



PREVENTIVE LAW SERIES
SMALL CLAIMS JUDGMENTS



Prepared by:
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Some debtors will not pay you voluntarily, even when faced with a judgment against them. A Small Claims Court judgment is enforceable for ten years and there are many methods of receiving payment from the debtor.

DEFENDANT APPEALS

A judgment debtor (party ordered to pay) is given thirty days from the date of the judgment to appeal the judgment. During the appeal period, the judgment creditor is PROHIBITED from taking action to enforce the judgment.

JUDGMENT DEBTOR'S STATEMENT OF ASSETS & JUDGMENT DEBTOR EXAMINATION

A defendant who loses and does not appeal the case or pay the judgment within thirty days must complete and return a STATEMENT OF ASSETS form to the judgment creditor. This provides a list of the judgment debtor's property and sources of income. If the debtor does not send you his or her STATEMENT OF ASSETS in the time required, you may bring him or her back to court to answer those questions in a Judgment Debtor Examination. Sample questions are available at: www.courtinfo.ca.gov/selfhelp/smallclaims/collectsamppquest.htm. An application may be picked up from the clerk of court where your original hearing was held. There is a fee for this new hearing. This may be one of the best ways to collect your judgment, because if the judgment debtor does not show up for the Judgment Debtor Examination, you may request the court to issue a warrant for his or her arrest.

ENFORCING YOUR JUDGMENT

1. **Attaching the Debtor's Real Estate:** Go to the Clerk of Court where your case was heard and request an ABSTRACT OF JUDGMENT. There is a small fee for this request. Take the ABSTRACT to the County Recorder's Office, 1600 Pacific Highway, Room 260, San Diego, CA 92102, to record it. There are fees for both of these filings. The ABSTRACT puts a lien on the debtor's real property located in San Diego County.

NOTE: If the debtor owns rental property, you may ask for RENT GARNISHMENT from the debtor's tenants.

2. **Garnishment of Debtor's Wages:** If the debtor is an employee, his or her wages may be garnished to pay off the judgment except if he or she is on active duty in the military or works for the federal government. If this is the case, see below for Military and Federal employees.
 - a) Go to the Clerk of Court where your case was heard and request a WRIT OF EXECUTION and fill out the form completely. There is a fee.
 - b) Take this to the Sheriff's Office and request the APPLICATION FOR EARNINGS WITHHOLDING ORDER form. Fill these out completely with the full name and address of the employer along with the full name of the debtor, and the debtor's Social Security Number, if available.
 - c) The Sheriff will serve the papers on the employer for a fee.
 - d) Garnishment will begin ten days after service and is usually limited to 25% of the debtor's wages.
3. **Garnishment/Attachment of Military, Federal Employee, and Commission Wages and Royalties:**
 - a) Military Members Wages:
 - 1) Family Support Garnishment: Obtain the WAGE GARNISHMENT forms from the Clerk and obtain a WRIT OF GARNISHMENT, as well as a Certified Copy of the Court Order from the Clerk of Court. These documents must be sent to Defense Finance and Accounting Service (DFAS) and must include the service member's SSN.
 - 2) Involuntary Allotment of Military Pay for other Judgment Indebtedness: The judgment creditor must fill out a DD Form 2653 (Involuntary Allotment Application) and obtain a certified copy of the final court order judgment. These documents must be sent to DFAS. You must include the service member's SSN, along with the judgment and original and two copies of the form.

WARNING: PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND NOT INTENDED TO BE TAKEN AS SPECIFIC LEGAL ADVICE. FOR LEGAL ADVICE IN A PARTICULAR SITUATION, ALWAYS CONSULT WITH AN ATTORNEY.

- b) Assignment of Federal Employee Wages, Commissions, and Royalties: Go to the Clerk of Court where the case was heard and obtain a MOTION form. On the form state that it is a MOTION FOR AN ORDER OF ASSIGNMENT OF WAGES (paid by the federal government, commissions, or royalties). Attach a DECLARATION stating the following: 1) "I, [Your Name], am the judgment creditor."; 2) Date judgment was entered; 3) Principal amount due and owing, payments made, interest accrued as of date of Motion, and current balance; 4) That the judgment is final and the appeals date has passed; and 5) "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"; 6) Signature and date.

Give these forms to the Clerk of Court and they will give you a hearing date. Notice will be mailed to the debtor by the Court. If you win, the commissioner will issue an ORDER OF ASSIGNMENT of the payments to you. You must then serve a copy of the order on the people who owe the debtor money.

4. **Levy on the Debtor's Bank Accounts**: If you can find the name of the bank and the branch where the debtor banks, you may proceed with a BANK LEVY, even if you do not know the account number. Obtain a WRIT OF EXECUTION from the Clerk of Court where the case was heard. Fill out the form and take it to the Sheriff's office, and request a BANK LEVY. Tell the Sheriff you wish to levy any and all accounts of the debtor at the debtor's bank. The bank will freeze the debtor's funds for seven days and then release the funds to the Sheriff to release to you. There is a fee for the Writ and a Sheriff's fee.
5. **Till Tap/Keeper's Levy**: If the judgment debtor owns a business that has a cash register, you may arrange for the Sheriff to go to the business and do either a Till Tap or a Keeper's Levy. Consult an attorney for more information regarding this option as it can be less effective than others.
6. **Costs after Judgment**: A judgment creditor is entitled to recover certain costs incurred in enforcing a judgment. The judgment creditor is also entitled to claim 10% simple interest on the principal amount of the judgment. Accumulated costs and interest are added to the judgment by filing a Memorandum of Costs with the clerk. Complete the form and mail one copy to the judgment debtor, and file the original with the clerk.

AFTER COLLECTION

If your judgment is paid in full, YOU MUST: File an Acknowledgment of Satisfaction of Judgment with the Court where your case was heard. It MUST be filed within fourteen days of the full payment. **You can be fined if you fail to comply with this rule!** You must also remove any liens on the debtor's property.

LEGAL ASSISTANCE SERVICES

A legal assistance attorney is available by appointment Monday from 0800 - 1100 and 1300 - 1500, Tuesday through Thursday from 0900 - 1100 and 1300 - 1500, and Friday from 0900 - 1045. Powers of attorney and notaries are available Monday through Friday at the same times. For more information, please contact the Legal Assistance Office, located in Building 56, 32nd Street Naval Station, San Diego, CA, by telephone at (619) 556-2211, or our office at Naval Air Station North Island – Coronado, Building 318 – Second Deck, above the Fleet and Family Support Center, Saufley Road, by telephone at (619) 545-6437.

RESOURCES

Defense Finance and Accounting Service: www.dfas.mil

- Active Duty: (888) 332-7411
- Retired Military: (800) 321-1080

California Small Claims Courts

- **Small Claims Legal Advisor** (all counties): (858) 634-1900; (858) 634-1777
- Self-Help Website: www.courtinfo.ca.gov/selfhelp
- **San Diego County Small Claims Court**
 - San Diego County Small Claims Court Packet:
www.sdcourt.ca.gov/pls/portal/docs/PAGE/SDCOURT/GENERALINFORMATION/FORMS/SMALLCLAIMSFORMS/PKT019.PDF

California Code of Civil Procedure §§ 116 et seq. (2015).

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