Enforcement of Judgments

After obtaining a judgment, the judgment creditor's next step is to attempt to collect what is owed. The court does not collect judgments; the prevailing party is responsible for all collection efforts. However, the court may issue a variety of orders and other documents that may be used to collect your judgment from the debtor.

There are several steps that may need to be taken prior to starting your collection efforts.

I. LOCATE THE JUDGMENT DEBTOR

Before any collection efforts may begin, the judgment debtor must be located. Soon after the entry of judgment, this may be an easy task. However, as time passes, it can become increasingly difficult to locate the judgment debtor.

(Note for more information: Research Guide on Finding People and Businesses https://www.saclaw.org/resource_library/finding-people-and-businesses.

A. Assuming that you have already located the Judgment Debtor:

It is important to have information about the debtor's assets, so that the judgment creditor can select the enforcement method(s) that will be the most effective.

1. An Order of Examination May be useful to determine what the Debtor's assets are.

An Order of Examination, also called a Debtor's Examination, is a formal court proceeding during which a judgment creditor may question the judgment debtor about their income and property, to determine what assets are available to the creditor for collection of a judgment.

1) **EJ-125 Application and Order for Appearance and Examination:** Used in general civil cases to order a debtor or third party to appear in court.

2) **EJ-141 Application and Order to Appear for Examination—Consumer Debt:** Used specifically for consumer debt cases to ask for a debtor's examination
3) **Judgment Debtor Interrogatories**

(Note Source for Additional Information: Debtor's Examination https://www.saclaw.org/resource_library/ej-debtors-examination/ a Step-by-Step guide from the Sacramento County Public Law Library).

II. Determine The Amount of the Judgment

Before beginning enforcement procedures, a judgment creditor must determine the amount currently owed. Unless the judgment debtor promptly pays the judgment in full, the judgment amount ordered by the court is rarely the final amount paid to the judgment creditor. A judgment creditor is entitled to reimbursement of any post-judgment costs, such as the costs associated with enforcing the judgment (including the cost of issuing the Writ of Execution, Levying Officers' fees, fees for the Application for Order for Appearance of Judgment Debtor, etc.). Additionally, unpaid judgment amounts accrue interest at the legal rate of 10% per year.

A) Memorandum of Costs

(Note Source for More Information: (https://www.saclaw.org/resource_library/ej-memorandum-of-costs-after-judgment/ a Step-by-Step guide from the Sacramento County Public Law Library).

B) Interest (CCP §685.010)

C) Reasonable and necessary Costs of recovery are allowed (CCP §685.040)

III. ENFORCEMENT METHODS

The best method or methods to use depend on the judgment debtor's assets.

1. **Wage Garnishment - Collecting from Wages (Earnings Withholding Order) CCP §706 et seq. (CCP §706.010 – 706.154)**

If the judgment debtor is employed, the judgment creditor may garnish up to 25 percent of the amount over the federal minimum wage that the debtor earns until the judgment is paid in full.

(Note for More Information: How to Collect a Judgment (https://selfhelp.courts.ca.gov/small-claims/after-trial/collect-money , "From their Pay," from the California Courts Self-Help Website).

(Note and More Information about Claims of Exemptions: https://www.saclaw.org/resource_library/ej-claim-of-exemption-wage-garnishment/ a Step-by-Step guide from the Sacramento County Public Law Library).

(Note and even more information: The Debtor may be able to ask the Court to Stop or Reduce a Wage Garnishment https://www.saclaw.org/resource_library/ej-claim-of-exemption-wage-garnishment/ a Step-by-Step guide from the Sacramento County Public Law Library).

2. **Collecting Money from a Bank Account (Bank Levy) (CCP §**

(Note: Levy means to Seize Property)

If the judgment debtor has a bank account or safe deposit box, the judgment creditor may be able to take money from the account or seize the contents of the box.

Note for more information: How to Collect a Judgment https://selfhelp.courts.ca.gov/small-claims/after-trial/collect-money "From their Bank Account," from the California Courts Self-Help Website).

Note: for even more information: Collect Your Judgment from the Debtor's Bank Account (https://www.saclaw.org/resource_library/ej-bank-levy/ a Step-by-Step guide from the Sacramento County Public Law Library).

(Note: The Debtor may be able to ask the Court to stop or reduce a bank levy https://www.saclaw.org/resource_library/ej-bank-levy/ a Step-by-Step guide from the

3. Placing a Lien on Real Property (CCP §697.310 et seq.)

If the judgment debtor owns real property, the judgment creditor may place a lien on the property. If the debtor tries to sell or refinance the property, the creditor will be paid the judgment amount plus accrued interest from the escrow. In some situations, it may also be possible to "foreclose" on the judgment lien, and force the sale of the property. This is only an option is there is enough equity in the property to pay all existing liens and exemptions, as well as the costs of foreclosure. The Homestead exemption may make this option a difficult choice in California.

(Note for more information" https://selfhelp.courts.ca.gov/small-claims/after-trial/collect-money How to Collect a Judgment "From their Property (Real Estate)," from the California Courts Self-Help Website).

(Note for even more information: Placing a Judgment Lien https://www.saclaw.org/resource_library/ej-abstract-of-judgment a Step-by-Step guide from the Sacramento County Public Law Library.

Note Also: Judgment Liens on Property in California (http://www.nolo.com/legal-encyclopedia/judgment-liens-california-46807.html) , an article from Nolo Press

4. Placing a Lien on Personal Property (CCP §697.510 et seq.)

A judgment creditor can have the sheriff take the debtor's personal property and sell it at public auction to pay the debt. This can be any type of property, such as jewelry, computers or other electronic equipment, musical instruments, coin collections, etc. This is an expensive process, though, so unless the property is extremely valuable, it is rarely worthwhile.

(Note: for more information: Notice of Judgment Lien http://www.sos.ca.gov/business-programs/ucc/judgment-lien/ from the California Secretary of State.

5. Placing a Lien on a Lawsuit the Debtor Has Against Someone Else

If the judgment debtor has a lawsuit against someone else, the judgment creditor may place a lien on the money the debtor hopes to recover if he or she wins that lawsuit. (CCP §708.410 et seq.)

(Note for more information: Collect Debt via Liens against Debtors' Lawsuits (https://www.wallinfirm.com/collect-debt-via-liens-against-debtors-lawsuits/ from the Wallin Firm).

6. If Debtor is a Business, Place a Till Tap or Keeper

This is a form of Levy.

If the judgment debtor is a business or the sole proprietor of a business, the sheriff may visit the business and take all money on the premises to pay the judgment and the sheriff's fee. The sheriff's department may also station a deputy near the cash register, and take possession of all funds as they come in. (CCP § 701.510 et seq).

The Levy Officer may also take possession of the assets for sale. (CCP §701.51 et seq.)

(Note: For More Information: How to Collect a Judgment https://selfhelp.courts.ca.gov/small-claims/after-trial/collect-money "Some Other Less Common Ways to Collect," from the California Courts Self-Help Website).

7. Suspending the Debtor's Real Estate, Contractor's, or Driver's License

A. Driver's License

If the judgment is related to a license, (e.g., a car accident is related to a driver's license; construction defects are related to a contractor's license), the judgment creditor may be able to have the judgment debtor's license suspended.

(Note For More Information: How to Collect a Judgment https://selfhelp.courts.ca.gov/small-claims/after-trial/collect-money "Some other less common Ways to Collect," from the California Courts Self-Help Website).

(Note for more information: Unsatisfied Judgments, from the Department of Motor Vehicles:

1. Judgments over $1000 https://www.dmv.ca.gov/portal/form/certificate-of-facts-re-unsatisfied-judgment/ , $750 if judgment issued prior to Jan. 1, 2017
2. Judgments under $1000 https://www.dmv.ca.gov/portal/uploads/2020/05/dl17.pdf, $750 if judgment issued prior to Jan. 1, 2017).
3. Suspending a Driver License to Force Payment http://dcba.lacounty.gov/portfolio/suspending-a-driver-license-to-force-payment/ from the Los Angeles County Department of Consumer Affairs).

B. Contractors State License Board:

(Note for more information: Civil Judgments http://www.cslb.ca.gov/Consumers/Legal_Issues_For_Consumers/Civil_Judgments.aspx

C. California Department of Real Estate

Consumer Recovery Account http://www.dre.ca.gov/Consumers/ConsumerRecoveryAccount.html California

8. Obtaining a Seizure, Turnover, Charging or Assignment Order

A seizure order allows the sheriff to take property from a private residence. (CCP §699.030 et Seq.)

A turnover order requires the judgment debtor to give the property to the sheriff. These orders are most commonly used for large, expensive items, such as pianos, boats, or stereo systems. (CCP §699.030 et Seq.)

A Charging Order reaches the transferable property a debtor has in a Limited Liability Company (LLC). (CCP§708.310 et seq.)

An assignment order requires the debtor to assign ongoing payments, such as sales commissions or rents, to the judgment creditor. (CCP §699.020).

Creditor Suit – used to enforce the right to the property (CCP §7088.210 et. Seq.)

(Note for more information: "How to Collect a Judgment https://selfhelp.courts.ca.gov/small-claims/after-trial/collect-money "Some Other Less Common Ways to Collect," from the California Courts Self-Help Website.

9. Do not forget to Renew the Judgment if Necessary (CCP §638.110 et seq).

Money judgments automatically expire after 10 years, unless the judgment creditor renews the judgment before it expires. A judgment may be renewed for another 10 years, and renewed repeatedly until it is paid in full. Expired judgments cannot be enforced, so judgment creditors must be careful to renew judgments in a timely manner.

Note for more information: Renew a Civil Judgment https://selfhelp.courts.ca.gov/civil-lawsuit/judgment/renew from the California Courts Self-Help Website.

10. After Enforcement (CCP§ 724.010 et seq.)

Once a judgment is paid, either in full or in an amount the judgment creditor agrees to accept as full payment, the judgment creditor must file an Acknowledgement of Satisfaction of Judgment (EJ-100) with the court. It must also be filed with the County Recorder's Office if any liens were placed on real property, and with the Secretary of State's Office if liens were placed on personal property. If you do not file an Acknowledgment of Satisfaction of Judgment, the judgment debtor may sue you for any damages caused by your failure to file the Acknowledgment, plus $100.