fee on application for order for appearance of judgment debtor, or other approved costs under Code Civ. Proc., § 708.010 et seq.	5/4/08	\$ 90.00
g	Attorney fees, if allowed by Code Civ. Proc., § 685.040		\$
h	Other: (Statute authorizing cost):		\$
i	Total of claimed costs for current memorandum of costs (add items a-h)		\$ 188.00

2. All previously allowed postjudgment costs: \$

3. **Total of all postjudgment costs (add items 1 and 2):** **TOTAL \$ 188.00**

4. **Acknowledgment of Credit.** I acknowledge total credit to date (including returns on levy process and direct payments) in the amount of: \$ 18,271.33

5. **Declaration of Accrued Interest.** Interest on the judgment at the legal rate from the date of entry on balances due after partial partial satisfaction and other credits in the amount of: \$ 916.55

6. I am the judgment creditor agent for the judgment creditor attorney for the judgment creditor.

I have knowledge of the facts concerning the costs claimed above. To the best of my knowledge and belief, the costs claimed are correct, reasonable, and necessary, and have not been satisfied.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2008

Raymond R. Goldstein (SIGNATURE OF DECLARANT)

NOTICE TO THE JUDGMENT DEBTOR

If this memorandum of costs is filed at the same time as an application for a writ of execution any statutory costs, *not exceeding \$100 in aggregate and not already allowed by the court* may be included in the writ of execution. *The fees sought under this memorandum may be disallowed by the court upon a motion to tax filed by the debtor, notwithstanding the fees having been included in the writ of execution.* (Code Civ. Proc., § 685.070(e).) A motion to tax costs claimed in this memorandum must be filed within 10 days after service of the memorandum. (Code Civ. Proc., § 685.070(c).)

(Proof of service on reverse)



PROOF OF SERVICE

Mail **Personal Service**

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. My residence or business address is (*specify*): Center for Enforcement of Family Support
5855 Green Valley Circle, #315
Culver City, CA 90230

3. I mailed or personally delivered a copy of the *Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest* as follows (*complete either a or b*):
 - a. **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope AND
 - (a) **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - (b) **placed** the envelope for collection and mailing on the date and at the place shown in items below following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States postal Service in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served: David Defendant
 - (b) Address on envelope: 123 Coffee Street
Clear Town, CA 95618
 - (c) Date of mailing: July 30, 2008
 - (d) Place of mailing (*city and state*): Culver City, CA
 - b. **Personal delivery.** I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:

 - (3) Date delivered:
 - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2008

Raymond R. Goldstein

.....
[TYPE OR PRINT NAME]

(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address): Raymond R. Goldstein, 168981 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT 5855 Green Valley Circle, #315 Culver City, CA 90230 TELEPHONE NO.: (310) 417-4141 FAX NO. (Optional): (310) 417-5060		FOR COURT USE ONLY	
E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Peter Plaintiff <input checked="" type="checkbox"/> ATTORNEY FOR <input checked="" type="checkbox"/> JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Central			
PLAINTIFF: Peter Plaintiff DEFENDANT: David Defendant			
WRIT OF <input checked="" type="checkbox"/> EXECUTION (Money Judgment) <input type="checkbox"/> POSSESSION OF <input type="checkbox"/> Personal Property <input type="checkbox"/> SALE <input type="checkbox"/> Real Property		CASE NUMBER: 01-999999	

1. To the Sheriff or any Marshal or Constable of the County of:

Los Angeles

You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. To any registered process server: You are authorized to serve this writ only in accord with CCP 699.080 or CCP 715.040.

3. (Name): Peter Plaintiff

is the judgment creditor assignee of record whose address is shown on this form above the court's name.

4. Judgment debtor (name and last known address):

David Defendant 123 Coffee Street Clear Town, CA 95618
--

- 9. See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.
- 10. This writ is issued on a sister-state judgment.
- 11. Total judgment \$ 38,900.00
- 12. Costs after judgment (per filed order or memo CCP 685.090) \$ 124.00
- 13. Subtotal (add 11 and 12) \$ 39,024.00
- 14. Credits \$ 18,395.22
- 15. Subtotal (subtract 14 from 13) \$ 20,628.78
- 16. Interest after judgment (per filed affidavit CCP 685.050) (not on GC 6103.5 fees) \$ 0.00
- 17. Fee for issuance of writ \$ 15.00
- 18. Total (add 15, 16, and 17) \$ 20,643.78
- 19. Levying officer:
 (a) Add daily interest from date of writ (at the legal rate on 15) (not on GC 6103.5 fees) of \$ 5.65
 (b) Pay directly to court costs included in 11 and 17 (GC 6103.5, 68511.3, CCP 699.520(i)) \$ 0.00
- 20. The amounts called for in items 11-19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.

additional judgment debtors on next page

5. Judgment entered on (date): 4/12/01

6. Judgment renewed on (dates):

7. Notice of sale under this writ

- a. has not been requested
- b. has been requested (see next page)

8. Joint debtor information on next page.

[SEAL]

Issued on (date): _____ Clerk, by _____, Deputy

NOTICE TO PERSON SERVED: SEE NEXT PAGE FOR IMPORTANT INFORMATION.



— Items continued from page 1 —

21. **Additional judgment debtor** (*name and last known address*):
- _____

22. **Notice of sale** has been requested by (*name and address*):
- _____

23. **Joint debtor** was declared bound by the judgment (CCP 989-994)
- a. on (*date*): _____ a. on (*date*): _____
 b. name and address of joint debtor: _____ b. name and address of joint debtor: _____
 c. additional costs against certain joint debtors (*itemize*): _____
24. (*Writ of Possession or Writ of Sale*) **Judgment** was entered for the following:
- a. Possession of real property: The complaint was filed on (*date*): _____
 (**Check (1) or (2)**):
 (1) The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46
 The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.
 (2) The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.
 (a) \$ _____ was the daily rental value on the date the complaint was filed.
 (b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following
 dates (*specify*): _____
- b. Possession of personal property
 If delivery cannot be had, then for the value (*itemize in 9e*) specified in the judgment or supplemental order.
- c. Sale of personal property
 d. Sale of real property
 e. Description of property: _____

NOTICE TO PERSON SERVED

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying *Notice of Levy* (Form EJ-150).

WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will make a demand upon you for the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

▶ *A Claim of Right to Possession form accompanies this writ (unless the Summons was served in compliance with CCP 415.46).*



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Raymond R. Goldstein, 188981 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT 5855 Green Valley Circle, #315 Culver City, CA 90230 TELEPHONE NO.: (310) 417-4141 FAX NO. (Optional): (310) 417-5060 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Peter Plaintiff	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Central	
PLAINTIFF/PETITIONER: Peter Plaintiff DEFENDANT/RESPONDENT: David Defendant	
DECLARATION	CASE NUMBER: 01-999999

1. I am the attorney for Peter Plaintiff, Judgment Creditor herein.
2. Interest is calculated first by taking the judgment amount and multiplying by 10% and dividing that amount by 365 to obtain the daily amount of interest.
3. The daily amount of interest is then multiplied by the number of days since entry of judgment (or if appropriate since the last payment calculation).
4. The payments are applied to accrued interest and court approved or taxed costs first, then to the judgment balance.
5. The detailed calculations on the attached Exhibit show total accrued interest since the judgment of \$19,200.00 and approved costs of \$161.00. Total payments were made of \$37,544.33. The total credit applied to the judgment is \$18,271.33 (the difference between the amount paid minus the accrued interest and approved or taxed costs).
6. I prepared the original of the attached Exhibit in the normal course of my business, at or about the time of the transactions reflected. I am the normal custodian of the original records.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2008

Raymond R. Goldstein
 (TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

- Attorney for
 Plaintiff
 Petitioner
 Defendant
 Respondent
 Other (Specify):



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Raymond R. Goldstein, 168981 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT 5855 Green Valley Circle, #315 Culver City, CA 90230 TELEPHONE NO: 310/417-4141 FAX NO: 310/417-5060 ATTORNEY FOR (Name): Peter Plaintiff	FOR COURT USE ONLY
NAME OF COURT: Superior Court of California STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Central	
PLAINTIFF: Peter Plaintiff DEFENDANT: David Defendant	
MEMORANDUM OF COSTS AFTER JUDGMENT, ACKNOWLEDGMENT OF CREDIT, AND DECLARATION OF ACCRUED INTEREST	CASE NUMBER: 01-999999

1. I claim the following costs after judgment incurred within the last two years (indicate if there are multiple items in any category):

		Date Incurred	Amount
a	Preparing and issuing abstract of judgment	5/3/08	\$ 15.00
b	Recording and indexing abstract of judgment	5/3/08	\$ 44.00
c	Filing notice of judgment lien on personal property		\$
d	Issuing writ of execution, to extent not satisfied by Code Civ. Proc., § 685.050 (specify county): Los Angeles	3/8/08	\$ 15.00
e	Levying officer's fees, to extent not satisfied by Code Civ. Proc., § 685.050 or wage garnishment		\$
f	Approved fee on application for order for appearance of judgment debtor, or other approved costs under Code Civ. Proc., § 708.010 et seq.		\$
g	Attorney fees, if allowed by Code Civ. Proc., § 685.040		\$
h	Other: RPS (Statute authorizing cost):		\$ 50.00
i	Total of claimed costs for current memorandum of costs (add items a-h)		\$ 124.00

2. All previously allowed postjudgment costs: \$

3. Total of all postjudgment costs (add items 1 and 2): TOTAL \$ 124.00

4. **Acknowledgment of Credit.** I acknowledge total credit to date (including returns on levy process and direct payments) in the amount of: \$ 18,395.22

5. **Declaration of Accrued Interest.** Interest on the judgment at the legal rate from the date of entry on balances due after partial partial satisfaction and other credits in the amount of: \$

6. I am the judgment creditor agent for the judgment creditor attorney for the judgment creditor.

I have knowledge of the facts concerning the costs claimed above. To the best of my knowledge and belief, the costs claimed are correct, reasonable, and necessary, and have not been satisfied.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2008

Raymond R. Goldstein
 (TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

NOTICE TO THE JUDGMENT DEBTOR

If this memorandum of costs is filed at the same time as an application for a writ of execution any statutory costs, not exceeding \$100 in aggregate and not already allowed by the court may be included in the writ of execution. The fees sought under this memorandum may be disallowed by the court upon a motion to tax filed by the debtor, notwithstanding the fees having been included in the writ of execution. (Code Civ. Proc., § 685.070(e).) A motion to tax costs claimed in this memorandum must be filed within 10 days after service of the memorandum. (Code Civ. Proc., § 685.070(c).)

(Proof of service on reverse)



SHORT TITLE:

Peter Plaintiff v. David Defendant

CASE NUMBER

01-999999

PROOF OF SERVICE

Mail **Personal Service**

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. My residence or business address is (*specify*): Center for Enforcement of Family Support
5855 Green Valley Circle, #315
Culver City, CA 90230
3. I mailed or personally delivered a copy of the *Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest* as follows (*complete either a or b*):
 - a. **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope AND
 - (a) **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - (b) **placed** the envelope for collection and mailing on the date and at the place shown in items below following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States postal Service in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served: David Defendant
 - (b) Address on envelope: 123 Coffee Street
Clear Town, CA 95618
 - (c) Date of mailing: July 30, 2008
 - (d) Place of mailing (*city and state*): Culver City, CA
 - b. **Personal delivery.** I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:
 - (3) Date delivered:
 - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2008

Raymond R. Goldstein

.....(TYPE OR PRINT NAME).....

.....(SIGNATURE OF DECLARANT).....

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX K Withholding Order (Wage Garnishment)

APPENDIX K
Withholding Order (Wage Garnishment)



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): (310) 417-4141 / (310) 417-5060 Raymond R. Goldstein, 168981 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT 5855 Green Valley Circle, #315 Culver City, CA 90230 ATTORNEY FOR (Name): Peter Plaintiff		TELEPHONE NO.: LEVYING OFFICER (Name and Address): Los Angeles County Sheriff's Department 110 N. Grand Ave. RM 525 Los Angeles, CA 90012
NAME OF COURT, JUDICIAL DISTRICT, AND BRANCH COURT, IF ANY: Superior Court of California, County of Los Angeles Central		
PLAINTIFF: Peter Plaintiff DEFENDANT: David Defendant		
APPLICATION FOR EARNINGS WITHHOLDING ORDER (Wage Garnishment)		LEVYING OFFICER FILE NO.: COURT CASE NO.: 01-999999

TO THE SHERIFF OR ANY MARSHAL OR CONSTABLE OF THE COUNTY OF Los Angeles
 OR ANY REGISTERED PROCESS SERVER

1. The judgment creditor (name):

Peter Plaintiff

requests issuance of an Earnings Withholding Order directing the employer to withhold the earnings of the judgment debtor (employee).

Name and address of employer

Old Broken Electronics
 345 Fifth Street
 Clear Town, CA 95618

Name and address of employee

David Defendant
 123 Coffee Street
 Clear Town, CA 95618

Social Security Number (# known): 111-22-3333

2. The amounts withheld are to be paid to

a. The attorney (or party without an attorney)
 named at the top of this page.

b. Other (name, address, and telephone):

3. a. Judgment was entered on (date): October 15, 2000

b. Collect the amount directed by the Writ of Execution unless a lesser amount is specified here:

\$

4. The Writ of Execution was issued to collect delinquent amounts payable for the support of a child, former spouse, or spouse of the employee.

5. Special instructions (specify):

Please serve personally. Please hold Writ Full-Term.

6. (Check a or b)

a. I have not previously obtained an order directing this employer to withhold the earnings of this employee.
 - OR -

b. I have previously obtained such an order, but that order (check one):
 was terminated by a court order, but I am entitled to apply for another Earnings Withholding Order under the provisions of Code of Civil Procedure section 706.105(h).
 was ineffective.

Raymond R. Goldstein
 (TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 15, 2008

Raymond R. Goldstein
 (TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX L Notice of Levy

APPENDIX L
Notice of Levy

Form 1: Set for Signature by Levying Officer



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address):
 Recording requested by and return to: (310) 417-4141 / (310) 417-5060
 Raymond R. Goldstein, 168981
 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT
 5855 Green Valley Circle, #315
 Culver City, CA 90230
 ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

NAME OF COURT: Superior Court of California, County of Los Angeles
 STREET ADDRESS: 111 N. Hill Street
 MAILING ADDRESS: 111 N. Hill Street
 CITY AND ZIP CODE: Los Angeles 90012
 BRANCH NAME: Central

PLAINTIFF: Peter Plaintiff
 DEFENDANT: David Defendant

NOTICE OF LEVY
 under Writ of Execution (Money Judgment) Sale

TEL NO.:

FOR RECORDER'S USE ONLY
 LEVYING OFFICER (Name and Address):
 Los Angeles County
 Sheriff's Department
 110 N. Grand Ave. RM 525
 Los Angeles, CA 90012

LEVYING OFFICER FILE NO.:
 COURT CASE NO.: 01-999999

TO THE PERSON NOTIFIED (name):

David Defendant

1. The judgment creditor seeks to levy upon property in which the judgment debtor has an interest and apply it to the satisfaction of a judgment as follows:

a. judgment debtor (name): David Defendant

b. the property to be levied upon is described

in the accompanying writ of possession or writ of sale.

as follows:

any and all chattel paper, instruments, negotiable documents of title, securities, accounts receivable, general intangibles, or the proceeds thereof, standing in the name of the judgment debtor(s) along with deposit accounts, and/or safe deposit boxes located at Bank of America, 555 Main St., Los Angeles, CA 90012

2. The amount necessary to satisfy the judgment creditor's judgment is:

a. Total amount due (less partial satisfactions)	.....	\$	33,572.14
b. Levy fee NOTE - Govt Code 26731	.....	\$	30.00
c. Sheriff's disbursement fee NOTE - Govt Code 26746	.....	\$	10.00
d. Recoverable costs	.....	\$
e. Total (a through d)	.....	\$	<u>33,612.14</u>
f. Daily interest	.....	\$	9.19

3. You are notified as

a. a judgment debtor.

b. a person other than the judgment debtor (state capacity in which person is notified):

(Read Information for Judgment Debtor or Information for Person Other Than Judgment Debtor on page two.)

Notice of Levy was

- mailed on (date):
- delivered on (date):
- posted on (date):
- filed on (date):
- recorded on (date):

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

Levying officer Registered process server



— INFORMATION FOR JUDGMENT DEBTOR —

1. The levying officer is required to take custody of the property described in Item 1 in your possession or under your control.
2. You may claim any available exemption for your property. A list of exemptions is attached. **If you wish to claim an exemption for personal property, you must do so within 10 days after this notice was delivered to you or 15 days after this notice was mailed to you** by filing a claim of exemption and one copy with the levying officer as provided in section 703.520 of the Code of Civil Procedure. **If you do not claim an exemption, you may lose it and the property is subject to enforcement of a money judgment. If you wish to seek the advice of an attorney, you should do so immediately so that a claim of exemption can be filed on time.**
3. You are not entitled to claim an exemption for property that is levied upon under a judgment for sale of property. This property is described in the accompanying writ of sale. You may, however, claim available exemptions for property levied upon to satisfy damages or costs awarded in such a judgment.
4. You may obtain the release of your property by paying the amount of a money judgment with interest and costs remaining unpaid.
5. If your property is levied upon under a writ of execution or to satisfy damages and costs under a writ of possession or sale, the property may be sold at an execution sale, perhaps at a price substantially below its value. Notice of sale will be given to you. Notice of sale of real property (other than a leasehold estate with an unexpired term of less than two years) may not be given until at least 120 days after this notice is served on you. This grace period is intended to give you an opportunity to settle with the judgment creditor, to obtain a satisfactory buyer for the property, or to encourage other potential buyers to attend the execution sale.
6. All sales at an execution sale are final; there is no right of redemption.

— INFORMATION FOR PERSON OTHER THAN JUDGMENT DEBTOR —

1. If the property levied upon is in your possession or under your control and you do not claim the right to possession or a security interest, you must deliver the property to the levying officer. If you do not deny an obligation levied upon or do not claim a priority over the judgment creditor's lien, you must pay to the levying officer the amount that is due and payable and that becomes due and payable during the period of the execution lien, which lasts two years from the date of issuance of the writ of execution. You must execute and deliver any documents needed to transfer the property.
2. You must complete the accompanying Memorandum of Garnishee.
3. If you claim ownership or the right to possession of real or personal property levied upon or if you claim a security interest in or lien on personal property levied upon, you may make a third-party claim and obtain the release of the property pursuant to sections 720.010–720.800 of the Code of Civil Procedure.
4. **Make checks payable to the levying officer.**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): TEL NO.:
 Recording requested by and return to: (310) 417-4141 / (310) 417-5060
 Raymond R. Goldstein, 168981
 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT
 5855 Green Valley Circle, #315
 Culver City, CA 90230
 ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

NAME OF COURT: Superior Court of California, County of Los Angeles
 STREET ADDRESS: 111 N. Hill Street
 MAILING ADDRESS: 111 N. Hill Street
 CITY AND ZIP CODE: Los Angeles 90012
 BRANCH NAME: Central

FOR RECORDER'S USE ONLY
 LEVYING OFFICER (Name and Address):
 Los Angeles County
 Sheriff's Department
 110 N. Grand Ave. RM 525
 Los Angeles, CA 90012

PLAINTIFF: Peter Plaintiff
 DEFENDANT: David Defendant

NOTICE OF LEVY
 under Writ of Execution (Money Judgment) Sale

LEVYING OFFICER FILE NO.: COURT CASE NO.:
 01-999999

TO THE PERSON NOTIFIED (name):

Bank of America

1. The judgment creditor seeks to levy upon property in which the judgment debtor has an interest and apply it to the satisfaction of a judgment as follows:

a. judgment debtor (name): David Defendant

b. the property to be levied upon is described

in the accompanying writ of possession or writ of sale.

as follows:

any and all chattel paper, instruments, negotiable documents of title, securities, accounts receivable, general intangibles, or the proceeds thereof, standing in the name of the judgment debtor(s) along with deposit accounts, and/or safe deposit boxes located at Bank of America, 555 Main St., Los Angeles, CA 90012

2. The amount necessary to satisfy the judgment creditor's judgment is:

a. Total amount due (less partial satisfactions)	.....	\$	33,572.14
b. Levy fee NOTE: Govt Code 26731	.....	\$	30.00
c. Sheriff's disbursement fee NOTE: Govt Code 26746	.....	\$	10.00
d. Recoverable costs	.....	\$
e. Total (a through d)	.....	\$	<u>33,612.14</u>
f. Daily interest	.....	\$	9.19

3. You are notified as

a. a judgment debtor.

b. a person other than the judgment debtor (state capacity in which person is notified):

Financial Institute

(Read Information for Judgment Debtor or Information for Person Other Than Judgment Debtor on page two.)

Notice of Levy was

- mailed on (date):
- delivered on (date):
- posted on (date):
- filed on (date):
- recorded on (date):

Date:

(TYPE OR PRINT NAME)



(SIGNATURE)

Levying officer Registered process server



SHORT TITLE: Peter Plaintiff v. David Defendant	LEVYING OFFICER FILE NO.: 01-000000	COURT CASE NO.: 01-999999
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— INFORMATION FOR JUDGMENT DEBTOR —

1. The levying officer is required to take custody of the property described in item 1 in your possession or under your control.
2. You may claim any available exemption for your property. A list of exemptions is attached. **If you wish to claim an exemption for personal property, you must do so within 10 days after this notice was delivered to you or 15 days after this notice was mailed to you** by filing a claim of exemption and one copy with the levying officer as provided in section 703.520 of the Code of Civil Procedure. **If you do not claim an exemption, you may lose it and the property is subject to enforcement of a money judgment. If you wish to seek the advice of an attorney, you should do so immediately so that a claim of exemption can be filed on time.**
3. You are not entitled to claim an exemption for property that is levied upon under a judgment for sale of property. This property is described in the accompanying writ of sale. You may, however, claim available exemptions for property levied upon to satisfy damages or costs awarded in such a judgment.
4. You may obtain the release of your property by paying the amount of a money judgment with interest and costs remaining unpaid.
5. If your property is levied upon under a writ of execution or to satisfy damages and costs under a writ of possession or sale, the property may be sold at an execution sale, perhaps at a price substantially below its value. Notice of sale will be given to you. Notice of sale of real property (other than a leasehold estate with an unexpired term of less than two years) may not be given until at least 120 days after this notice is served on you. This grace period is intended to give you an opportunity to settle with the judgment creditor, to obtain a satisfactory buyer for the property, or to encourage other potential buyers to attend the execution sale.
6. All sales at an execution sale are final; there is no right of redemption.

— INFORMATION FOR PERSON OTHER THAN JUDGMENT DEBTOR —

1. If the property levied upon is in your possession or under your control and you do not claim the right to possession or a security interest, you must deliver the property to the levying officer. If you do not deny an obligation levied upon or do not claim a priority over the judgment creditor's lien, you must pay to the levying officer the amount that is due and payable and that becomes due and payable during the period of the execution lien, which lasts two years from the date of issuance of the writ of execution. You must execute and deliver any documents needed to transfer the property.
2. You must complete the accompanying Memorandum of Garnishee.
3. If you claim ownership or the right to possession of real or personal property levied upon or if you claim a security interest in or lien on personal property levied upon, you may make a third-party claim and obtain the release of the property pursuant to sections 720.010–720.800 of the Code of Civil Procedure.
4. **Make checks payable to the levying officer.**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): TEL NO.:

Recording requested by and return to: (310) 417-4141 / (310) 417-5060

Raymond R. Goldstein, 168981
CENTER FOR ENFORCEMENT OF FAMILY SUPPORT
5855 Green Valley Circle, #315
Culver City, CA 90230

ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

NAME OF COURT: Superior Court of California, County of Los Angeles
STREET ADDRESS: 111 N. Hill Street
MAILING ADDRESS: 111 N. Hill Street
CITY AND ZIP CODE: Los Angeles 90012
BRANCH NAME: Central

FOR RECORDER'S USE ONLY

LEVYING OFFICER (Name and Address):

Los Angeles County
Sheriff's Department
110 N. Grand Ave. RM 525
Los Angeles, CA 90012

PLAINTIFF: Peter Plaintiff

DEFENDANT: David Defendant

NOTICE OF LEVY

under Writ of Execution (Money Judgment) Sale

LEVYING OFFICER FILE NO.:

COURT CASE NO.:

01-999999

TO THE PERSON NOTIFIED (name):

David Defendant

1. The judgment creditor seeks to levy upon property in which the judgment debtor has an interest and apply it to the satisfaction of a judgment as follows:

a. judgment debtor (name): David Defendant

b. the property to be levied upon is described

in the accompanying writ of possession or writ of sale.

as follows:

any and all chattel paper, instruments, negotiable documents of title, securities, accounts receivable, general intangibles, or the proceeds thereof, standing in the name of the judgment debtor(s) along with deposit accounts, and/or safe deposit boxes located at Bank of America, 555 Main St., Los Angeles, CA 90012

2. The amount necessary to satisfy the judgment creditor's judgment is:

a. Total amount due (less partial satisfactions)	.....	\$	33,572.14
b. Levy fee	NOTE: Govt Code 26731	\$	30.00
c. Sheriff's disbursement fee	NOTE: Govt Code 26746	\$	10.00
d. Recoverable costs	.....	\$
e. Total (a through d)	.....	\$	<u>33,612.14</u>
f. Daily interest	.....	\$	9.19

3. You are notified as

a. a judgment debtor.

b. a person other than the judgment debtor (state capacity in which person is notified):

(Read Information for Judgment Debtor or Information for Person Other Than Judgment Debtor on page two.)

Notice of Levy was

- mailed on (date):
- delivered on (date):
- posted on (date):
- filed on (date):
- recorded on (date):

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

Levying officer

Registered process server

SHORT TITLE: Peter Plaintiff v. David Defendant	LEVYING OFFICER FILE NO.: 01-000000	COURT CASE NO.: 01-999999
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— INFORMATION FOR JUDGMENT DEBTOR —

1. The levying officer is required to take custody of the property described in item 1 in your possession or under your control.
2. You may claim any available exemption for your property. A list of exemptions is attached. **If you wish to claim an exemption for personal property, you must do so within 10 days after this notice was delivered to you or 15 days after this notice was mailed to you** by filing a claim of exemption and one copy with the levying officer as provided in section 703.520 of the Code of Civil Procedure. **If you do not claim an exemption, you may lose it and the property is subject to enforcement of a money judgment. If you wish to seek the advice of an attorney, you should do so immediately so that a claim of exemption can be filed on time.**
3. You are not entitled to claim an exemption for property that is levied upon under a judgment for sale of property. This property is described in the accompanying writ of sale. You may, however, claim available exemptions for property levied upon to satisfy damages or costs awarded in such a judgment.
4. You may obtain the release of your property by paying the amount of a money judgment with interest and costs remaining unpaid.
5. If your property is levied upon under a writ of execution or to satisfy damages and costs under a writ of possession or sale, the property may be sold at an execution sale, perhaps at a price substantially below its value. Notice of sale will be given to you. Notice of sale of real property (other than a leasehold estate with an unexpired term of less than two years) may not be given until at least 120 days after this notice is served on you. This grace period is intended to give you an opportunity to settle with the judgment creditor, to obtain a satisfactory buyer for the property, or to encourage other potential buyers to attend the execution sale.
6. All sales at an execution sale are final; there is no right of redemption.

— INFORMATION FOR PERSON OTHER THAN JUDGMENT DEBTOR —

1. If the property levied upon is in your possession or under your control and you do not claim the right to possession or a security interest, you must deliver the property to the levying officer. If you do not deny an obligation levied upon or do not claim a priority over the judgment creditor's lien, you must pay to the levying officer the amount that is due and payable and that becomes due and payable during the period of the execution lien, which lasts two years from the date of issuance of the writ of execution. You must execute and deliver any documents needed to transfer the property.
2. You must complete the accompanying Memorandum of Garnishee.
3. If you claim ownership or the right to possession of real or personal property levied upon or if you claim a security interest in or lien on personal property levied upon, you may make a third-party claim and obtain the release of the property pursuant to sections 720.010–720.800 of the Code of Civil Procedure.
4. **Make checks payable to the levying officer.**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): TEL NO.:

Recording requested by and return to: (310) 417-4141 / (310) 417-5060
 Raymond R. Goldstein, 168981
 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT
 5855 Green Valley Circle, #315
 Culver City, CA 90230

ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

NAME OF COURT: Superior Court of California, County of Los Angeles
 STREET ADDRESS: 111 N. Hill Street
 MAILING ADDRESS: 111 N. Hill Street
 CITY AND ZIP CODE: Los Angeles 90012
 BRANCH NAME: Central

PLAINTIFF: Peter Plaintiff
 DEFENDANT: David Defendant

NOTICE OF LEVY
 under Writ of Execution (Money Judgment) Sale

FOR RECORDER'S USE ONLY
 LEVYING OFFICER (Name and Address):
 Los Angeles County
 Sheriff's Department
 110 N. Grand Ave. RM 525
 Los Angeles, CA 90012

LEVYING OFFICER FILE NO.: COURT CASE NO.:
 01-999999

TO THE PERSON NOTIFIED (name):

Bank of America

1. The judgment creditor seeks to levy upon property in which the judgment debtor has an interest and apply it to the satisfaction of a judgment as follows:

a. judgment debtor (name): David Defendant

b. the property to be levied upon is described

in the accompanying writ of possession or writ of sale.

as follows:

any and all chattel paper, instruments, negotiable documents of title, securities, accounts receivable, general intangibles, or the proceeds thereof, standing in the name of the judgment debtor(s) along with deposit accounts, and/or safe deposit boxes located at Bank of America, 555 Main St., Los Angeles, CA 90012

2. The amount necessary to satisfy the judgment creditor's judgment is:

a. Total amount due (less partial satisfactions)	.....	\$	33,572.14
b. Levy fee NOTE: Govt Code 26731	.....	\$	30.00
c. Sheriff's disbursement fee NOTE: Govt Code 26746	.....	\$	10.00
d. Recoverable costs	.....	\$
e. Total (a through d)	.....	\$	33,612.14
f. Daily interest	.....	\$	9.19

3. You are notified as

a. a judgment debtor.

b. a person other than the judgment debtor (state capacity in which person is notified):

Financial Institute

(Read Information for Judgment Debtor or Information for Person Other Than Judgment Debtor on page two.)

Notice of Levy was

- mailed on (date):
- delivered on (date):
- posted on (date):
- filed on (date):
- recorded on (date):

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

Levying officer Registered process server



— INFORMATION FOR JUDGMENT DEBTOR —

1. The levying officer is required to take custody of the property described in item 1 in your possession or under your control.
2. You may claim any available exemption for your property. A list of exemptions is attached. **If you wish to claim an exemption for personal property, you must do so within 10 days after this notice was delivered to you or 15 days after this notice was mailed to you** by filing a claim of exemption and one copy with the levying officer as provided in section 703.520 of the Code of Civil Procedure. **If you do not claim an exemption, you may lose it and the property is subject to enforcement of a money judgment. If you wish to seek the advice of an attorney, you should do so immediately so that a claim of exemption can be filed on time.**
3. You are not entitled to claim an exemption for property that is levied upon under a judgment for sale of property. This property is described in the accompanying writ of sale. You may, however, claim available exemptions for property levied upon to satisfy damages or costs awarded in such a judgment.
4. You may obtain the release of your property by paying the amount of a money judgment with interest and costs remaining unpaid.
5. If your property is levied upon under a writ of execution or to satisfy damages and costs under a writ of possession or sale, the property may be sold at an execution sale, perhaps at a price substantially below its value. Notice of sale will be given to you. Notice of sale of real property (other than a leasehold estate with an unexpired term of less than two years) may not be given until at least 120 days after this notice is served on you. This grace period is intended to give you an opportunity to settle with the judgment creditor, to obtain a satisfactory buyer for the property, or to encourage other potential buyers to attend the execution sale.
6. All sales at an execution sale are final; there is no right of redemption.

— INFORMATION FOR PERSON OTHER THAN JUDGMENT DEBTOR —

1. If the property levied upon is in your possession or under your control and you do not claim the right to possession or a security interest, you must deliver the property to the levying officer. If you do not deny an obligation levied upon or do not claim a priority over the judgment creditor's lien, you must pay to the levying officer the amount that is due and payable and that becomes due and payable during the period of the execution lien, which lasts two years from the date of issuance of the writ of execution. You must execute and deliver any documents needed to transfer the property.
2. You must complete the accompanying Memorandum of Garnishee.
3. If you claim ownership or the right to possession of real or personal property levied upon or if you claim a security interest in or lien on personal property levied upon, you may make a third-party claim and obtain the release of the property pursuant to sections 720.010–720.800 of the Code of Civil Procedure.
4. **Make checks payable to the levying officer.**

APPENDIX M
Sample Application and Order for Appearance and Examination of Judgment Debtor

Print

AT-138, EJ-125

Form with fields for Attorney/Party information, Court details, Plaintiff/Defendant names, and Application type (Enforcement of Judgment, Attachment, etc.).

ORDER TO APPEAR FOR EXAMINATION

- 1. TO (name): David Defendant
2. YOU ARE ORDERED TO APPEAR personally before this court, or before a referee appointed by the court, to
a. furnish information to aid in enforcement of a money judgment against you.
b. answer concerning property of the judgment debtor in your possession or control or concerning a debt you owe the judgment debtor.
c. answer concerning property of the defendant in your possession or control or concerning a debt you owe the defendant that is subject to attachment.

Date: 09/04/08 Time: 9:00 am Dept. or Div.: 1A Rm.: 548
Address of court shown above is:

3. This order may be served by a sheriff, marshal, registered process server, or the following specially appointed person (name): Raymond R. Goldstein

Date: JUDGE OR REFEREE

This order must be served not less than 10 days before the date set for the examination.

IMPORTANT NOTICES ON REVERSE

APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION

- 4. Judgment creditor Assignee of record Plaintiff who has a right to attach order applies for an order requiring (name): David Defendant to appear and furnish information to aid in enforcement of the money judgment or to answer concerning property or debt.
5. The person to be examined is the judgment debtor.
6. The person to be examined resides or has a place of business in this county or within 150 miles of the place of examination.
7. This court is not the court in which the money judgment is entered or (attachment only) the court that issued the writ of attachment. An affidavit supporting an application under Code of Civil Procedure 491.150 or 708.160 is attached.
8. The judgment debtor has been examined within the past 120 days. An affidavit showing good cause for another examination is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2008

Raymond R. Goldstein (TYPE OR PRINT NAME) (Continued on reverse) (SIGNATURE OF DECLARANT)

APPEARANCE OF JUDGMENT DEBTOR (ENFORCEMENT OF JUDGMENT)

NOTICE TO JUDGMENT DEBTOR If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

**APPEARANCE OF A THIRD PERSON
(ENFORCEMENT OF JUDGMENT)**

(1) NOTICE TO PERSON SERVED If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

(2) NOTICE TO JUDGMENT DEBTOR The person in whose favor the judgment was entered in this action claims that the person to be examined pursuant to this order has possession or control of property which is yours or owes you a debt. This property or debt is as follows (*Describe the property or debt using typewritten capital letters*):

If you claim that all or any portion of this property or debt is exempt from enforcement of the money judgment, you must file your exemption claim in writing with the court and have a copy personally served on the judgment creditor not later than three days before the date set for the examination. You must appear at the time and place set for the examination to establish your claim of exemption or your exemption may be waived.

APPEARANCE OF A THIRD PERSON (ATTACHMENT)

NOTICE TO PERSON SERVED If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the plaintiff in this proceeding.

**APPEARANCE OF A CORPORATION, PARTNERSHIP,
ASSOCIATION, TRUST, OR OTHER ORGANIZATION**

It is your duty to designate one or more of the following to appear and be examined: officers, directors, managing agents, or other persons who are familiar with your property and debts.

APPENDIX N

Sample Application and Order for Appearance and Examination of Third Party; Affidavit in Support of Application



AT-138, EJ-125

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Raymond R. Goldstein, 168981 CENTER FOR ENFORCEMENT OF FAMILY SUPPORT 5855 Green Valley Circle, #315 Culver City, CA 90230 TELEPHONE NO: (310) 417-4141 FAX NO: (310) 417-5060 ATTORNEY FOR (Name): Peter Plaintiff	FOR COURT USE ONLY
NAME OF COURT: Superior Court California, County of Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: 111 N. Hill Street CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Central	
PLAINTIFF: Peter Plaintiff DEFENDANT: David Defendant	
APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION <input checked="" type="checkbox"/> ENFORCEMENT OF JUDGMENT <input type="checkbox"/> ATTACHMENT (Third Person) <input type="checkbox"/> Judgment Debtor <input checked="" type="checkbox"/> Third Person	CASE NUMBER: 01-999999

ORDER TO APPEAR FOR EXAMINATION

- TO (name): John Smith, on behalf of No-Ink, Inc.
- YOU ARE ORDERED TO APPEAR personally before this court, or before a referee appointed by the court, to
 - furnish information to aid in enforcement of a money judgment against you.
 - answer concerning property of the judgment debtor in your possession or control or concerning a debt you owe the judgment debtor.
 - answer concerning property of the defendant in your possession or control or concerning a debt you owe the defendant that is subject to attachment.

Date: 09/03/2008	Time: 9:00 am	Dept. or Div.: 1A	Rm.: 548
Address of court <input checked="" type="checkbox"/> shown above <input type="checkbox"/> is:			

3. This order may be served by a sheriff, marshal, registered process server, or the following specially appointed person (name):
Raymond R. Goldstein

Date: _____ JUDGE OR REFEREE

This order must be served not less than 10 days before the date set for the examination.
IMPORTANT NOTICES ON REVERSE

APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION

- Judgment creditor Assignee of record Plaintiff who has a right to attach order
applies for an order requiring (name): John Smith on behalf of No-Ink, Inc. to appear and furnish information to aid in enforcement of the money judgment or to answer concerning property or debt.
- The person to be examined is
 - the judgment debtor.
 - a third person (1) who has possession or control of property belonging to the judgment debtor or the defendant or (2) who owes the judgment debtor or the defendant more than \$250. An affidavit supporting this application under Code of Civil Procedure section 491.110 or 708.120 is attached.
- The person to be examined resides or has a place of business in this county or within 150 miles of the place of examination.
- This court is not the court in which the money judgment is entered or (attachment only) the court that issued the writ of attachment. An affidavit supporting an application under Code of Civil Procedure 491.150 or 708.160 is attached.
- The judgment debtor has been examined within the past 120 days. An affidavit showing good cause for another examination is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2008

Raymond R. Goldstein _____ (TYPE OR PRINT NAME) (Continued on reverse) _____ (SIGNATURE OF DECLARANT)

APPEARANCE OF JUDGMENT DEBTOR (ENFORCEMENT OF JUDGMENT)

NOTICE TO JUDGMENT DEBTOR If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

**APPEARANCE OF A THIRD PERSON
(ENFORCEMENT OF JUDGMENT)**

(1) NOTICE TO PERSON SERVED If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

(2) NOTICE TO JUDGMENT DEBTOR The person in whose favor the judgment was entered in this action claims that the person to be examined pursuant to this order has possession or control of property which is yours or owes you a debt. This property or debt is as follows *(Describe the property or debt using typewritten capital letters)*:

- 1) STOCK/SECURITY/MEMBER INTERESTS IN No-Ink, Inc.
- 2) PROMISSORY NOTE(S) IN FAVOR OF David Defendant
- 3) MONIES PAYABLE TO DAVID DEFENDANT AS WAGES, BONUSES, REIMBURSEMENTS, RECAPTURES, DIVIDENDS, ETC.
- 4) ACCOUNTS RECEIVABLE
- 5) INTEREST IN EQUIPMENT, INVENTORY AND OTHER PERSONAL PROPERTY
- 6) INTERESTS IN SUBSIDIARY PARTNERSHIPS AND CORPORATIONS

If you claim that all or any portion of this property or debt is exempt from enforcement of the money judgment, you must file your exemption claim in writing with the court and have a copy personally served on the judgment creditor not later than three days before the date set for the examination. You must appear at the time and place set for the examination to establish your claim of exemption or your exemption may be waived.

APPEARANCE OF A THIRD PERSON (ATTACHMENT)

NOTICE TO PERSON SERVED If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the plaintiff in this proceeding.

**APPEARANCE OF A CORPORATION, PARTNERSHIP,
ASSOCIATION, TRUST, OR OTHER ORGANIZATION**

It is your duty to designate one or more of the following to appear and be examined: officers, directors, managing agents, or other persons who are familiar with your property and debts.

1 Raymond R. Goldstein, Esq. (SB #168981)
2 **Center for Enforcement of Family Support**
3 5855 Green Valley Circle, Suite 315
4 Culver City, CA 90230
5 TEL: (310) 417-4141 FAX: (310) 417-5060
6 Attorney for Peter Plaintiff
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10 In re the Matter of:) Case No.: 01-999999
11)
12) AFFIDAVIT IN SUPPORT OF
13 PETER PLAINTIFF) APPLICATION AND ORDER FOR
14) EXAMINATION OF THIRD PERSON.
15)
16) [C.C.P. § 408.120]
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

17 I, Raymond R. Goldstein, declare:

18
19 1. I am an attorney, duly licensed to practice law in the State of California. I am a partner
20 at the Center for Enforcement of Family Support, attorneys for Plaintiff, Peter Plaintiff herein.
21 I am the attorney who is primarily responsible for the handling of this matter on behalf of
22 Plaintiff.

23 2. Third person to be examined, No-Ink, Inc. is believed to be the employer and closely
24 held Corporation of the debtor, David Defendant.
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3. On information and belief, No-Ink, Inc. is presently indebted to the debtor in an amount exceeding \$250.00.

4. On information and belief, No-Ink, Inc. presently has in their possession and controls property valued in excess of \$250.00 in which the debtor has an interest.

5. On information and belief, the above-mentioned property includes, but is not limited to, bank accounts, real property, personal property and, and business property; with all assets and receivables thereof, entitled "No-Ink, Inc.," located in Los Angeles County.

The foregoing is based upon my personal knowledge, except to those matters which are stated on information and belief, and as to those matters, I believe them to be true. And if called as a witness, I could and would competently testify thereto.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct and that this affidavit is executed at Los Angeles, California, on July 30, 2008.

Raymond R. Goldstein

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX O Sample Restraining Order

APPENDIX O
Sample Restraining Order



1 Raymond R. Goldstein, Esq. (SB #168981)
Center for Enforcement of Family Support
2 5855 Green Valley Circle, Suite 315
Culver City, CA 90230
3 TEL: (310) 417-4141 FAX: (310) 417-5060

4 SUPERIOR COURT OF THE STATE OF CALIFORNIA
5 FOR THE COUNTY OF LOS ANGELES

6) Case No.: 01-999999
PETER PLAINTIFF)
7)
Plaintiff) RESTRAINING ORDER AGAINST DAVID
8 And) DEFENDANT RE MONIES PAYABLE BY
ABC INSURANCE, INC.
9 DAVID DEFENDANT,) [C.C.P. Section 708.520]
10)
Defendant)
11)

12 Based on the ex-parte application of Judgment Creditor, and good cause appearing, IT
13 IS ORDERED that, Defendant and Judgment Debtor, David Defendant, is hereby restrained
14 from transferring, concealing, assigning, disposing of, or encumbering his rights to receive
15 money from [Payee, e.g. XYZ Telecom, Inc.] for any reason whatsoever, including, but not
16 limited to, monies payable to, or for the benefit of Defendant, by [Payee, e.g. XYZ Telecom,
17 Inc.] payable as a result of [e.g. commissions, bonuses, etc.] Said restraint shall continue to be
18 effective until _____, or further order of the court.

19
20 FAILURE TO COMPLY WITH THIS ORDER MAY SUBJECT YOU
21 TO BEING HELD IN CONTEMPT OF COURT AND PUNISHABLE BY JAIL.

22 DATED: _____
23

24 _____
25 JUDGE
26

Center for Enforcement of Family Support
(310) 417-4141

Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/APPENDIX P Distinctions Regarding Enforcement of Family Law Money Judgments

APPENDIX P

Distinctions Regarding Enforcement of Family Law Money Judgments

This is a partial summary of some distinctions regarding the enforcement of family law money judgments. For further discussion, see Debt Collection.

Orders and Judgments

In terms of enforcement, there is virtually no distinction between orders and judgments. There are generally five categories of monetary awards for which orders and judgments will issue: child support, spousal support, family support, attorney fees, and equalization.

Renewal of Judgments

Family law judgments are enforceable until paid in full and are exempt from renewal requirements. Fam C §291(b). Nonetheless, family law awards may be renewed. Fam C §291(c).

Defenses

There are three common defenses to nonpayment of family law awards:

- a. Equitable. The trial court maintains continuing equitable jurisdiction to determine how an order or judgment for child support will be paid and to consider whether a defaulting parent has satisfied a support obligation. See Marriage of Trainotti (1989) 212 CA3d 1072, 261 CR 36.
- b. Concealment. A parent's active concealment of a child through age of majority may be a defense to failure to pay child support. Marriage of Damico (1994) 7 C4th 673, 29 CR2d 287.
- c. Laches. Under Fam C §291(d), laches is a defense only to a portion of the judgment owed to the state. See Marriage of Fellows (2006) 39 C4th 179, 46 CR3d 49. Note that laches may be asserted for attorney fees and equalization awards.

Application of Payments

Under CCP §695.221, effective January 1, 2009, money is first credited to the current month's support obligation, next to principal, and then to interest. If Temporary Assistance to Needy Families (TANF), Aid to Families with Dependent Children (AFDC), or government enforcement procedure is involved, payment allocations can be very complex.

Writ of Execution

Courts usually require an application for issuance of a writ of execution. CCP §699.510. These applications are not judicial council forms but local county forms. See Los Angeles Superior Court Form FAM-027. Practitioner should contact the local family law court or check online.

Earnings Withholding Orders

A specific Earnings Withholding Order (EWO) for support should be used to garnish wages for support. Money collected through wage garnishment must be applied in the manner described in CCP §695.221. See CCP §706.030(c)(7). Under CCP §706.052, 50 percent of net disposable earnings may be garnished. Under certain circumstances, 65 percent of net disposable may be garnished. See CCP §703.070(c); 15 USC §1673(b)(2).

Real Property Liens

The recording of an Abstract of Support Judgment (Judicial Council Form FL-480), or a certified copy of a judgment or order containing the support provisions, creates a real property lien for child, spousal, or family support obligations. CCP §697.320.

Pension Plans

Pension plans governed by the Employee Retirement Income Security Act of 1974 (ERISA) (29 USC §§1001-1461) may be subject to qualified domestic relations orders for enforcement of obligations arising from domestic matters. 26 USC §414(p).

Reciprocity

Creditors use the Uniform Interstate Family Support Act (UIFSA) (Fam C §§4900-5005), instead of sister state procedures, to enforce child support orders from other states.

Representation

If representing a creditor in a family law matter, you should limit the scope of your representation to only enforcement to avoid becoming involved in other matters such as custody, visitation, or modification of current orders. Use a Notice of Limited Scope Representation (Judicial Council Form FL-950), instead of a substitution of attorney. In addition, all parties should be aware of the Private Child Support Collectors Act (Fam C §§5610-5616).

DCSS and SDU Issues

If the Department of Child Support Services (DCSS) has an open case in your matter, file a Notice to Local Child Support Agency of Intent to Take Independent Action to Enforce Support Order form (Judicial Council Form FL-645). Moneys regarding child support, even those collected by a private writ, are redirected to the State Disbursement Unit (SDU). For more information about the SDU, visit www.childsup.ca.gov/sdu.

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/TABLE OF STATUTES, REGULATIONS, AND RULES

TABLE OF STATUTES, REGULATIONS, AND RULES

CALIFORNIA

Statutes

BUSINESS AND PROFESSIONS CODE

103: [Step 14](#)

6147: [Step 6](#)

6147-6148: [Step 6](#)

6147(a): [Step 6](#)

6148: [Step 6](#)

6148(a)(2): [Step 6](#)

6148(a)(3): [Step 6](#)

10032: [Step 23](#)

22350: [App A](#)

CIVIL CODE

658: [App A](#)

659: [App A](#)

660: [App A](#)

662: [App A](#)

1717: [Step 30](#)

2872: [App A](#)

2897: [App A](#)

3287-3291: [Step 8](#)

3439.07: [Step 26](#)

CODE OF CIVIL PROCEDURE

86: [Step 47](#)

116.630: [Step 12](#)

116.820: [Step 12](#)

187: [Step 26](#)

337.5: [Step 8](#)

351: [Step 8](#)

473: [Steps 30, 46](#)

483.010: Step 8
488.400: Step 8
577.5: Step 8
639(a)(2): Step 24
664: Step 8
664-664.5: Step 8
664.5(a): Step 8
664.5(b): Step 8
673: Steps 2, 11, App A
673(a): Step 11
674: App A
674(b): Step 28
680.010-724.260: Step 1
680.135: Step 12
680.210: App A
680.240: App A
680.250: App A
680.260: Step 35, App A
680.290: App A
680.300: Step 8
680.310: App A
680.370: App A
681.020: Step 11, App A
681.030(c): Step 34
683.020: Steps 8, 9
683.030: Steps 8, 9
683.110: Step 9
683.120: Step 8
683.130: Steps 9, 32
683.140: Step 9
683.150: Step 9
683.160(a): Step 9
683.160(b): Step 9

683.180: Step 28

683.180(b)(1): Step 9

684.010-684.050: Step 5

684.020: Steps 5, 24

684.020(b)(2)-(3): Step 5

684.110(c): Step 45

684.130: Step 34

685.010: Step 7

685.010(a): Step 31

685.040: Step 30

685.050: Step 30

685.050(a)(2): Step 32

685.070: Steps 30, 32

685.070(a)(1): Step 30

685.070(a)(2): Step 30

685.070(a)(3): Step 30

685.070(a)(4): Step 30

685.070(a)(5): Step 30

685.070(a)(6): Step 30

685.070(b): Steps 30, 32

685.070(c): Step 30

685.070(e): Step 32

685.080(a): Step 30

685.100: Step 44

687.010(a): Step 34

687.040: Step 34

688.040(a): App A

688.040(b): App A

695.010-695.070: Step 46

695.010-709.030: Steps 1, 7

695.010(a): Step 15

695.020: Steps 15, 25, 26

695.030: Step 15

695.030(b)(2): Step 15

695.035: Step 15

695.040: Step 15

695.060: Step 15, App C

695.221: App P

697.010-697.920: Steps 23, 27

697.020(b): Step 27

697.310-697.410: Step 28

697.320: App P

697.340: Step 23

697.510-697.670: Step 29

697.510(a): Step 29

697.510(b): Step 29

697.520: Step 29

697.530: Step 23

697.530(a): Step 29

697.530(d)(1): Step 29

697.530(d)(2): Step 29

697.550: Step 29

697.560: Step 29

697.570: Step 29

697.710: Step 27

699.010-701.830: Step 1

699.030(a): Step 43

699.030(b): Step 43

699.040: Steps 20, 21

699.080: Step 35

699.080(a): Step 35

699.080(b): Step 35

699.080(d): Step 35

699.080(e): Step 35

699.080(f): Step 30

699.510: App P

699.510-699.520: Step 32

699.510-699.560: App A

699.510(a): Steps 32, 33

699.510(b): Step 32

699.520(b): Step 32

699.520(c): Step 32

699.520(d): Step 32

699.560: Step 33, App A

699.560(a): Step 49

699.710: Step 22

699.710-699.720: Step 46

699.720: Steps 22, 23

699.720(a)(1): Step 23, App F

699.720(a)(10): Step 23, App F

699.720(a)(2): Step 23, App F

699.720(a)(3): Step 23, App F

699.720(a)(4): Step 23, App F

699.720(a)(5): Step 23, App F

699.720(a)(6): Step 23, App F

699.720(a)(7): Step 23, App F

699.720(a)(8): Step 23, App F

699.720(a)(9): Step 23, App F

700.010: Steps 22, 38, 43

700.010-700.020: Step 35

700.010-700.200: App A

700.010(a)-(b): Step 45

700.010(b): Step 38

700.015: Step 35

700.015(a): Step 38

700.015(b): Step 38

700.015(c): Step 38

700.020: Step 43

700.030: Steps 43, 44

700.040: Step 43

700.040-700.170: Step 43

700.050: Step 43

700.060: Step 43

700.070: Step 44, App A

700.070(a): Step 44

700.070(b)(1): Step 44

700.070(b)(3): Step 44

700.070(c): Step 44

700.080: Steps 36, 43

700.080(c): Step 43

700.100: Step 43

700.110: Step 43

700.120: Step 43

700.130: Step 43

700.140: Steps 35, 45

700.140(a): Step 45

700.140(b): Step 45

700.150: Step 45

700.150(a): Step 45

700.150(b): Step 45

700.160: Steps 26, 45

700.160(a): Steps 26, 45

700.160(b)(1): Steps 26, 45

700.160(b)(2): Steps 26, 45

700.160(b)(3): Step 45

700.160(c): Steps 26, 45

700.170: Step 23, App F

700.180(a): Step 43

700.190: Step 43

700.200: Step 43

700.200(a): Step 43
700.200(b): Step 43
701.010: Steps 22, 26, 43
701.010-701.030: Steps 22, 26
701.020: Steps 22, 26
701.020(a): Step 24
701.030: Step 43
701.030(b): Steps 22, 26
701.510-701.680: Step 44
701.530: Step 48
701.530-701.540: Step 48
701.530(c): Step 48
701.540: Step 48
701.540-701.680: Steps 38, 42
701.540(b): Step 42
701.540(c): Step 42
701.540(d): Steps 42, 48
701.540(d)(2): Step 42
701.540(e): Step 42
701.540(g): Step 42
701.540(h): Step 42
701.545: Steps 38, 42
701.550: Step 42
701.550(a): Step 32
701.550(b): Step 14
701.555: Step 42
701.590: Step 48
701.590(b): Steps 42, 48
701.620: Step 48
701.620(a)(1): Step 42
701.620(a)(2): Step 42
701.620(a)(3): Step 42

701.620(c): Step 42

701.630: Step 37

701.640: Step 42

701.810: Step 42

701.810(f): Step 32

701.820(b): Step 42

703.010-703.140: Step 46

703.020(a): Step 46

703.020(b): Step 46

703.030: App C

703.030(a): Steps 15, 46

703.030(b): Steps 15, 46

703.070(c): App P

703.080(a): Step 46

703.140: Step 10

703.150: App C

703.520(a): Step 46

703.530: Step 46

703.550: Step 46

703.570: Step 46

703.570-703.580: Step 46

703.570(b): Step 46

703.580(e): Step 46

703.580(f): Step 46

704.010: Steps 17, 19, 46, App C

704.010-704.210: App A

704.020: App C

704.030: App C

704.040: App C

704.050: App C

704.060: App C

704.070: App C

704.080: Step 46, App C

704.090: App C

704.100: App C

704.110: App C

704.113: App C

704.115: App C

704.120: App C

704.120(d): Step 37, App A

704.130: App C

704.140: App C

704.150: App C

704.160: App C

704.170: App C

704.180: App C

704.190: App C

704.200: App C

704.210: Step 46, App C

704.710: App C

704.710-704.720: Step 37

704.710-704.850: Steps 37, 46

704.710(b): Step 37

704.710(c): Step 37, App A

704.720: App A

704.720(b): Step 37, App C

704.730: Steps 36, 37

704.730(a)(3)(c): Step 37

704.740: Step 36, App C

704.750(a): Steps 38, 39

704.750(b)(1): Step 39

704.750(b)(2): Step 39

704.760: Steps 36, 39

704.770(a): Step 39

704.770(b): Step 39

704.770(b)(1): Step 39

704.780(a)(1): Step 40

704.780(a)(2): Step 40

704.780(b): Step 40

704.780(c): Step 40

704.780(d): Step 39

704.790(a): Step 41

704.790(b): Step 41

704.790(c): Step 41

704.790(d): Step 41

704.800: Steps 42, 48

704.820: Step 36

704.840: Step 36

704.850: Steps 40, 42

704.910-704.995: Step 37

704.950(a): Step 37

704.950(c): Step 37

704.960: Step 37

704.960(b): Step 37

706.010-706.154: Steps 23, 34, App A

706.021: Step 25

706.025(a): Step 25

706.030(c)(7): App P

706.050: Step 25, App C

706.051: Step 25, App C

706.051(c)(1): Step 46

706.052: Step 25, App P

706.101: Step 25

706.103(a): Step 25

706.108(c): Step 25

706.109: Step 25

708.010-709.030: Step 30

708.110: Steps 17, 18

708.110-708.205: Step 17

708.110(b): Step 17

708.110(c): Step 17

708.110(d): Steps 18, 27

708.120: Steps 17, 18

708.120(b): Step 18

708.120(f): Step 18

708.130: Steps 17, 18

708.130(a): Steps 17, 18

708.130(b): Steps 17, 21

708.150: Steps 17, 18, 21

708.160(a)-(b): Step 18

708.160(b): Step 18

708.160(d): Step 18

708.170: Steps 21, 30

708.170(a)(1)(B): Step 21

708.180: Step 21

708.180(c)-(d): Step 21

708.205: Steps 20, 21

708.205(a): Steps 17, 21

708.205(b): Step 21

708.210-708.290: Step 23

708.210-709.030: Step 23

708.310: Step 23

708.310-708.320: App F

708.320: Step 23

708.410: Step 27

708.410-708.480: Step 23, App F

708.410(b): Step 27

708.410(c): Step 27

708.420: Step 27

708.430: Step 27

708.440: Step 27

708.510: Steps 24, 43

708.510-708.530: Step 24

708.510-708.560: Steps 10, 23

708.510(a): Step 24

708.510(a): Step 23

708.510(a)(4): Step 24

708.510(a)(6): Step 24

708.510(b): Step 24

708.510(c): Step 24

708.510(d): Step 24

708.510(f): Step 24

708.520: Step 24

708.520(a): Step 24

708.520(b): Step 24

708.520(d): Step 24

708.530(b): Steps 23, 24

708.540: Step 24

708.550: Step 24

708.560: Step 24

708.610-708.630: Steps 23, 24

708.620: Step 23

708.630: Steps 15, 23, App F

708.710-708.795: Step 23, App F

708.910-708.930: Steps 15, 23, App F

708.930: Step 23

709.010: Steps 15, 23, App F

709.020: Step 23, App F

709.030: Step 23, App F

712.010: Step 33

712.010-717.010: Steps 1, 7

720.010-720.800: Step 47

720.110: Steps 26, 47

720.160(b): Step 47

720.160(b)(2): Step 47

720.210: Steps 26, 47

720.260: Step 42

720.310(a): Step 47

720.310(c): Step 47

720.320: Step 47

720.320(a)(2): Step 47

720.510-720.550: Step 47

720.610-720.610: Step 47

720.630: Step 47

720.630(d): Step 47

724.010-724.260: Step 50

724.050: Step 50

724.050(b): Step 50

724.050(e): Step 50

724.060: Step 50

724.060(b): Step 50

724.120: Step 50

724.250: Step 50

740.170: App C

916-936.1: App A

917.1: Step 10

917.1(a): Step 10

917.1(b): Step 10

917.1(d): Step 10

918: Step 10

918(b): Step 10

989-994: Step 32

995.120: Step 10

995.310: Step 10

995.310-995.380: Step 10

995.310-995.660: [Step 10](#)

995.320: [Step 10](#)

995.330: [Step 10](#)

995.510: [Step 10](#)

995.520: [Step 10](#)

995.910-995.960: [Step 10](#)

1005: [Step 47](#)

1013: [Steps 30, 32](#)

1021-1038: [Step 10](#)

1032: [Step 8](#)

1033.5(c)(5): [Step 30](#)

1180: [App A](#)

1206: [Step 42](#)

1209(a)(5): [Step 24](#)

1801: [App C](#)

1985.3: [Step 17](#)

1985.6: [Step 17](#)

1987(c): [Step 18](#)

2025(d): [Step 17](#)

COMMERCIAL CODE

8112: [Step 43](#)

9106: [App A](#)

9403(5): [Step 29](#)

CORPORATIONS CODE

15028: [Step 23](#)

15673: [Step 23, App F](#)

16504: [Step 23, App F](#)

16951-16962: [App F](#)

17302: [Step 23, App F](#)

EDUCATION CODE

21116: [App C](#)

EVIDENCE CODE

970-973: [Step 21](#)

FAMILY CODE

272: Step 32

290-291: Step 32

291(b): App P

291(c): App P

291(d): App P

900-1000: Step 26

911: Step 15

1000: Step 15

2026: Step 32

3556: Step 32

4502: Step 32

4900-5005: App P

5100: Step 32

5100-5104: Step 32

5103-5104: Step 32

5610-5616: App P

FINANCIAL CODE

1875: App C

17410: App C

GOVERNMENT CODE

907.5: Step 51

907.6: Step 51

970-978.8: Step 51

970.1: Step 51

970.2: Step 51

970.4: Step 51

970.8: Step 51

970(c): Step 51

971: Step 51

975-978.8: Step 51

7162: Step 42

9359.3: [App C](#)

26744: [Step 21](#)

26750(a): [Step 25](#)

31452: [App C](#)

31913: [App C](#)

32210: [App C](#)

68093: [Step 18](#)

70617: [Step 18](#)

70626: [Steps 32, 33](#)

HEALTH AND SAFETY CODE

7295: [App C](#)

18551(a)(C)(4): [Step 36](#)

18551(b): [Step 36](#)

INSURANCE CODE

10498.5: [App C](#)

10498.6: [App C](#)

LABOR CODE

404: [App C](#)

PROBATE CODE

82: [Step 23](#), [App F](#)

18200: [Steps 9, 23](#)

PUBLIC UTILITIES CODE

12337: [App C](#)

25337: [App C](#)

28896: [App C](#)

WELFARE AND INSTITUTIONS CODE

17409: [App C](#)

ACTS BY POPULAR NAME

Enforcement of Judgments Law (EJL): [Steps 1, 7, 12](#)

Private Child Support Collectors Act: [App P](#)

Uniform Interstate Family Support Act (UIFSA): [App P](#)

Wage Garnishment Law: [Step 23](#)

Rules

CALIFORNIA RULES OF COURT

3.1200-3.1207: [Step 24](#)

3.1702: [Step 30](#)

CALIFORNIA RULES OF PROFESSIONAL CONDUCT

3-300: [Steps 3, 6](#)

3-310: [Steps 3, 6](#)

3-700(D)(2): [Step 6](#)

4-200-210: [Step 6](#)

LOS ANGELES COURT RULES

3.4(b)(1): [Step 18](#)

SAN FRANCISCO COURT RULES

8.9(C): [Step 18](#)

UNITED STATES

Statutes

UNITED STATES CODE

Title 5

5520(a): [Step 23](#), [App F](#)

8346: [Step 24](#), [App C](#)

Title 10

1440: [App C](#)

1450: [App C](#)

Title 11

Chapter 13: [Step 10](#)

362: [App A](#)

362(a): [Step 10](#)

362(a)(2): [Step 10](#)

362(c)(2): [Step 10](#)

523: [Step 10](#)

524: [Step 10](#)

726: [Step 29](#)

727: [Step 10](#)

Title 15

1673: [App C](#)

1673(a): [Step 25](#)

1673(b)(2): [App P](#)

1692-1692o: [Step 31](#)

1692k: [Step 31](#)

Title 26

414(p): [App P](#)

Title 28

376(n): [App C](#)

Title 29

1001-1461: [App P](#)

Title 33

775: [App C](#)

916: [App C](#)

Title 38

1562: [App C](#)

5301: [App C](#)

Title 42

407: [App C](#)

Title 45

231m: [App C](#)

352(e): [App C](#)

Title 50

Appx §524: [App C](#)

BANKRUPTCY CODE. *See* 11 USC.

ACTS BY POPULAR NAME

Earnings Withholding Law: [Step 24](#)

Employee Retirement Income Security Act of 1974 (ERISA): [App P](#)

Fair Debt Collection Practices Act (FDCPA): [Step 31](#)

Hatch Act: [Step 23](#), [App F](#)

Regulations

CODE OF FEDERAL REGULATIONS

Title 5

581.101-582.501: Step 25

Title 32

584.8-584.9: Step 25

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Source: Civil Litigation/Enforcing Civil Money Judgments (Action Guide)/TABLE OF CASES

TABLE OF CASES

B

Brown v Brown (1971) 22 CA3d 82, 99 CR 311: [Step 26](#)

C

Coleman v Galvin (1947) 78 CA2d 313, 177 P2d 606: [Step 21](#)

F

Fifield Manor v Finston (1960) 54 C2d 632, 7 CR 377: [Step 15](#)

Fisch, Spiegler, Ginsburg & Ladner v Appel (1992) 10 CA4th 1810, 13 CR2d 471: [Step 46](#)

G

Gonzalez v Davis (BAP 9th Cir 2005) 323 BR 732: [App D](#)

Green v Zissis (1992) 5 CA4th 1219, 7 CR2d 406: [Step 8](#)

Gunlock Corp. v Walk On Water, Inc. (1993) 15 CA4th 1301, 19 CR2d 197: [Step 30](#)

H

Hellman v Anderson (1991) 233 CA3d 840, 284 CR 830: [Step 23](#)

Hoover v Galbraith (1972) 7 C3d 519, 102 CR 733: [Step 8](#)

Hustead v Superior Court (1969) 2 CA3d 780, 83 CR 26: [App F](#)

I

In re Bell (Bankr ND Cal, Nov. 21, 2007, No 04-45847) 2007 Bankr Lexis 4001: [Step 46](#)

In re Hilde (9th Cir 1997) 120 F3d 950: [Steps 26, 27](#)

K

Keele v Reich (1985) 169 CA3d 1129, 215 CR 756: [Step 28](#)

Kendall v Pladson (In re Pladson) (9th Cir 1994) 35 F3d 462: [Step 10](#)

Kertesz v Ostrovsky (2004) 115 CA4th 369, 8 CR3d 907: [Step 8](#)

L

Lee v Baca (1999) 73 CA4th 1116, 86 CR2d 913: [Step 10](#)

Lee v Wells Fargo Bank (2001) 88 CA4th 1187, 106 CR2d 726: [Step 30](#)

M

Marriage of Damico (1994) 7 C4th 673, 29 CR2d 287: [App P](#)

Marriage of Fellows (2006) 39 C4th 179, 46 CR3d 49: [App P](#)

Marriage of Trainotti (1989) 212 CA3d 1072, 261 CR 36: [App P](#)

McMullen v Haycock (2007) 147 CA4th 753, 54 CR3d 660: [Step 46](#)

Moldo v Charnock (In re Charnock) (2004) 318 BR 720: [Step 27](#)

O

Oliver v Bledsoe (1992) 5 CA4th 998, 7 CR2d 382: [Step 27](#)

P

Pratali v Gates (1992) 4 CA4th 632, 5 CR2d 733: [Step 8](#)

R

Rourke v Troy (1993) 17 CA4th 880, 21 CR2d 660: [Step 42](#)

Russell v Trans Pacific Group (1993) 19 CA4th 1717, 24 CR2d 274: [Step 30](#)

S

Schwartzman v Wilshinsky (1996) 50 CA4th 619, 57 CR2d 790: [App D](#)

T

Troy v Superior Court (1986) 186 CA3d 1006, 231 CR 108: [Steps 19, 21](#)

W

Webb v Trippet (1991) 235 CA3d 647, 286 CR 742: [Step 37](#)

White Lighting Co. v Wolfson (1968) 68 C2d 336, 66 CR 697: [Step 15](#)

Whitehouse v Six Corp. (1995) 40 CA4th 527, 48 CR2d 600: [Step 47](#)

Y

Young v Keele (1987) 188 CA3d 1090, 233 CR 850: [Step 19](#)

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