

# HOW TO COLLECT A COURT JUDGMENT

## UCSB LEGAL RESOURCE CENTER

There are two distinct parts to every successful lawsuit: winning and collecting. Oftentimes, the hardest part is the latter.

When the judge enters a money judgment in your favor, he or she does not order the defendant to pay the judgment. The judgment is just a statement of your legal entitlement. Whether or not you will ever see the money depends in large part on the defendant's ability to pay and your own ingenuity.

No person is required to pay a judgment voluntarily. Instead, the laws provide for an elaborate series of procedures to attempt to "execute" on a judgment. If the defendant really cannot afford to pay the judgment, even these procedures will prove useless. The first thing that the winning party (called the judgment creditor) should do is request payment voluntarily. If that fails, then attempt to locate the assets of the losing party (the judgment debtor). This may be easier than you think. If the judgment debtor is a retail business, the law permits the county sheriff to enter the place of business and take the amount of the judgment out of the cash register. This procedure is called a till tap. For large judgments, a "keeper" can be placed in the business. The keeper sits by the cash register all day taking the money that comes in from customers. The fees charged by the sheriff start at \$85.00 and go up. Although you must prepay these amounts, all such fees are added to your judgment.

If the judgment debtor is an individual, then you should direct your search towards bank accounts, wages, and vehicles. A partial payment previously received may reveal the location of the judgment debtor's bank account. The Department of Motor Vehicles will give you a print out of vehicles owned by the debtor. Once again the county sheriff is authorized to seize bank accounts, wages, or vehicles at your direction.

With individual debtors, however, the law provides for a waiting period before the seized assets are released. For ten days after seizure, the debtor has the opportunity to file a Claim of Exemption with the court. This claim states that the seized assets are either exempt from execution or necessary for the support of the debtor and his or her family. Typical assets protected from seizure include the first \$2,300 worth of a motor vehicle, 75% of wages, \$6,075 of jewelry, and \$6,075 of the debtor's tools of the trade. If a Claim of Exemption is filed, then the creditor has ten days to request a court hearing disputing the validity of the exemption. If no hearing is requested, or the court decides at a hearing that the exemption is valid, then the seized property is returned to the judgment debtor. If the assets of a business or individual debtor cannot be located, then the law provides for a procedure known as a judgment debtor examination. In this proceeding, the debtor is required to come back to court and answer questions under oath about the location of his assets. With the information obtained, the sheriff may be dispatched to seize the assets.

Another method of locating assets is through an asset search conducted by a private detective. The cost for these searches may range from as little as \$50 to over \$1,000 depending upon the depth of the search. These types of fees are not added

to your judgment, however, so make sure the investment is worth the return.

If the debtor owns any real estate, you should obtain from the court a document called an Abstract of Judgment and record it in the county recorder's office. The abstract becomes a lien against all real estate owned by the debtor in the county. Generally, the property cannot thereafter be sold until your judgment is paid. If you know someone who owes the debtor money, then you can obtain a court order requiring that person to pay you instead of the debtor.

If all else fails, be patient. Judgments are valid for 10 years and usually can be renewed for ten more; and they earn interest at the rate of 10% per year. Your main consideration if you have to wait is to keep track of the location of the debtor. Then you can make periodic checks of his or her financial status.

**The information contained in this article is of a general nature. If you have a similar problem, you should consult with an attorney. Currently registered UCSB students are encouraged to call A.S. Legal Resource Center to make an appointment (805.893.4246). Appointments are available Monday through Friday.**