



Superior Court - Alameda County
Self-Help Services
COLLECTING YOUR SMALL CLAIMS JUDGMENT

BEFORE YOU COLLECT

1. Has it been 30 days since the entry of Judgment?

The debtor, or person who owes you money, has **30 days** after date of the Judgment before he/she has to pay you. You are the creditor, the person who is owed the money. During the 30-day waiting period, the debtor may:

- Voluntarily pay the judgment
- Ask the court to order an installment payment plan
- File an appeal or a motion to vacate the judgment
- Fill out and send you a ***Judgment Debtor's Statement of Assets (SC-133)***.

If the debtor does not do any of the above **and** the 30 days have passed, you may start collecting. This handout discusses some of your options in collecting the judgment. If the defendant appeal and loses, you may start collecting immediately. You do not need to wait another 30 days.

NOTE: Make sure the debtor has not already paid the judgment to the Court. You may check online at www.alameda.courts.ca.gov (go to DomainWeb) and enter your case number to see if the defendant (debtor) arranged to pay the money to the Court, or call the court clerk's office to check this information. If the debtor has already paid in full to the court, then you must request the money by filling out page 2 of the **SC-145 Request** form and file it with the court.

2. Can you locate the debtor?

Before you begin, you need to know where the debtor is. If you don't know, please refer to the "Tips on Finding the Defendant" handout. Here are some suggestions:

- a. If you know the debtor's name you can start by looking in the **telephone book**. This can be done on the internet as well as by using the white pages.
- b. You may try an on-line search engine to find the debtor.
- c. You may also do an on-line search of the records of the **County Assessor's Office** or the **Office of Records** for your county to find out if the debtor owns any property or has a business, or you may go to their office to check records. You may also do a fictitious business name search on the debtor and/or business on the secretary of state website at www.sos.ca.gov.
- d. There are also **private collection agencies** that specialize in finding individuals and getting them to pay. The cost for this can vary and you will have to determine for yourself if you want to use this type of service or not.
- e. You can – if you have an address – send a piece of **mail** to the Debtor and wait and see if it is returned. This may take quite a while and there are no guarantees that unreturned mail truly means the debtor is at that address.

WARNING: This self-help information and/or instructions are not offered to take the place of legal advice. Self-Services does not provide legal advice nor can we act as your lawyer. You must see a lawyer for legal advice. Self-Help Services provides neutral assistance to all parties and we are not responsible for the outcome of your case.

3. Does the debtor have any assets or income?

If you know where the debtor is but not sure about any assets or income that s/he may have, you may ask for a **debtor's examination**. You can require the debtor to come to court for the examination and tell you what type of property they own, where the property is located, tell you about their income, whether from a job or other sources, and their banking information. To start the process, you need to take the following steps:

- a. Fill out and have the court clerk issue an ***Application and Order to Produce Statements of Assets and to Appear for Examination (OEX) (SC-134)***.
- b. Fill out a ***Small Claims Subpoena (SC-107)*** if you need to see any documents.
- c. A registered process server or the Sheriff must personally serve the defendant with the documents above along with a blank copy of the ***Judgment Debtor's Statement of Assets (SC-133)***.
- d. The server must fill out a ***Proof of Service (SC-104)***, which you need to file with the Court once it is completed.
- e. Come to court prepared to ask the debtor questions to find out what assets s/he has and where the assets can be found. If the debtor fails to appear, then the Court can issue a bench warrant against him or her.

COLLECTING YOUR JUDGMENT

Now you are ready to collect on your judgment. If the debtor has not filed an appeal or a motion to vacate, and you have not been paid, you have the following options to collect your judgment, depending on what assets or income the debtor has. You may:

1. **Encourage debtor to pay you voluntarily**
2. **Garnish the debtor's wages**
3. **Place a lien on the debtor's real property**
4. **Levy bank accounts or safe deposit boxes**
5. **Place a lien on the debtor's personal property**
6. **Levy the debtor's personal property**
7. **Execute a "till tap" or a keeper's levy**
8. **Place a lien on a lawsuit**
9. **Hire a Judgment Enforcement Specialist**
10. **Suspend the debtor's driver license (automobile accident cases)**



NOTE: Some property is exempt from collection. See Form **EJ-155** for more information.

Also, many of these options are executed by the Sheriff in the county where the property is located, and the Sheriff usually charges a separate fee for the service. Please check their website for an updated list of fees. The website for Alameda County Sheriff's Office is: www.alamedacountysheriff.org.

1. ENCOURAGE DEBTOR TO PAY VOLUNTARILY

- a. **Call the Debtor**: When calling the debtor, be polite, honest and professional at all times. You can be sued if you violate fair debt collection practices (see page 6). If you are too aggressive, the debtor may become less willing to pay, or may file bankruptcy, which means that you would have to file a claim in the Federal Bankruptcy Court and risk having the judgment discharged.

- b. **Write the Debtor a letter:** Ask for payment of the judgment, using reasonable language (do not be rude, see page 7).

2. **GARNISH THE DEBTOR'S WAGES**

If the debtor is currently employed and you have the employer's information, you may be able to garnish the debtor's wages. That means you may be able to take a certain percentage of the debtor's wages until the judgment is paid in full. To garnish the debtor's wages, you will need to do the following:

- a. Fill out and have the court clerk issue you a **Writ of Execution (EJ-130)**.
- b. Complete an **Application for Earnings Withholding Order (WG-001)**.
- c. Bring these documents to the sheriff's department or to a registered process server. They will assist you with the rest of the process. If you were granted a fee waiver, then you can go directly to the sheriff's office.
- d. The sheriff may garnish up to 25% of the debtor's wages until the judgment is satisfied, subject to other pending wage garnishment orders.

NOTE: The debtor will have an opportunity to be exempt from the wage garnishment if it will cause them undue financial hardship. The Sheriff **cannot** garnish CHILD SUPPORT, WELFARE, SOCIAL SECURITY, or other types of benefits, as well as certain types of trust funds.

3. **PLACE A LIEN ON THE DEBTOR'S REAL PROPERTY**

Real property refers to the debtor's house or land. If the debtor owns any real property, you may place a lien on that property. Outstanding liens will be paid in full before the debtor receives any proceeds when the property is refinanced or sold. To place a lien on the debtor's real property:

- a. Have the court clerk issue an **Abstract of Judgment – Civil and Small Claims (EJ-001)**. The cost is **\$40**.
- b. Take or mail the Abstract of Judgment to the County Recorder's office in the county where you believe the debtor owns real property to have the Judgment recorded. The recording fees vary.
- c. Some county recorder's offices will confirm if a debtor owns real property over the phone; or you may be able to check the county records on-line.



4. **LEVY BANK ACCOUNTS OR SAFE DEPOSIT BOXES:**

If the debtor has a bank account or safe deposit box and you have information on them, then you may be able to levy them. You only need to know the bank branch where the accounts are maintained or safe deposit box is located. To levy a bank account or safe deposit box:

- a. Fill out and have the court to issue a **Writ of Execution (EJ-130)**
- b. Complete a **Notice of Levy (Enforcement of Judgment) (EJ-150)**.
- c. Prepare instructions for the sheriff/marshal explaining what you want to levy.
- d. Bring these documents to the sheriff's department or a registered process server. They will assist you with the rest of the process. If you were granted a fee waiver, then you can go directly to the sheriff's office. The sheriff charges a separate fee for executing the bank levy that will have to be paid.

5. PLACE A LIEN ON CERTAIN PERSONAL PROPERTY:

Certain personal property is subject to a lien through the California Secretary of State. Personal property is anything that is not real property. Personal property subject to the lien includes accounts receivable, chattel paper (i.e. stocks, bonds), equipment (other than vehicles registered with the DMV), farm products, negotiable documents of title, and inventory that the debtor may own. To put a lien on the debtor's personal property:

- a. File a **Notice of Judgment Lien (JL-1)** with the **California Secretary of State** and pay the filing fee. The lien is good for 5 years and can be renewed.
- b. During the time that the lien is effective, you may have the sheriff enforce the lien. To enforce the lien, you must follow the procedures on how to levy on the debtor's personal property, see #6 below.

6. LEVY THE DEBTOR'S PERSONAL PROPERTY

If the debtor has personal property that is of value (i.e. an automobile, jewelry, electronics, antique furniture, and other personal property on which you have placed a lien), you may have the sheriff seize the property for you and/or sell it at auction and give you the proceeds after all fees are paid.

- a. Fill out and have the court issue a **Writ of Execution (EJ-130)**, You will also need a **Writ of Possession** or **Writ of Sale**, which is on the same form.
- b. Complete a **Notice of Levy (Enforcement of Judgment) (EJ-150)** stating what you want the sheriff to do.
- c. If the property is in Alameda County, bring these documents to the sheriff's department or a registered process server. They will assist you with the rest of the process. If you were granted a fee waiver, then you can go directly to the sheriff's office. If the property is another county, you may bring the documents to the sheriff/marshal or process server in the county where the property is located.
- d. Sheriff's fees for the levy vary to over \$1,000, depending on the type of personal property. The fees must be paid up front, but you may be able to add those costs to the judgment by filing a **Memorandum of Costs (MC-010)**, see below. Additional fees may apply if the sheriff needs to store the property after seizure. Such fees can also be included in the Memorandum of Costs.

7. EXECUTE A "TILL TAP" OR A KEEPER LEVY

If the debtor has a business with a cash register the sheriff can go to the business and take enough money out of the register to pay your judgment. You will need to know the name and address of the business. For an additional fee, you may also have the sheriff place a "keeper" at the business who will stay and collect all funds the business takes in until your judgment is paid. To execute a till tap or a keeper levy:

- a. Have the court issue a **Writ of Execution (EJ-130)** and file it with the Sheriff.
- b. If there is not enough money in the cash register for a till tap, you will have to redo this process for the sheriff to return on another day to collect the balance that is still due.
- c. If the Debtor closes the business while a sheriff's keeper is there you will have to pay another fee for them to return.
- d. The sheriff charges a fee for a till tap and for a keeper levy that varies, depending on how long the sheriff stays and what they are taking.



8. PLACE A LIEN ON A LAWSUIT:

If the debtor is currently involved in a lawsuit from which he or she is expected to receive a money judgment, you may be able to collect on that judgment before it is paid to the debtor. You will need to have information on the lawsuit. To place a lien on a lawsuit that the debtor has against someone else:

- a. Have the court issue an **Abstract of Judgment-Civil (EJ-001)** and pay the fee.
- b. You must also file a **Notice of Lien (EJ-185)**. File the two forms with the court where the debtor's lawsuit is pending.
- c. Personally serve or mail copies of the documents to all of the parties in the debtor's lawsuit.

9. JUDGMENT ENFORCEMENT SPECIALISTS

These specialists, like some collections attorneys, can help you collect your judgment; many will only assist you if you assign the judgment to them. This means that they will pursue collection of the judgment as if it were their own. They may either buy your judgment from you at a discount (a true assignment of judgment) or they may charge you a contingency fee (percentage of the judgment), which can be as high as 50% of the judgment. See www.caip.org. For large judgments, over \$5,000, an attorney who specializes in collecting judgments can be helpful. Hourly fees for consultations and assistance vary – check with the attorney. Some attorneys charge a contingency fee. Check the yellow pages or with the local attorney referral service for attorneys who specialize in collections. These agencies may assist you with collecting the judgment if the likelihood of collecting is high.

10. SUSPEND THE DEBTOR'S DRIVERS LICENSE

If you have a judgment against a debtor for damages resulting from an automobile accident, you may have the debtor's driver's license suspended until the judgment is paid. This remedy will NOT get your money, but it may give the debtor more incentive to pay the judgment in full.

- a. If the judgment is less than \$750, complete and file **Notice of Unsatisfied Judgment of \$750 or Less (DL-17)** with the DMV with a copy of the judgment.
- b. If the judgment is more than \$750, complete a **Certificate of Facts Unsatisfied Judgment (DL-30)**. The court must certify it before you submit it to the DMV.
- c. You must wait **90 days** from the date of entry of judgment before submitting your forms. There is also a processing fee. To download the forms, go to www.dmv.ca.gov.



PROCEDURAL DETAILS

ACCRUAL OF INTEREST

Until the judgment is satisfied or expires, it accrues 10% simple interest per year on the amount of the principal that is due, exclusive of costs and fees. Interest may be added to the judgment by filing a **Memorandum of Costs After Judgment (MC-012)** (see below). Any payments made is applied to the interest, costs and fees, and then the principal.

There are interest calculators online that can help you calculate the simple interest accrued on the principal. Otherwise, the following formula may be used to calculate the interest if there has not been any payment made since the date of entry of judgment:

$$\begin{array}{ccccccc} \$ \underline{\hspace{1cm}} & \times 10\% = & \$ \underline{\hspace{1cm}} & \div & 365 \text{ days} = & \$ \underline{\hspace{1cm}} & \times \underline{\hspace{1cm}} \text{ days} = & \$ \underline{\hspace{1cm}} \\ \text{Principal*} & \text{Interest} & \text{Interest accrued} & & & \text{Daily} & \text{\# of days} & \text{Interest Accrued} \\ \text{(not incl. costs)} & & \text{per year*} & & & \text{interest*} & \left(\begin{array}{l} \text{since judgment or date} \\ \text{interest was last calculated} \end{array} \right) & \end{array}$$

* Please note that if the debtor pays any amount towards the judgment, then you must deduct that amount from the interest, costs and fees, and principal (in that order). If any amount of the principal is paid, then you must recalculate the accrued interest per year and daily interest based on the new principal amount. You may have to do this multiple times if the debtor pays the judgment in installments or in partial amounts in order to get the total interest accrued to date.

MEMORANDUM OF COSTS

To add interest to your judgment, you will have to file a **Memorandum of Costs After Judgment (MC-012)**, which is available on-line at www.courts.ca.gov or at the Self Help Center. You may also use this form for reimbursement of filing fees and certain costs (such as service costs) incurred after judgment that are allowed by law. Finally, you can also let the Court know of any payments the debtor has made. Before filing the **MC-012**, please do the following:

- a. Complete page 1 of the **MC-012**. Fill in Section 1, 2, and/or 3 as appropriate.
- b. Have someone else 18 years or older, NOT YOU, mail a copy of the **MC-012** to the debtor and complete page 2 on **MC-012** prior to filing with the court.

Unless the debtor contests, the interest, fees, and/or costs will be added to the total amount of judgment to be collected. You may file for fees and costs before or at the same time that you file your writ of execution so that the amounts can be included in the judgment collection. If the MC-012 is filed after the writ, please be sure to provide a copy to the Sheriff's office collecting the judgment.

ONCE THE JUDGMENT IS SATISFIED

After the debtor pays you in full, you are required to fill out and file with the Court an **Acknowledgment and Satisfaction of Judgment (SC-290)**. (Note: for judgments paid in full to the Court, the Court will enter the acknowledgement of satisfaction.)

If you fail to file the **Acknowledgment and Satisfaction of Judgment** within 30 days, the debtor may ask the Court for help in obtaining the **Acknowledgment and Satisfaction of Judgment**, and you may be fined.

LIFE OF JUDGMENT

Judgments are enforceable for **10 years**. They can be renewed for another 10 years at a time, until the judgment is paid in full. A judgment should be renewed shortly before the 10 years expires. Liens on real property will also need to be renewed at the same time.

To renew a judgment, you must take the following steps:

1. Complete a **Memorandum of Costs After Judgment (MC-012)** to add the interest, payments, and/or costs and fees after judgment. Please see the instructions on page 6 on how to do this.
2. Complete and file with the Court the original and copy of the **Application for Renewal of Judgment (EJ-190)** and **Notice of Renewal (EJ-195)** and **MC-012**.
3. Serve the **EJ-190** and **EJ-195** on the debtor personally or by first class mail. The server needs to complete the **SC-104** for personal service or the **SC-112(a)** for service by mail.
4. File the original and copy of **EJ-195** with the appropriate proof of service attached with the Court.

Please note, your endorsed filed **EJ-195** is your proof of the renewal of judgment!

UNLAWFUL DEBT COLLECTION PRACTICES

The California Rosenthal Fair Debt Collection Practices Act protects the debtor from unreasonable, dishonest, overly aggressive, obscene, and/or threatening debt collection. If you violate the law, the debtor can sue you for damages, so **do not harass the debtor**. Here are some guidelines to follow:

- a. **Don't** call outside of reasonable hours (before 8 am and after 9 pm).
- b. **Don't** inform third parties that you are collecting a debt; however, you can contact third parties to locate the debtor.
- c. **Don't** call without identifying yourself.
- d. **Don't** make false or misleading statements.
- e. **Don't** use rude or obscene language; don't call to collect or harass the debtor by contacting them too often.
- f. **Don't** use or threaten to use violence against the debtor or his/her family, property, or reputation.
- g. **Don't** suggest that the debtor will face criminal charges or that the debtor's property will be taken (unless the law permits it and you intend to do this).

LOCAL RESOURCES

JUDICIAL COUNCIL WEBSITE

For forms and information

<https://www.courts.ca.gov>

SELF-HELP CENTER

Hayward Hall of Justice, Dept. 501
24405 Amador Street, Hayward, CA 94544
Phone Hours: (510) 272-1393, M–Th, 2pm–4pm
Live Chat Hours: M–Th, 9am–12pm
<https://www.alameda.courts.ca.gov/self-help>

LEGAL REFERENCE GUIDE

Everybody’s Guide to Small Claims Court in California by Ralph Warner, Nolo Press
<https://www.nolo.com>, (800) 728-3555

ALAMEDA COUNTY BAR ASSN.

For attorney referrals

Request a lawyer online or by phone:
Phone: (510) 302-2222, option 4
<https://www.acbanet.org/request-a-lawyer>

LEGAL ACCESS ALAMEDA

For clinic referrals

Community Legal Assistance Saturday Program (CLASP) – 1st Saturday of each month. By appointment only. Call intake line between 10am–12pm at (510) 485-9933.
<http://legalaccess.org>

ALAMEDA COUNTY SHERIFF

Alameda County Sheriff – Civil Unit
1225 Fallon Street, Rm. 104, Oakland, CA 94612
8:30 a.m. – 4:30 p.m., Monday through Friday
Phone: (510) 272-6910
<https://www.alamedacountysheriff.org>

