

COLLECTING YOUR SMALL CLAIMS COURT JUDGMENT

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FORMS are available at: www.courts.ca.gov click on "forms"
SC County Sheriff's Dept: www.sccsheriff.org click on "civil division"
Collection information www.courtinfo.ca.gov/selfhelp/smallclaims/collectintro.htm

CA STATUTES are found at: www.leginfo.ca.gov click on "California Law"
| In this handout, CCP = Code of Civil Procedure and VC= Vehicle Code
Small claims advisor: 408/556-3000 option #2 then #6 M-F 2:30-5 pm

You cannot take any action (for example, filing/serving a wage garnishment) to collect your judgment for the first 30 days after your judgment. This is because the defendant has 30 days from the date of the judgment in which to file an appeal.

The defendant can pay you within this time frame and you can accept that payment. If the defendant does not pay, you have to wait 30 days from the date of the judgment to take any action to collect money. If your judgment was made at the court hearing, you can begin to collect on the 31st day after your court hearing. If your judgment was made by the judge after the hearing, you can begin to collect on the 31st day from the date the judgment was mailed to you (see item 13 at the bottom of form SC-130 "Notice of Entry of Judgment" for the date the clerk mailed the judgment.)

If the defendant timely files an appeal, you cannot take any action to enforce the judgment until defendant loses the appeal. If defendant loses the appeal, you can start collecting your judgment as soon as the file is returned to the small claims court, which is usually 10 days.

If you receive notice that the defendant has filed for bankruptcy, you cannot take any action to enforce the judgment. Contact the bankruptcy court trustee or a bankruptcy attorney immediately.

How long does the judgment last?

The judgment is good for 10 years. If you are unable to collect within 10 years, you can renew the judgment before the 10 years run out. Once the renewal is filed with the court clerk, the judgment is renewed for another 10 years. To renew your judgment, file forms EJ-190 and EJ-195 with the court clerk. Once these forms are filed, the defendant must be personally served or served by mail. Also, any liens that exist must also be renewed. CCP 683.010 - 683.220.

Am I entitled to collect interest on the unpaid amount of the judgment?

Yes. You are entitled to collect 10% per year in interest. Let's say that your judgment was for \$5000 and it took you one year to collect it. Defendant not only owes you \$5000, but an extra \$500 in interest too. For more information computing interest owed on a judgment, go to <http://www.courts.ca.gov/selfhelp/smallclaims/collectintro.htm#computeinterest>. Computing interest is part of completing several forms you may be using to enforce your judgment.

How do I find out what the defendant has so I know how to collect?

1. Find out if defendant owns any **real property** (i.e. a house) by contacting the "recorders" office in the county or state where you believe the property is located. For property owned in Santa Clara County, you can check in person with the assessor's office at 70 West Hedding, San Jose, CA M-F 8 am to 4:30 pm or online at www.clerkrecordersearch.org.
2. Find out where defendant **works**. There is no public database showing where a person works, but you can check with any people you and defendant know together (friends, relatives, etc.) to see if anyone knows where defendant is working. If you know where defendant used to work, you can contact that former employer to see if they know defendant's new employer.
3. Find out where defendant **banks**. Have you written defendant a check recently and they cashed it? If so, get a copy of that canceled check from your bank - it should contain information about defendant's bank and branch number. If defendant is a business, ask a friend to buy something from the business and to pay by check. The canceled check your friend can order from their bank may have the defendant business' bank and branch number on it.

METHOD	FORMS/ LAWS	PROCEDURE	FEES/COSTS	MISCELLANEOUS
<p>DEBTOR'S EXAM HEARING</p> <p>This sets up a court hearing for you and the defendant so you can ask defendant questions in front of the judge about identification and location of assets you might be able to collect against, where defendant works, etc. You can do this once every 120 days.</p>	<p>SC-134 SC-133 (Leave the SC-133 blank).</p> <p><u>Statutes:</u> CCP 116.820 (b)</p>	<p>Complete, make 2 copies of form SC-134, file original + copies with court clerk.</p> <p>Clerk will process and tell you when to come back to pick up 2 filed copies: 1 is for you, 1 is to serve on defendant, along with blank SC-133.</p> <p>Defendant must be served by personal delivery by a registered process server.</p> <p>Defendant is supposed to give you a completed SC-133 form at the hearing.</p> <p>To file in this county, the defendant has to live or work in this county, or live within 150 miles from the court. Otherwise, you will have to file the debtor's exam with the small claims court where defendant resides and you will have to go to court there. CCP 708.160.</p>	<p>\$60 to court clerk + fee to have a registered process server serve defendant.</p> <p>The sheriff's dept. will serve only if the court has already granted you a fee waiver "in full."</p>	<p>If defendant doesn't show up for the hearing, the judge issues a civil warrant for defendant's arrest, but you have to give the court clerk a \$50 check made out to the sheriff's dept. for the warrant to issue. The sheriff's dept. usually will not go out and arrest defendant, but if defendant is ever involved with law enforcement so that a check for warrants is performed (for ex., pulled over for a traffic violation), defendant will then be "cited and released" which means they will be given a court date in small claims court and let go. You will be notified of the court date if this happens.</p> <p>The debtor's exam. process does not directly result in your getting paid, but it will hopefully provide information on how to collect the judgment (wage garnishment, bank account levy).</p>
<p>WAGE GARNISHMENT TO DEFENDANT'S EMPLOYER</p> <p>This allows you to have up to 25% of defendant's net (after tax) income sent to you (through the sheriff's dept.) each time defendant is paid until your judgment is satisfied.</p> <p>Once the sheriff's dept. receives a payment, they hold on to it for 20 days before they forward the payment to you.</p>	<p>WG-001, WG-002 and WG-003 EJ-130</p> <p><u>Statutes:</u> CCP 704.070, 706.010 thru 706.154</p>	<p>Complete WG-001, WG-002, WG-003 and EJ-130, make 2 copies. Set aside forms WG-001, WG-002 and WG-003— your process server will need to give these to the sheriff's dept. later.</p> <p>Give EJ-130 + copies to court clerk. Clerk will issue and give you back original + filed copies —you will give these to your process server to take to the sheriff's dept.</p> <p>Hire a registered process server. The sheriff's dept. will only take a filed copy of the forms from the process server. The process server will deliver your forms (issued EJ-130 plus all the WG forms mentioned above) to the sheriff's dept. along with your \$25 fee (check made out to the Santa Clara County Sheriff's Dept.). Also give the process server a letter of instructions to sheriff's dept. which includes name and address of defendant's employer and your name, address and phone number. Include in your letter of instructions that you want the sheriff's dept. to keep Writ open for 180 days (so you can use multiple collection methods in this 180 day period on the one Writ issued).</p> <p>A Writ of Execution expires in 180 days. The sheriff's dept. must serve it within 180 days of the date it's issued by the court clerk.</p>	<p>\$25 fee to court clerk (to issue Writ of Execution) + \$25 fee paid to sheriff's dept. + registered process server's fee to bring forms to sheriff's dept.</p> <p>The sheriff's dept. will charge you a \$10 "assessment fee" each time a payment is sent to you.</p>	<p>You have to know where defendant works to use this collection method, and defendant cannot be self-employed or working "under the table."</p> <p>If defendant already has other wage garnishments that employer is paying, your garnishment may not be processed until those garnishments are paid off. CCP 706.023(c).</p> <p>What if defendant does not work, but his/her spouse does? File form SC-105 + 2 copies with court clerk – this will set up a hearing to see if the judge will allow you to garnish the spouse's wages. See CCP 706.109.</p> <p>What if defendant does not have an employer but receives rental income or commissions? There may be a way to have the sheriff's dept. intercept rental income or commissions. Once your forms are filed with the court, you will need to provide the sheriff's dept. with explicit instructions on who pays the commissions or the rent (and where they can be found) and when the payments are going to be made. The sheriff's dept. will attempt to intercept the commission or rent directly from the person paying the commission or the tenant(s).</p>

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<p>BANK ACCOUNT LEVY</p> <p>This allows you to freeze defendant's bank account and the bank will pay you what defendant owes you (or what is in the account, if it is less than what is owed).</p> <p>If defendant is known to have a safe deposit box, for an extra \$450 fee and a separate letter of instructions, the sheriff's dept. will open the box and give you contents (statute: CP 700.150).</p>	<p>EJ-130</p> <p><u>Statutes:</u> CCP 700.140, 704.070, 704.080</p>	<p>File Writ (EJ-130) + 2 copies with court clerk. The clerk will issue the Writ and give you back original + filed copies. Bring original issued Writ to a registered process server and keep copy for your records. Also give to the process server a letter of instructions to the sheriff's dept. that includes defendant's bank name, branch and account number (account number is not necessary, but very helpful) and your name, address and phone number. Include in your letter of instructions that you want the sheriff's dept. to keep Writ open for 180 days (so you can use multiple collection methods in this 180 day period on the one Writ issued). Process server will deliver documents and the \$30 sheriff's fee to the sheriff's dept.</p> <p>When the bank receives the Writ, the account is frozen for 10 days. During that time, account owner(s) is notified. If defendant does not give the sheriff's dept. a timely objection claiming a legally-permitted shield to the levy, then funds available to satisfy all or part of your judgment are forwarded by bank to sheriff's dept. The money is then forwarded to you after the sheriff's dept. holds it for 20 days.</p> <p>A Writ of Execution expires in 180 days. The sheriff's dept. must serve it within 180 days of the date it's issued by the court clerk.</p>	<p>\$25 fee to court clerk (to issue Writ of Execution) + \$30 fee to sheriff's dept. + registered process server's fee to serve sheriff's dept.</p> <p>The sheriff's dept. will charge you a \$10 "assessment fee" before releasing seized funds to you.</p>	<p>Not all income in a bank account can be frozen and paid to you. 75% of wages are protected within 30 days of deposit. Certain benefits paid by the Social Security Administration (see CCP 704.080) are protected (SSI, SSDI or retirement) and cannot be levied upon.</p> <p>If the defendant's spouse is also on the account, the sheriff's dept. will need an affidavit from you saying so. CCP 700.160(b)(1)(2).</p> <p>If you are collecting from a DBA (doing business as), then the judgment must have included the DBA name and the subsequent Writ form (form EJ-130) must include the DBA name.</p>
<p>GET DEFENDANT'S CAR</p>	<p>EJ-130</p> <p><u>Statutes:</u> CCP 700.90, 704.010, 704.060</p> <p>Exemption amount CCP 703.140(b)</p>	<p>File original + 2 copies of EJ-130 with court clerk.</p> <p>Court clerk will return original and filed copies to you. Hire a process server to bring original issued EJ-130 + a letter of instructions to the sheriff's dept. Instructions must contain information about defendant's car (vehicle make, type, color, license plate #, vehicle ID number and location of vehicle) and your name, address and phone #. Include in the instructions that you want the sheriff's dept. to keep the Writ open for 180 days. The process server will also give the sheriff your deposit of \$1300 (or \$2000).</p> <p>The sheriff's dept. will seize the automobile, sell it at auction and give you the proceeds to satisfy all or part of your judgment, minus the \$2300 that defendant is able to protect.</p> <p>A Writ of Execution expires in 180 days. The sheriff's dept. must serve it within 180 days of the date it's issued by the court clerk.</p>	<p>\$25 fee to court clerk (to issue Writ of execution) + fee to hire process server to open a file with sheriff's dept. + deposit to sheriff's dept. of \$1300 for a car or \$2000 for a large vehicle (i.e. a Hummer). If the sheriff sells the car for a high enough price, the \$1300 (or \$2000) is returned to you as part of sale proceeds.</p>	<p>☞ Because the fees are so expensive, this collection method is not practical for a small claims judgment.</p> <p>The vehicle must be in defendant's name.</p> <p>The vehicle must be accessible to the sheriff's dept. (i.e. on the street, in a public parking spot or in a driveway). If it is not, you will first have to file forms with the small claims court asking for a "break-in order."</p> <p>Defendant gets to keep the first \$2550 (or \$6075 if it's a commercial vehicle), and so make sure it's worth it. For example, say the car sells for \$6000 and it had a loan of \$3000. The sale proceeds are distributed as follows: \$3000 to the lender, \$2550 to the defendant and \$450 to you. You had to deposit \$1300 with the sheriff's dept. so you net negative \$850.</p>

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<p>LIEN ON REAL PROPERTY</p> <p>This prevents a defendant who owns any interest in real property (for example, a house, a plot of land, a commercial building) from being able to sell or refinance property without first paying off the judgment.</p>	<p>EJ-001</p> <p><u>Statutes:</u> CCP 697.310, 697.340</p>	<p>Complete Abstract of Judgment form; file original + 2 copies with clerk. Clerk will issue and give you back original and filed copies.</p> <p>Bring original + filed copy of EJ-001 to recorder's office in county (or counties) where defendant owns property. Recorder will record EJ-001 against the property and give you back a recorded (stamped) copy. When defendant tries to refinance or sell the property, the escrow company will first require that your judgment be paid off.</p>	<p>\$25.00 clerk's fee to file Abstract + \$18.00 recorder's fee to record Abstract</p>	<p>This lien lasts for 10 years, the same amount of time your judgment lasts. Before the 10 years run out, be sure to renew your judgment (see above for more information) and then renew your lien. CCP697.310(b)</p> <p>Even if defendant does not own property now, you can still record a filed copy of the Abstract form with the recorder's office. This accomplishes 3 things: 1. Credit reporting agencies routinely check for recorded Abstracts to find out if people have unpaid judgments against them; 2. If defendant ever owns any interest in real property in the future, the pre-recorded Abstract will adversely impact defendant's ownership interest until the judgment is paid off; and 3. if defendant ever files for bankruptcy, you would be treated as a secured creditor.</p>
<p>PLACE A "KEEPER" IN THE DEFENDANT'S BUSINESS</p> <p>A sheriff's deputy goes out to the defendant's business and takes money (cash or checks only) in the cash register and as sales are made while the keeper is there.</p>	<p>EJ-130</p> <p><u>Statutes:</u> CCP 700.070</p>	<p>File original + 2 copies of EJ-130 with court clerk. Court clerk will give you back original + filed copy of EJ-130.</p> <p>Hire a process server to take original EJ-130 to sheriff's dept. Include a letter of instructions telling sheriff's dept. the name and location of the business and the best time to go (not only business days/hours, but when you think the most cash is in the register).</p> <p>Include in your letter of instructions that you want sheriff to keep Writ open for 180 days (so you can use multiple collection methods in this 180 day period on the one Writ issued)</p> <p>A Writ of Execution expires in 180 days. The sheriff must serve it within 180 days of the date it's issued by the court clerk.</p>	<p>\$25 filing fee for EJ-130 + process server's fee to open file with sheriff's dept. + \$205 sheriff's fee if you want a keeper for 8 hours or \$1026 if you want a keeper for a continuous 48 hour period (ideal for businesses open 24 hours, like a gas station).</p> <p>The sheriff's dept. will charge you a \$10 assessment fee before seized funds are released to you.</p>	<p>Available only where the defendant in your case is a business (your judgment is against the business). Credit card transactions will not be allowed during the time the keeper is at the business, so only cash or check payments can be intercepted.</p> <p>The business can close the store when the keeper arrives. If that happens, you are out your fees and opportunity to intercept payments for 8 or 48 hours but the keeper will inventory assets and sell the assets later at auction.</p> <p>\$85 of the \$205 sheriff's dept. fee can be waived by the court if you file, and are granted, a fee waiver.</p>

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<p>FILE A LIEN IN ANOTHER COURT CASE WHERE DEFENDANT MAY BE GETTING SOME MONEY</p> <p>If you know there is a lawsuit pending (but not yet resolved) in another court where defendant might be getting some money (for example, a personal injury lawsuit), you can file papers to freeze defendant's payout until you are paid. This can be complicated, so you are advised to speak with a lawyer.</p>	<p>EJ-185 (also called AT-180)</p> <p><u>Statutes:</u> CCP 700.190, 708.410</p>	<p>Complete EJ-185 and attach a certified copy of your judgment from the small claims clerk.</p> <p>File original + 2 copies of EJ-185 with court where defendant might be getting a money judgment (for example, his Los Angeles County Superior Court personal injury case).</p> <p>The clerk will give you back 2 filed copies. Keep 1 for you; make enough copies of the other to serve all parties in defendant's case. Someone other than you must mail to all other parties a filed copy and then complete a Proof of Service by Mail form (POS-030). File the original and copies of the Proof of Service by Mail form with the court clerk where defendant's case is pending.</p>	<p>\$25 for certification of judgment from clerk plus whatever fee the other court charges you to file EJ-185</p>	<p>When and if your defendant gets money from his/her other case, all or part of it will be forwarded to you to satisfy your judgment.</p>
<p>SUSPEND THE DEFENDANT'S DRIVER'S LICENSE</p> <p>Suspend defendant's driver's license for failing to pay the judgment. Available only if the small claims court judgment involves property and/or personal injury damages from a motor vehicle accident in California. Judgment has to be owed for at least 90 days at the time you request license suspension.</p>	<p>No court forms involved</p> <p>DMV forms DL-17 or DL-30</p> <p><u>Statutes:</u> CCP 116.880, VC 16250-16381</p>	<p>Complete form DL-17 or DL-30 and attach a certified copy of the small claims judgment (available from small claims court clerk for a small fee). The DMV's forms are available at http://www.dmv.ca.gov/forms</p> <p>Make 1 copy of form and keep copy for your records.</p> <p>Mail original (with copy of small claims judgment attached) + check or money order for \$20 (payable to DMV) to:</p> <p>DMV, Attn: Civil Judgments POB 942884, mail station J237 Sacramento, CA 94282-0884</p>	<p>\$20 fee to DMV.</p>	<p>If judgment involved is solely for property damage, judgment must be for at least \$750 (or \$500 if before 1/1/03); if your judgment was for bodily injury and property damage, judgment can be under \$750.</p> <p>Defendant's license can be suspended for either 90 days or until the judgment is paid off, depending on your judgment (see forms DL-17 or DL-30 for further information).</p> <p>For questions, call DMV Civil Judgments at 916-657-7573.</p>

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<p align="center">REPORT JUDGMENT TO APPLICABLE LICENSING AGENCY</p> <p>If your judgment is against a business/service provider defendant who is required to have a license and your judgment concerns work they did for you.</p>	<p>No court forms involved</p>	<p>Send a copy of the judgment to the licensing agency involved. For a list of California licensing agencies, go to: www.dca.ca.gov/public_info/license_types.htm</p> <p>For contractors, contact: www.cslb.ca.gov or 1-800-321-2752</p>		<p>Providing a copy of the judgment to the applicable licensing agency will not result in your collecting the judgment, but it may get the defendant in trouble with state authorities in charge of licensing certain individuals and/or it may motivate the defendant to pay you.</p>
<p align="center">HIRE AN ATTORNEY, DEBT COLLECTION AGENCY AND/OR AN ASSET SEARCH COMPANY</p>	<p>No court forms involved</p>	<p>You can look in the yellow pages, look on the internet or, in cases where you want to consult with or hire an attorney, check with the Lawyer Referral Service (for a list of local attorneys) at 408/971-6822.</p>	<p>Check with the service provider. Attorneys and asset search companies typically charge an hourly rate, and collection agencies typically charge a percentage of the amount actually collected.</p>	<p>Depending on the amount you are owed, this may not be a cost-effective solution for you.</p>

Collecting Post-Judgment Costs

You should always file a Memorandum of Costs (MC-012) if you have incurred post-judgment collection costs. The MC-012 allows you to add to the judgment the filing fees, process server's fees, accrued interest and sheriff's dept. fees incurred (or about to be incurred in some cases) in collecting your judgment. The MC-012 must be filed within 2 years of incurring the costs claimed. This can be a tricky area: sometimes you can file/serve an MC-012 to claim extra costs at the same time you file/serve forms to pursue your collection, but other times you must wait until you have pursued a collection method and already have incurred those extra costs before you can claim extra costs and pursue another round of collection. You may want to consult with an attorney or use a bonded process server who has experience in this area.

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