

Basic Collection Techniques

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Today's Presentation

- Part 1 Introduction
- Part 2 How to Collect
- Part 3 Scenarios
- Part 4 Resources

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Basic Collection Techniques – Pre-Step 1

- Don't break fair debt collection laws
- Try to get debtor to pay voluntarily
- Start finding out what they/it own

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Basic Collection Techniques – Step 1

Look at realistic collection avenues...

- Do they:
 - Receive wages from an employer?
 - Own a bank account?
 - Own real property?



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Basic Collection Techniques – Step 1

Not-as-simple collection avenues...

- Do they:
 - Run a business?
 - Have money/rent owed to them?
 - Have a car?



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Basic Collection Techniques

- Find out details about job/assets
- Fill out legal forms
- Court issues legal forms
- Forms to Sheriff
- Wait for \$\$

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Basic Collection Techniques – Basic Forms

	Wage Garnishment	Bank Levy	Property Lien	Sheriff Levy
Writ of Execution	X	X		X
Memorandum of Costs	X	X		
Application for Earnings Withholding Order	X			
Letter to Sheriff	X	X		X
Abstract of Judgment			X	

Maintain Your Judgment

- Memorandum of Cost (MC-012)
- Add costs within 2 years
- Acknowledge payments
- Add Interest

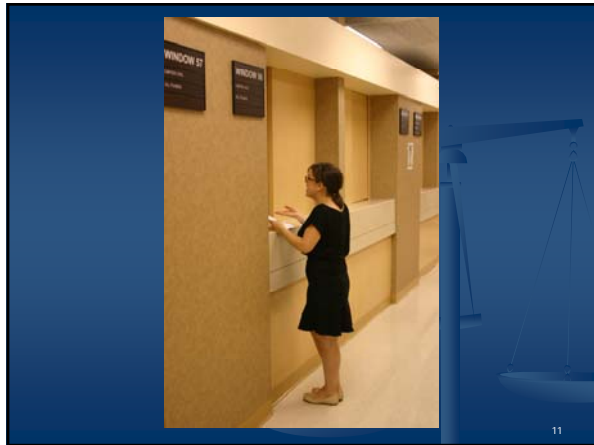
Calculating Interest

- 10% a year
- Ex. Judgment = \$5000 Entered 1-01-2008
- $\$5000 \times 10\% = \500 per year
- $\$500 \div 365$ days in a year = \$1.37 interest per day
- 1-01-2008 to present
(total days) $\times \$1.37 = \dots$

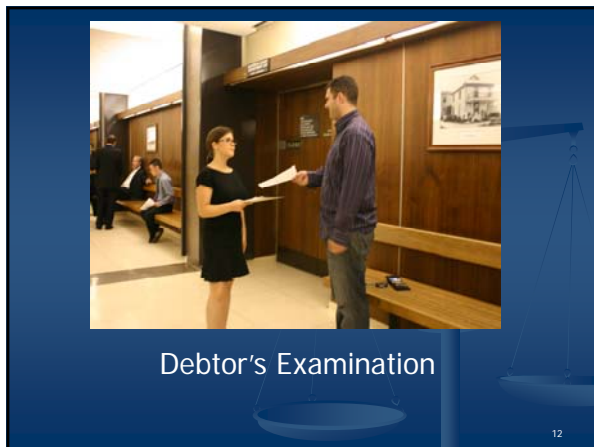
Scenario

- You have a Judgment against John Smith for \$5000.
- You do not know if John works, if he has a bank account, or if he owns a home.
- Collection Ideas?

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Debtor's Examination

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Conducting a Debtor Exam

- Where is it held?
- Who asks questions?
- What can you ask?

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Scenario

- You schedule a Debtor's Examination for John Smith to appear.
- John Smith doesn't show up.
- What can you do?

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Bench Warrant

- What is a Bench Warrant?
- What are the procedures to follow when a bench warrant is issued?
- What forms will you need?
- Does that guarantee payment?
- How much is the bail amount?

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Bench Warrant (Answer)

- Forms:
 - Bench Warrant (L-525)
 - Bench Warrant Instructions (L-1166)
- Procedure:

After a bench warrant is issued the sheriff will serve warrant (will NOT arrest). Debtor will have to go to court to contest the warrant and pay bail. Clerk will contact creditor and reschedule debtor's examination.

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Scenario

- You have a judgment against a dentist for \$7500.
- Would a till tap or keeper work here?

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It may...

- Imagine going to your dentist's office and having a Sheriff collecting your co-pay
- If the dentist is part of a group, the other dentists will be upset

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Scenario

- You have a judgment against Speed Racer for \$3500.
- Does it matter whether the judgment arose due to an accident on a California Highway or City Streets?

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DL-17, DL-30

- You may be able to get their license suspended.
- What is the difference between forms DL-17 and DL-30?

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DL-17, DL-30 (Answer)

- Form DL-17:
 - For Judgments less than \$750
 - License will be suspended for 90 days
- Form DL-30:
 - For Judgments more than \$750
 - License can be suspended indefinitely

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Abstract of Judgment

Debtor owns a home.

What can you do?

Does this guarantee payment?



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Abstract of Judgment (Answer)

- Form:
File an Abstract of Judgment (EJ-001) with the court. There is a fee for filing.
- Procedure:
After filing, take the Abstract of Judgment to the County Recorder's office to be recorded. The clerk will charge you a fee to record the Abstract (approximately \$20).
Liens will be placed on all properties owned by the debtor.

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What if you do not know whether or not they own a home?

- Where can you find that information?

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Also, you may ask a real estate agent to perform a title search.

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Scenario

- You have a judgment against John Smith, Tom Arnold, and Carl McDonald.
- The judgment is for \$7500
- Collection Ideas?

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Joint and Severable Liability?

- What do each mean?

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Joint and Severable Liability (Answer)

- Joint Judgment:
If there is more than one debtor on judgment, creditor is allowed to collect all the judgment from just one debtor.
- Severable Liability:
Judgment is divided between debtors. Judge will specify on judgment who owes what.

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Scenarios

- You, the Plaintiff, have a judgment for \$4000 against John Smith.
- John is unemployed, doesn't own any property, and has no money in his bank accounts.
- You know John's wife has a secure job with a bi-monthly pay check.
- Also, you have learned that she has accounts at Bank of Sacks.
- Collection ideas?

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Collecting From a Debtor's Spouse

Creditor is allowed to collect money from the debtor's spouse.

- From his/her account
 - Without notice
- From his/her wages
 - Upon noticed motion
- In what order and where should the Sheriff go?

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You have a judgment against Food4Less.
How can you collect?

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What is the Legal Name of Food4Less?

- It is NOT "Food4Less"

- Affidavit of Identity and Order
 - May not work

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Affidavit of identity and Order (Answer)

- You must know the legal owner of a business in order to be able to collect from the business.
- Procedure:
 - Go to City Hall to obtain the business license for Food 4 Less (Ralphs Grocery Company) if wrong on Judgment
 - File an Affidavit of Identity and Order (L-2527) with the court. Attach the business license that you obtained from City Hall.
 - If Judge signs and approves the Affidavit of Identity and Order, take a copy and a Writ to the Sheriff for a till tap or a keeper levy.

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Renewing Your Judgment

- 10 years.
- To renew file:
 - Application for an Renewal of Judgment (EJ-190)
 - Notice of Renewal of Judgment (EJ-195)
- Memorandum of Costs (MC-012).
- The renewal extends 10 years
- Pay fee

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Satisfied Judgment

- File an Acknowledgement of Satisfaction of Judgment.
- Failure to file and serve may result in:
 - Penalty fees
 - Demand for all Damages
- Judgment may be paid to court.
 - fee.

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Resources

- Code of Civil Procedures
- Sheriff's Procedural manual
- www.courtinfo.ca.gov/selfhelp
- www.ocsmallclaims.com
- How to Collect When You Win a Lawsuit in California- NOLO
- Enforcing Judgments and Debts- Rutter Group
- Enforcing Civil Money Judgments- CEB

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I-CAN

- You can prepare forms online at:

<http://www.icandocs.org/ca>

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