



Post Judgment Enforcement

Considerations and Methods of Enforcement

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What is The Law

California Code of Civil Procedure

TITLE 9. ENFORCEMENT OF JUDGMENTS

680.010-724.260

Within that Title:

DIVISION 2. ENFORCEMENT OF MONEY JUDGMENTS

695.010-709.030



Why Do I care about this?

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.

In fact, you will need to get permission from Court to Levy or Lien assets from the Judgment Debtor.



Step 1. LOCATE THE JUDGMENT DEBTOR

- .You can assume that the Judgment Debtor will not be cooperative. You may have to find them if they moved away.
- .Once You Find the Debtor, Through the Court - set up a Judgment Debtor Examination (CCP 708.110)
- .You can send Judgment Debtor Interrogatories to Debtor without Court intervention (CCP 708.010)



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.

Additionally, unpaid judgment amounts accrue interest at the legal rate of 10% per year.



Enforcement Methods

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

- Wage Garnishment**
- Bank Levy**
- Place a Lien on Real Property**
- Place a Lien on Personal Property (Car / Business Assets)**
- Placing a Lien on a Lawsuit the Debtor Has Against Someone Else**
- If Debtor is a Business, Place a Till Tap or Keeper**



And Some More Options

- **Obtaining a Seizure Order**
- **Obtain a Turnover Order**
- **Obtain a Charging Order**
- **Obtain an Assignment Order**
- **Suspending the Debtor's Real Estate, Contractor's, or Driver's License**



Setup A Judgment Debtor Examination

CCP § 708.110 and 708.111(Consumer Debt).

Judicial Council Form EJ-125 or EJ-141 (Consumer Debt).

Originates as a formal procedure and then becomes a Deposition like discussion with the debtor to locate assets.

If The debtor does not appear, the Court can issue a bench warrant for the debtors arrest.



Written Interrogatories to Judgment Debtor

CCP §708.010 et seq.

CCP §708.020: (b) The judgment creditor may not serve interrogatories within 120 days after the judgment debtor has responded to interrogatories previously served pursuant to this section or within 120 days after the judgment debtor has been examined pursuant to Article 2 (commencing with Section 708.110), and the judgment debtor is not required to respond to any interrogatories so served.

CCP §708.020:(c) Interrogatories served pursuant to this section may be enforced, to the extent practicable, in the same manner as interrogatories in a civil action.

Not Form Interrogatories, Special Interrogatories.



Wage Garnishment

CCP § 706 Et Seq.

Subject to Claim of Exemptions

CCPS 706.050: “(a) Except as otherwise provided in this chapter, the maximum amount of disposable earnings of an individual judgment debtor for any workweek that is subject to levy under an earnings withholding order shall not exceed the lesser of the following:

- (1) Twenty percent of the individual’s disposable earnings for that week.
- (2) Forty percent of the amount by which the individual’s disposable earnings for that week exceed 48 times the state minimum hourly wage in effect at the time the earnings are payable. If a judgment debtor works in a location where the local minimum hourly wage is greater than the state minimum hourly wage, the local minimum hourly wage in effect at the time the earnings are payable shall be used for the calculation made pursuant to this paragraph.



Levy

CCP §700.010 et seq

Levy Means to Seize – Legally

To Do That Legally: You Need a Court Order and a Levying officer (Usually the Sheriff's Department Officer)

Forms - Writ of Execution
- Notice of Levy



Levy - Continued

Common Levies include:

- Bank Levy (Business or Consumer)
- Till Tap (Business)
- Keeper (Business)

Subject to Same Exemptions that Are allowed to a debtor In Bankruptcy
CCP §703 et Seq - OR CCP § 704 et seq

So limited use against a consumer (Exemptions are broad)



Liens

There are several different Types of Liens that could be filed:

Real Estate Liens – County Recorder (Could be paid at sale or refinance).

Personal property Liens (Not as clear - But if Personal property is registered can file with registering entity – i.e. a Vehicle – Can file with DMV).

Liens against a Judgment (If the Judgment Debtor is a Plaintiff /expected Creditor in another Lawsuit) (Filed in Court where lawsuit is).

This is NOT a complete List.



License Suspension

If the Judgment is regarding an Automobile Accident, and

The Judgment is \$1000 or less - form to use is DL -17;

The Judgment is more than \$1000 – Form to use is DL-30.

Other Licenses – Contractor's State License Bureau – if case is about money owed by a Contractor.

Real Estate License – Can be suspended if Unpaid Child Support or a limited number of other Debts such as State ordered fines or dues.



License Suspension - Continued

Use carefully

Suspending the license of a Trucker, Construction Principal or Real Estate Broker / Real Estate Sales person could prevent them from earning money to pay for the debt to your client.

We will generally negotiate a settlement agreement if we get stuck.



Other Options

A Charging Order – reaches the transferable portion of a Debtors Membership Interest in an LLC (CCP §708.310 et seq.).

A Turnover order (CCP §699.030 et seq) – reaches assets of the debtor in the debtor's custody or in the custody of a third party. Transfer is generally made separately.

An Assignment Order (CCP §699.020 et seq) – requires payment of money owed to the Judgment Debtor from a third party to be paid directly to a third party.

A Seizure order – much like a levy allows the Levying officer to take possession of assets – but exemptions apply – CCP §703 et seq. and CCP §704 et seq.)



Renew The Judgment

Renew Judgments if allowed – CCP §638.110 et seq.

Remember: 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.

(See Slide 5)

Good Luck!



Questions?

Thank You!

The Team from The Law Offices of Gary A. Bemis, APC

