

GUIDE TO SMALL CLAIMS PROCEDURES: COLLECTING THE JUDGMENT

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I. When You Can Collect

- You are the *judgment creditor* if you won the claim. The person or entity who lost is called the *judgment debtor*.
- The judgment becomes final **30 days** after you receive the ***Notice of Entry of Judgment (Form SC-130)***.
- If the judgment debtor has not filed a ***Notice of Appeal (SC-140)*** or a ***Notice of Motion to Vacate Judgment and Declaration (SC-135)***, you may collect the judgment.
- The court will not collect the judgment for you.

II. How to Collect

A. Make an Initial Request for Your Money

- You can request payment of the judgment by a letter or email, telephone call or personal meeting.
- Remind the judgment debtor that a judgment has been entered in your favor, and ask to make arrangements to pay off the award. Make sure that the judgment debtor is aware of the amount of the judgment and where to send payment.
- You may want to work with the judgment debtor to arrange a payment schedule, to accept payments over time and/or to forgive interest in exchange for full payment.

B. Make a Formal Final Demand for Payment

- If the judgment debtor does not respond to your initial request within a week to ten days, you should write a formal final demand letter. Restate that judgment has been entered in your favor, that you request payment of that judgment, and that if you do not receive such payment within a set period of time you will begin formal collection efforts.

C. Investigate the Debtor's Assets

- What collection efforts you will undertake depends on whether the judgment debtor is an individual or a business entity, and on what assets the judgment debtor has.

1. Statement of Assets Form

- After the decision, the clerk of the Small Claims Court should give the judgment debtor a ***Statement of Assets (Form SC-133)***. The judgment debtor must fill out the form and send it to you within 30 days of the judgment unless he/she pays the judgment.

- If the judgment debtor does not fill out the form, you should ask the small claims court to find him in "contempt." The small claims court may then add any fines it charges to the judgment debtor to the judgment.

D. Formal Collection Efforts

You have a number of ways to enforce a judgment and collect your money if the judgment debtor refuses to pay it willingly. This will depend on whether the debtor is an individual or a business entity and what assets the debtor has (which you may learn from the *Statement of Assets*).

If the Debtor is an Individual:

If you:	You can:	This means:	Process:
Need to find out what assets the judgment debtor owns	Conduct a judgment debtor's examination	<p>You have the judgment debtor appear in court to answer questions about their money and property that can be used to pay the judgment.</p> <p>You can subpoena documents such as bank statements, pay stubs and property deeds.</p>	<p>File an <i>Application and Order to Produce Statement of Assets and to Appear for Examination (SC-134)</i> and pay a \$60 fee for it to be issued.</p> <p>Need the Small Claims clerk to issue a <i>Small Claims Subpoena for Personal Appearance and Production of Documents at Trial or Hearing and Declaration (SC-107)</i> if you want debtor to bring certain documents. These forms must be served by the Sheriff or a registered process server.</p>

If you:	You can:	This means:	Process:
Know the name of the debtor's employer	"Levy" execution on the debtor's wages	<p>The debtor's wages will be "garnished" until the debt is paid.</p> <p>The debtor's employer is required to remit 25% of the debtor's wages to the Sheriff for payment to the creditor.</p>	<p>File a <i>Writ of Execution (EJ-130)</i> and pay a \$25 fee for it to be issued.</p> <p>Complete an <i>Application for Earnings Withholding Order (Wage Garnishment) (WG-001)</i> and pay a \$25 fee for it to be issued.</p> <p>Pay a fee of \$30 to the Sheriff and bring the original EJ-130 and one copy, and WG-001.</p>
Know the name and address of the bank where the debtor has an account	Levy execution on the debtor's bank accounts.	A bank levy will be placed on the judgment debtor's bank accounts to pay the judgment.	<p>File a <i>Writ of Execution (EJ-130)</i> and pay a \$25 fee for it to be issued.</p> <p>Bring EJ-130 and two copies, signed written instructions indicating the name and address of the bank and the account # (if known) to the sheriff; pay \$30 fee.</p>
Know that judgment debtor owns real estate, and in which county the real estate is located	Record an Abstract of Judgment	A "lien" is placed on any property owned by the judgment debtor. If the property is sold, you will be paid out of proceeds before the title can be transferred.	<p>File an <i>Abstract of Judgment (EJ-001)</i> and pay a \$25 fee for it to be issued.</p> <p>Record it with the County recorder's office in each county where the judgment debtor owns property.</p>

If you:	You can:	This means:	Process:
<p>Know the judgment debtor is a licensed driver</p>	<p>Suspend the judgment debtor's driver's license</p>	<p>You may have the judgment debtor's driver's license suspended if the judgment was not paid within 30 days of final judgment.</p> <p>Have the judgment debtor's license suspended 90 days if the judgment was less than \$1000.00. Have the debtor's license suspended until the judgment is paid if your judgment is more than \$1000.00.</p>	<p>Get the proper form at your local DMV office or online.</p> <p>If your judgment is for \$1000 or less, you need form DL 17 titled: <i>Notice of Unsatisfied Judgment of \$1000 or Less.</i></p> <p>If your judgment is for more than \$1000, you need form DL 30 titled: <i>Certificate of Facts Re: Unsatisfied Judgment.</i></p> <p>Fill out the form, take it to the Small Claims Clerk's Office and have them certify the form (fee set by court).</p> <p>Request a certified copy of the <i>Notice of Entry of Judgment</i> from the clerk. Pay the \$25 fee.</p> <p>Mail the completed DMV form and the <i>Notice of Entry of Judgment</i> form (SC-130) to: Department of Motor Vehicles Financial Responsibility Civil Judgment Section P.O. Box 942884 Sacramento, CA 94284-0884</p> <p>Include a check or money order for the filing fee. (The fee amount is listed on the DMV form.)</p>

If the Debtor is a Business Entity (i.e. Partnership, Corporation):

If you:	You can:	This means:	Process:
<p>Need to find out what assets the judgment debtor owns</p>	<p>Conduct a judgment debtor's examination</p>	<p>You have the judgment debtor appear in court to answer questions about their money and property that can be used to pay the judgment.</p> <p>You can subpoena documents such as bank statements, pay stubs and property deeds.</p>	<p>File an <i>Application and Order to Produce Statement of Assets and to Appear for Examination (SC-134)</i> and pay a \$60 fee for it to be issued.</p> <p>Need the Small Claims clerk to issue a <i>Small Claims Subpoena for Personal Appearance and Production of Documents at Trial or Hearing and Declaration (SC-107)</i> if you want debtor to bring certain documents. These forms must be served by the Sheriff or a registered process server.</p>
<p>Know the name and address of the bank where the debtor has an account</p>	<p>Levy execution on the debtor's bank accounts.</p>	<p>A bank levy will be placed on the judgment debtor's bank accounts to pay the judgment.</p>	<p>File a <i>Writ of Execution (EJ-130)</i> and pay a \$25 fee for it to be issued.</p> <p>Bring EJ-130 and two copies, signed written instructions indicating the name and address of the bank and the account # (if known) to the sheriff; pay \$30 fee.</p>

If you:	You can:	This means:	Process:
Know that judgment debtor owns real estate, and in which county the real estate is located	Record an Abstract of Judgment	A lien is placed on any property owned by the judgment debtor. If the property is sold you will be paid out of proceeds before the title can be transferred.	File an <i>Abstract of Judgment (EJ-001)</i> and pay a \$25 fee for it to be issued. Record it with the County recorder's office in each county where the judgment debtor owns property.
Know that the judgment debtor is a business that receives monetary payments	Put a "keeper" in the debtor's business	A Sheriff will remain in the debtor's business for up to 8 hours and collect all funds until the judgment is paid. This can include cash, checks and/or credit card drafts.	File a <i>Writ of Execution (EJ-130)</i> and pay a \$25 fee for it to be issued. Take the form issued by the clerk to the Sheriff, request in writing that a keeper be placed in the business, and pay a fee of \$220. Pay another fee if the Sheriff has to go back because the debtor closes the business while the Sheriff is there.
Know that the judgment debtor is a business with a cash register	Have the Sheriff do a "till tap."	Money is removed by the Sheriff from the cash register of a business if the judgment debtor is the business. If the initial till tap does not pay the full judgment amount, you can have additional till taps done.	File a <i>Writ of Execution (EJ-130)</i> and pay a fee of \$25 for it to be issued. Take the form issued by the clerk to the Sheriff, request in writing that a till tap be performed, and pay a fee of \$85. Pay a fee each time it is done.

E. Collecting a Judgment Resulting from an Auto Collection

1. If you are involved in an automobile accident and owed a judgment over \$1000.00:
 - You may file a ***Certificate of Facts RE Unsatisfied Judgment (DL-30)*** with the Department of Motor Vehicles (DMV) to request a suspension of the judgment debtor's driver's license until the judgment is paid in full.
 - A ***Certificate of Facts RE Unsatisfied Judgment (DL-30)*** can only be completed 30 days after finality of judgment and must be completed by a clerk at a California Court.
 - The ***Certificate of Facts RE Unsatisfied Judgment (DL-30)***, plus a ***certified copy of the Original Judgment***, and a \$20 nonrefundable processing fee must be mailed to the DMV (do not deliver to your local DMV field office).

2. If you are involved in an automobile accident and owed a judgment of \$1000.00 or under:
 - You may file a ***Notice of Unsatisfied Judgment of \$1,000 or Less (DL-17)*** with the Department of Motor Vehicles (DMV) to request a suspension of the judgment debtor's driver's license for 90 days.
 - A ***Notice of Unsatisfied Judgment of \$1,000 or Less (DL-17)*** can only be completed 90 days after finality of judgment.
 - The ***Notice of Unsatisfied Judgment of \$1,000 or Less (DL-17)***, plus a court judgment document signed by the judge or certified with a clerk's signature, and a \$20 nonrefundable processing fee must be mailed to the DMV (do not deliver to your local DMV field office).

III. After You are Paid the Judgment

Once you have been paid the judgment in full, you have to file certain form(s) with the Court: either the Acknowledgment of Satisfaction of Judgment section of the ***Notice of Entry of Judgment (SC-130)*** or the longer ***Acknowledgment of Satisfaction of Judgment (EJ-100)*** form.

- You must file the longer ***Acknowledgment of Satisfaction of Judgment (EJ-100)*** if you filed an ***Abstract of Judgment (EJ-001)*** in any county where the judgment debtor owned property.
- You must file the ***Acknowledgment of Satisfaction of Judgment (EJ-100)*** within 14 days of receiving a written request by the judgment debtor. If you do not, you may be liable for any losses that the judgment debtor has because of your failure to do so. There may be other fines that you will have to pay.
- These forms are considered the receipt for the judgment and are used to close the case.