

How to Collect When You Win a Lawsuit In California KFC 1065 .Z9 H69 (Reference) Chap. 8

Matthew Bender Practice Guide: California Debt Collection and Enforcement of Judgments KFC 1065.E5 M38 Chap. 16

Electronic Access: On the Law Library's computers, using Lexis Advance.

Samples

Writ of Execution

The image shows a sample EJ-130 Writ of Execution form with several red boxes and arrows pointing to specific fields, each with an explanatory note:

- Attorney or Party Without Attorney:** A red box highlights the name, address, and phone number of Calvin J. Creditor, with the note: "Your name, address, email and phone number. In Pro Per means you're representing yourself. Check the box next to 'Original Judgment Creditor.'"
- Attorney for (In Pro Per):** A red box highlights the "In Pro Per" selection, with the note: "Check the box next to 'Original Judgment Creditor.'"
- Superior Court of California, County of Sacramento:** A red box highlights the court name, address, and branch, with the note: "Court name, address, and branch."
- Case Number:** A red box highlights the case number 14-0012345678, with the note: "Case Number."
- Plaintiff and Defendant:** A red box highlights the names Calvin J. Creditor and Doug J. Debtor, with the note: "Plaintiff's and Defendant's names as they appeared on the Complaint."
- Case Type:** A red box highlights the "EXECUTION (Money Judgment)" selection, with the note: "Check the box that describes your case."
- County:** A red box highlights "Sacramento" as the county, with the note: "The County where the assets are located."
- Judgment Debtor:** A red box highlights the name and address of Doug J. Debtor, with the note: "Name & address of Judgment Debtor."
- Entry Date:** A red box highlights the date "May 8, 2015" for judgment entry, with the note: "Enter date(s). If never renewed, leave blank."
- Notice of Sale:** A red box highlights the "has not been requested" selection, with the note: "Check box a."
- Costs Table:** A red box highlights the table of costs (Total judgment, Costs after judgment, Subtotal, etc.), with the note: "11. Judgment amount. 12. Amount of costs listed on your MC-012. Otherwise, enter 0. 13. Add lines 11+12. 14. Amount of any payments or other credits. 15. Subtract line 13-14. 16. Amount of interest listed on your MC-012. Otherwise, enter 0. 17. If you paid a fee for issuing this writ, list it here. If you have a fee waiver, enter 0. 18. Add 15+16+17. 19. (a) Multiply the amount on line 15 by 0.0002739 (if 10% interest)* or 0.0001369 (if 5% interest)* to get the daily interest rate, and enter the amount here. (b) Write '0,' unless the court has ordered the judgment debtor to pay any costs directly to the court. Otherwise, enter the unpaid cost amount. 20. Leave blank, unless you have multiple debtors owing different amounts."
- Footnote:** A red box highlights a footnote at the bottom: "Questions 8 and 10 apply only to rare situations. Question 9 does not apply to Writs of Execution used Bank Levies. Leave all three questions blank."
- Interest Rate:** A red box highlights a footnote at the bottom: "* Judgments for medical expenses or personal debt entered or renewed after 1/1/2023 accrue 5% interest, all others accrue 10% interest."



Writ of Execution (EJ-130) (page 1)

EJ-130

Plaintiff: Calvin J. Creditor
Defendant: Doug J. Debtor

CASE NUMBER:
14-0012345678

Case number.

Plaintiff's and Defendant's names as they appeared on the Complaint.

21. Additional judgment debtor (name, type of legal entity if not a natural person, and last known address):

22. Notice of sale has been requested by (name and address):

23. Joint debtor was declared bound by the judgment (CCP 989-994)

a. on (date):
b. name, type of legal entity if not a natural person, and last known address of joint debtor:

a. on (date):
b. name, type of legal entity if not a natural person, and last known address of joint debtor:

c. Additional costs against certain joint debtors are itemized: Below On Attachment 23c:

24. (Writ of Possession or Writ of Sale) Judgment was entered for the following:

a. Possession of real property: The complaint was filed on (date):
(Check (1) or (2). Check (3) if applicable. Complete (4) if (2) or (3) is checked.)

(1) The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46 (item 24a(2)).

(2) The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46 (item 24a(2)).

(3) The unlawful detainer resulted from a foreclosure sale of a rental property. If the judgment may file a Claim of Right to Possession at any time up to and including the time the levying officer returns to effect eviction, regardless of whether a Prejudgment Claim of Right to Possession was served.) (See CCP 415.46 and 1174.3(a)(2).)

(4) If the unlawful detainer resulted from a foreclosure (item 24a(3)), or if the Prejudgment Claim of Right to Possession was not served in compliance with CCP 415.46 (item 24a(2)), answer the following:

(a) The daily rental value on the date the complaint was filed was \$

(b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates (specify):

b. Possession of personal property.
 If delivery cannot be had, then for the value (itemize in 24e) specified in the judgment or supplemental order.

c. Sale of personal property.

d. Sale of real property.

e. The property is described: Below On Attachment 24e

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Only answer this question if your case had multiple defendants.

A Writ of Execution is used for a variety of collection methods, so the form includes a variety of questions. If this Writ of Execution will be used to start a Bank Levy, questions 22-24 will not apply, so leave them blank.

Writ of Execution (EJ-130) (page 2)



Plaintiff's and Defendant's names as they appeared on the Complaint.		EJ-130
Plaintiff: Calvin J. Creditor Defendant: Doug J. Debtor	CASE NUMBER: 14-0012345678	Case number.

NOTICE TO PERSON SERVED

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying *Notice of Levy* (form E.J-150).

WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will demand that you turn over the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

EXCEPTION IF RENTAL HOUSING UNIT WAS FORECLOSED. If the residential property that you are renting was sold in a foreclosure, you have additional time before you must vacate the premises. If you have a lease for a fixed term, such as for a year, you may remain in the property until the term is up. If you have a periodic lease or tenancy, such as from month-to-month, you may remain in the property for 90 days after receiving a notice to quit. A blank form *Claim of Right to Possession and Notice of Hearing* (form CP10) accompanies this writ. You may claim your right to remain on the property by filling it out and giving it to the sheriff or levying officer.

EXCEPTION IF YOU WERE NOT SERVED WITH A FORM CALLED PREJUDGMENT CLAIM OF RIGHT TO POSSESSION. If you were not named in the judgment for possession and you occupied the premises on the date on which the unlawful detainer case was filed, you may object to the enforcement of the judgment against you. You must complete the form *Claim of Right to Possession and Notice of Hearing* (form CP10) and give it to the sheriff or levying officer. A blank form accompanies this writ. You have this right whether or not the property you are renting was sold in a foreclosure.

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WRIT OF EXECUTION
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Writ of Execution (EJ 130) (page 3)



Spousal Affidavit (Optional)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Street Address, Telephone No., Fax No., E-mail Address) Calvin J. Creditor 2036 Donner Drive Sacramento, CA 95826 TELEPHONE NO. 916-123-4567 FAX NO. (Optional) E-MAIL ADDRESS (Optional) ATTORNEY FOR (Name) In Pro Per		Your name, address, email and phone number. In Pro Per means you're representing yourself. Check the box next to "Original Judgment Creditor."
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento STREET ADDRESS: 720 Ninth Street MAILING ADDRESS: 720 Ninth Street CITY AND ZIP CODE: Sacramento, CA 95814 BRANCH NAME: Civil		Court name, address, and branch.
PLAINTIFF/PETITIONER: Calvin J. Creditor DEFENDANT/RESPONDENT: Doug J. Debtor		Plaintiff's and Defendant's names as they appeared on the Complaint.
DECLARATION		CASE NUMBER: 34-2009-00012345 Case Number.

I, Calvin J. Creditor, judgment creditor, declare as follows:

On January 20, 2010, a judgment was entered in my favor against the judgment debtor Doug J. Debtor in the Sacramento County Superior Court, case number 34-2009-00012345.

I have full knowledge and believe to be true that judgment debtor Doug J. Debtor is married to Debra J. Debtor.

As permitted by California Code of Civil Procedure 700.160(b)(2), I hereby request a levy be placed on the bank account of Debra J. Debtor who I believe to be married to and the spouse of Defendant Doug J. Debtor.

You will need a Spousal Affidavit if you are trying to levy a bank account in held the name of the judgment debtor's spouse.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

Doug J. Debtor
(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Attorney for Plaintiff Petitioner Defendant
 Respondent Other (Specify): _____

Enter your name, date and sign, check box for "Plaintiff."

Form Approved for Optional Use
 Judicial Council of California
 MC-030 (Rev. January 1, 2006) Page 1 of 1

Spousal Affidavit (Declaration MC-030)

Next steps:

After you provide the Sheriff with the Writ of Execution, the Sheriff will provide a Notice of Levy (EJ-150) and other documents to the bank and to the debtor.



Plaintiff's and Defendant's names as they appeared on the Complaint.

SHORT TITLE: CREDITOR vs. DEBTOR	LEVYING OFFICER FILE NO.: 13-0000356	WG-010/EJ-175 COURT CASE NO.: 09-00012345
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PROOF OF SERVICE BY MAIL

I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred. My residence or business address is (specify):

764 Oak Avenue
Sacramento, CA 95834

Address of person serving the documents.

I served the attached Notice of Hearing on Claim of Exemption and the attached Notice of Opposition to Claim of Exemption by first class mail in a sealed envelope addressed to each person whose name and address is given below and depositing the envelope in the mail with postage fully prepaid.

Date and location of mailing.

(1) Date of deposit: May 21, 2012 (2) Place of deposit (city and state):
Sacramento, CA 95814

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

Doug J. Debtor
11 Main St. #22
Sacramento, CA 95814

Name and address of the person served.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: May 21, 2012

Name, date, and signature of person serving documents.

Sally Server
(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

PROOF OF SERVICE—PERSONAL DELIVERY

I am over the age of 18 and not a party to this cause. My residence or business address is (specify):

I served the attached Notice of Hearing on Claim of Exemption and the attached Notice of Opposition to Claim of Exemption by personal delivery to the person served as shown below.

The Notice of Hearing on Claim of Exemption (WG-010/EJ-175) may be served by mail or in person. If served by mail, the server should complete only the top half of this form. If personally served, complete only the bottom half of this form.

PERSONS SERVED		
Name	Delivery At	Address:
	Date: Time:	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME) (SIGNATURE OF DECLARANT)

NOTICE OF HEARING ON CLAIM OF EXEMPTION
(Wage Garnishment—Enforcement of Judgment)

WG-010/WJ-175 (Rev. January 1, 2007)

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Notice of Hearing on Claim of Exemption (WG-010/EJ-175) (page 2)