

Collections In California—

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In this economy, it is especially important to watch Accounts Receivables and Judgments to insure that you are collecting all of the money that you possibly can to keep your business or personal budget in order. To that end, I have put together a list of options that you have to collect debts in the State of California. We have assisted many businesses to enforce obligations for the payment of, overdue loans, past due rent, and bad checks. We have also assisted individuals to collect from tenants, to enforce child support and spousal support obligations and to enforce promissory notes for small personal loans made between individuals. There are many options which include: Bank Levy; Wage Garnishment; Order of Examination; Abstract of Judgment or Third Party Attachment.

In order to collect money that is owed to you, one must first obtain a court judgment. Depending on the amount of money that is owed, you may file a complaint in Small Claims or Superior Court. If the amount demanded is under \$7,500 you may file in Small Claims court, as an individual, unless you are a collections agency. A business in California is only allowed to sue for up to \$5,000 two times per year. As a business owner or corporation, if you are owed more than \$5,000 then you must file in the Superior Court Civil Division. You will need to file a Summons and Complaint for Breach Of Contract and typically a Common Counts Cause Of Action will also be filed. You must then serve the summons and complaint on the opposing party by either personal or substitute service of process, to someone over 18 years of age living at the residence or at the place of business. After the complaint is served then you must wait 30 days to determine whether or not the other party will oppose the lawsuit through the filing of a response. If no response is made within that 30 day time period, a default judgment may be applied for. If a response is filed, then the case becomes contested and it must be decided either with a motion or by trial. After motion or trial, a Judgment is issued by the court to the prevailing party.

After you obtain a Judgment then you have to collect it. A Judgment is just a piece of paper unless and until you decide to go through the appropriate steps to collect it. There are many options as delineated herein above including Wage Garnishment, Bank Levy, Abstract of Judgment and others. We will start with a Wage Garnishment and Bank Levy since those procedures are nearly identical.

Wage Garnishment or Bank Levy-

1. In order to obtain either a Wage Garnishment or a Bank Levy you need to prepare and file a Writ of Execution for Enforcement of Money Judgment. That document will include all costs incurred to date, all interest(it is important to note that not all attorneys will ask for interest, but we do), plus attorney fees (if the contract provides for it), plus daily interest for the amount of time it takes for the Sheriff to execute the writ.

2. The next step is to prepare a Memorandum of Costs After Judgment which is filed concurrently with the Writ of Execution. You must in most cases mail a copy of this Memorandum of Costs to the opposing party if the amount of costs exceed \$100.00. Some courts have required us to mail it even when we are simply asking for interest in excess of \$100.00. Despite the fact that the CCP does not provide for such notice, we relent in order to get through the clerks office.
3. The next item you will need to prepare is an Application for Wage Garnishment- This includes the name of the Defendants Employer; the Social Security Number (if known); the County of the Sheriff and the Amount of the Judgment and Daily Interest Amount. That form coupled with the Writ of Execution is delivered to the Sheriff in the county where the employer is located. The Sheriff in most counties will then serve the employer by certified mail. In Bay Area Counties including Contra Costa and Alameda Counties we must employ a Private Process Server to deliver the Garnishment package including an Employers Return form.
4. If you are doing a Bank Levy then you may omit step 3 above. Instead you must prepare a Letter Of Instruction that includes the Name, Address, Telephone Number of the Banking Institution along with Account Number(s) and the amount that is sought based on the Writ of Execution. That form coupled with the Writ of Execution is delivered to the Sheriff in the county where the employer is located. The Sheriff in most counties will then serve the employer by certified mail. In Bay Area Counties including Contra Costa and Alameda Counties we must employ a Private Process Server to deliver the Garnishment package including an Employers Return form.

Abstract of Judgment-

An Abstract of Judgment is used to place a Lien on Real Property owned by a defendant in a particular county. If your Judgment is large enough, it may benefit you to file an Abstract in all 58 Counties of California. This will protect your judgment, in the event that a defendant attempts to purchase or refinance a piece of Real Property then your Judgment will be paid off. Keep in mind that you will need to renew your Judgment every 9.5 years, and you may do so twice. You will need to file appropriate paperwork for that renewal which we can assist you with.

Order of Examination-

An Order of Examination is a form that is prepared for either the Defendants property or a Third Party that holds property for the benefit of the Defendant. You will need to file a form called Order of Examination which will enable you to examine the assets of the Defendant under oath in a court of law. The judge will admonish the Defendant to answer all questions about his or her assets and debts completely or face the prospect of explaining to the Judge why that

information is not being produced. The examination usually takes place in a private setting outside of the court room.

Wage Assignment Order- Aka an Earnings Withholding Order- (Child Support/Spousal Support Cases)

We will file a Wage Assignment Order with the court to enforce your child support or spousal support Judgment. Thereafter, we will serve upon your ex's employer a Notice of Wage Assignment Order to begin withholding from the ex spouses pay check. Consider retaining us to collect your support instead of the County which is making cut backs on staffing and budget due to the economic climate.

We have prepared thousands of small claims, and complaints during our years of practice. Prior to obtaining my license to practice in 2005, I prepared thousands more as a Legal Document Assistant. We have years of experience and know what it takes to collect your money. We offer a flat fee of \$1,595.00 plus costs for an Uncontested Complaint. In the event that the case becomes contested, (a response is filed), we charge a discounted hourly rate of \$250 per hour for the time it takes to prosecute the case. There are no percentages charged and costs are predictable which helps your bottom line. Although we cannot guarantee any particular result, our experience will serve you well when it comes time to collect your debts or child support obligations.

If you already have a Judgment, we will charge a flat rate of \$150.00 plus costs except with Order of Examinations which require court appearance. Order of Examinations are \$150.00 plus \$250 for court appearance plus costs.

When it comes time to collect your hard-earned money, kindly consider us.

Thank you for reading,

Justin T. Allen

Justin Thomas Allen
Mediator and Attorney at Law

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