

Debtor's Examination

A debtor's examination, also known as an order of examination, is often a preliminary step before initiating collection efforts.

This examination is a formal court proceeding in which the judgment creditor may question the debtor to obtain information about the location and value of the judgment debtor's assets, including paychecks and other sources of income, bank accounts, stocks and other investments, and personal and real property.

Templates and Forms

- [Application and Order for Appearance and Examination \(EJ-125\)](https://www.courts.ca.gov/documents/ej125.pdf) (<https://www.courts.ca.gov/documents/ej125.pdf>)
- [Attached Declaration \(MC-031\)](https://www.courts.ca.gov/documents/mc031.pdf) (<https://www.courts.ca.gov/documents/mc031.pdf>)
- [Civil Bench Warrant Local Form \(CV-127A\)](https://www.saccourt.ca.gov/forms/docs/cv-127a.pdf) (<https://www.saccourt.ca.gov/forms/docs/cv-127a.pdf>)
- [Sheriff's Instructions \(SER-001\)](https://www.courts.ca.gov/documents/ser001.pdf) (<https://www.courts.ca.gov/documents/ser001.pdf>)

This procedure may also be used to question a third party who may be in possession of the judgment debtor's assets, or owe debts to the judgment debtor.

For a complete list of our guides and videos on enforcement of judgments, visit our [Enforcing Judgments topic page](https://saclaw.org/legal_topic/enforcing-a-courts-judgment/). (https://saclaw.org/legal_topic/enforcing-a-courts-judgment/)

Before you begin filling out your forms, you will also need a file-stamped copy of your judgment. **Note: If your judgment was issued before Nov. 13, 2007, you must order it ahead of time.** This will take at least 10 days. See [Court Records and Certified Copies of Documents](http://www.saccourt.ca.gov/civil/file-status.aspx) (<http://www.saccourt.ca.gov/civil/file-status.aspx>) for more information.

Step-by-Step Instructions

1.

Complete the Form and Call to Reserve a Hearing Date

Fill out the *Application and Order for Appearance and Examination (EJ-125)*. A sample with instructions is located at the end of this guide.

To examine a third party (someone who is not a named party in the case), you must attach a declaration indicating that you believe the third party is in possession of the debtor's assets or is indebted to the

judgment debtor in an amount exceeding two hundred fifty dollars (\$250), and describing the basis of your belief. You may write your declaration on this Judicial Council form: [Attached Declaration \(MC-031\)](http://www.courts.ca.gov/documents/mc031.pdf) (<http://www.courts.ca.gov/documents/mc031.pdf>).

The declaration must be attached to your application.

In Sacramento County, orders of examination are currently held on Fridays between 9:00 a.m. and 12:00 p.m. **Reserve your date and time before filing your documents** by calling the Department 43 clerk at (916) 874-7561. The date will be a minimum of 45 days after you file your papers, and may be longer. You may be given a choice of dates, so have your calendar handy.

From time to time, Sacramento changes which department is assigned the Order of Examination Calendar. For current info and details about reserving dates, visit [the Sacramento County Court's Orders of Examination page](https://www.saccourt.ca.gov/civil/orders-of-examination.aspx) (<https://www.saccourt.ca.gov/civil/orders-of-examination.aspx>).

Write the date you are assigned on the *Application and Order for Appearance and Examination* (EJ-125).

There are two separate time periods triggered by your hearing date:

- Your hearing date must be at least 45 days after the date you file your papers.
- The judgment debtor must be served at least 10 calendar (business) days prior to the hearing date California Code of Civil Procedure (CCP) [Â§ 708.110\(d\)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=708.110) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=708.110).

Be sure to arrange personal service on the debtor in plenty of time.

2.

File Your Forms

To obtain your Order for Appearance and Examination, file the following items with the court:

- *Application and Order for Appearance and Examination* (EJ-125), including the *Attached Declaration* (MC-031), if needed (original + 2 copies).
- If your judgment was issued before Nov. 13, 2007, include a file-endorsed (stamped) copy of it.
- Filing fee (\$60 per application when this was updated; see [the Sacramento Court's Fee Schedule](http://www.saccourt.ca.gov/docs/fee-schedule.pdf) (<http://www.saccourt.ca.gov/docs/fee-schedule.pdf>) for current fees).
- Self-addressed, stamped envelope, if you would like the clerk to mail you a signed copy of the order.

You may file these documents in person in the Dropbox at the Gordon D. Schaeber Courthouse, located at 720 Ninth Street. If you do, mark on the cover sheet whether you want to pick the paperwork up from the court or have the clerk mail it to you. You may also file by mail. If you file by mail, please allow extra time for processing your paperwork.

After receiving your documents, the clerk will forward them to the judge for signature. Once signed, the clerk will mail you a copy, if you provided a self-addressed, stamped envelope. Otherwise, you may print a copy of the signed *Application and Order for Appearance and Examination* (EJ-125) from the court's website.

3.

Have Your Order Personally Served at Least 10 Calendar Days Ahead

The examinee (debtor or third party) must be personally served at least 10 calendar days prior to hearing. If examining a third party, you must also serve notice on the judgment debtor, either personally or by mail, at least 10 calendar days prior to the hearing. Calendar days include weekends and holidays.

If you want the option of having a bench warrant issued if the examinee does not appear, **service must be made in person by a sheriff or a registered process server**. To have your documents served by the Sacramento County Sheriff's Department, submit the following documents to the Sheriff's Civil Bureau at 2969 Prospect Park Drive, Suite 200, Rancho Cordova CA 95670:

- [Original Sheriff Instructions](https://www.sacsheriff.com/documents/civil/SVC.RC.pdf) (<https://www.sacsheriff.com/documents/civil/SVC.RC.pdf>)
- *Application and Order for Appearance and Examination* (EJ-125) signed by the judge (original + 1 copy)
- Fee for service (currently \$40; see [Sacramento Sheriff Fee Schedule](https://www.sacsheriff.com/documents/civil/FEE%20SCHEDULE.RC.pdf) (<https://www.sacsheriff.com/documents/civil/FEE%20SCHEDULE.RC.pdf>) for current fees)

After serving your documents, the Sheriff will mail the proof of service to you. If you hire a registered process server, ask that the proof of service be returned to you, rather than the court. You must file the proof of service in Department 43 on the day of your hearing ([Local Rule 2.10](http://saccourt.ca.gov/local-rules/docs/chapter-02.pdf) (<http://saccourt.ca.gov/local-rules/docs/chapter-02.pdf>)).

4.

Attend the Hearing

When you arrive at the courthouse, check in with the clerk in Department 43, and turn in your proof of service. The judgment debtor or third-party examinee will be given an oath, and the examination will be conducted privately between the parties. There is no court reporter provided for this type of hearing, but you may hire one if you wish. Court reporters can be found in the yellow pages under "Court Reporters" or "Legal Services," or from the [National Court Reporters Association's online directory](https://www.ncra.org/ncra-prolink). (<https://www.ncra.org/ncra-prolink>)

Be sure to have questions prepared ahead of time, to ensure you don't forget anything.

Finding Sample Questions to Ask the Examinee

These resources have examples of the questions that can be helpful:

- **California Courts Self-Help Website** "Sample Questions to Ask a Debtor" (<https://www.courts.ca.gov/11328.htm>)

- **How to Collect When You Win a Lawsuit in California** KFC 1065 .Z9 H69 Appendix
- **Enforcing Civil Money Judgments**, KFC 1065 .O65 Appendix D

5.

If the Examinee Does Not Show Up

If you have filed a proper proof of service showing that the examinee was served in a timely manner by a sheriff or registered process server, the court will order the issuance of a bench warrant for the examinee's failure to appear ([CCP Â§Â§ 708.170\(a\)\(1\)\(A\), 708.170\(a\)\(1\)\(B\)](#)

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=708.170)). To have the warrant issued, you must submit the following Sacramento County local forms to the court:

- **Civil Bench Warrant (CV/E-127A)** (<http://www.saccourt.ca.gov/forms/docs/cv-127a.pdf>) (original + 2 copies)
- **SER-001 Request for Service** (<https://www.courts.ca.gov/documents/ser001.pdf>) (original + 2 copies)
- Sheriff's fee for service (currently \$50 or \$175 per warrant, depending on the court's order; see [Sacramento Sheriff Fee Schedule](#) (<https://www.sacsheriff.com/documents/civil/FEE%20SCHEDULE.RC.pdf>) for up-to-date fee)
- Self-addressed, stamped envelope, if you would like a copy returned to you

After receiving your documents, the clerk will have the warrant signed by the judge, and will forward the original to the Sheriff's Department for service. Once the warrant is served, the court will set a hearing date for the debtor to respond to his or her failure to appear at the originally scheduled hearing, and will notify you of the hearing date. You will need to appear at that hearing to conduct the debtor examination.

6.

Begin Your Collection Efforts

Once you have obtained information about the judgment debtor's assets, you may begin your collection efforts. There are numerous ways a judgment creditor may collect from a judgment debtor. The method(s) used depend on the judgment debtor's assets. For more information about collection methods, see our series of Step-by-Step guides on [Collecting Judgments](#) (https://www.saclaw.org/legal_topic/enforcing-a-courts-judgment/).

FOR MORE INFORMATION

On the Web:

California Courts Self-Help Website â?? **Get Information about the Debtor's Assets**
(<https://selfhelp.courts.ca.gov/civil-lawsuit/judgment/collect/ask-debtor-exam>)

California Courts Self-Help Website â?? **Sample Questions to Ask a Debtor** (<https://selfhelp.courts.ca.gov/civil-lawsuit/judgment/collect/debtor-exam-questions>)

Sacramento County Superior Court [Orders of Examination](https://www.saccourt.ca.gov/civil/orders-of-examination.aspx) (<https://www.saccourt.ca.gov/civil/orders-of-examination.aspx>) [examination.aspx](#)

At the Law Library:

California Forms of Pleading and Practice KFC 1010 .A65 C3 (Ready Reference) Chap. 254
Electronic Access: On the Law Library's computers, using *Lexis Advance*.

California Practice Guide: Enforcing Judgments and Debts KFC 1065 .A9 S3 Chap. 6G

Debt Collection Practice in California KFC 256 .C83 Chap. 8
Electronic Access: On the Law Library's computers, using *OnLaw*.

Enforcing Civil Money Judgments: Here's How and When to Do It KFC 1065 .O65
Electronic Access: On the Law Library's computers, using *OnLaw*.

How to Collect When You Win a Lawsuit KFC 1065 .Z9 S25 Chap. 6

Matthew Bender Practice Guide. California Debt Collection and Enforcement of Judgments KFC 1065 .E5 M38 Chap. 10
Electronic Access: On the Law Library's computers, using *Lexis Advance*.

Witkin's California Procedure KFC 995 .W58 (Ready Reference) Chap. 10



Samples

AT-138/EJ-125

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY:
NAME: Calvin J. Creditor
FIRST NAME
STREET ADDRESS: 2036 Donner Drive
CITY: Sacramento
TELEPHONE NO.: 916-123-4567
E-MAIL ADDRESS: ccreditor@email.com

YOUR NAME, ADDRESS, AND PHONE NUMBER. IN PRO PER MEANS YOU'RE REPRESENTING YOURSELF. CHECK THE BOX NEXT TO "JUDGMENT CREDITOR."

CHECK ENFORCEMENT OF JUDGMENT AND JUDGMENT DEBTOR OR THIRD PERSON, AS APPROPRIATE.

COURT NAME, ADDRESS, AND BRANCH.

PLAINTIFF'S AND DEFENDANT'S NAMES AS THEY APPEARED ON THE COMPLAINT.

CASE NUMBER.

APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION
☒ ENFORCEMENT OF JUDGMENT ☐ ATTACHMENT (Third Person)
☒ Judgment Debtor ☐ Third Person

CASE NUMBER: 34-2009-00012345

ORDER TO APPEAR FOR EXAMINATION

1. TO (name): Doug J. Debtor

2. YOU ARE ORDERED TO APPEAR personally
a. ☒ furnish information to aid in enforcement of the judgment debtor.
b. ☐ answer concerning property of the judgment debtor.
c. ☐ answer concerning property of the debtor that is subject to attachment.

NAME OF THE PERSON TO BE EXAMINED, AND THE PURPOSE OF THE EXAMINATION.

Date: 2/8/2013 Time: 9 am Dept. or Div.: 37 Rm.:
Address of court ☐ is shown above ☐ is:

3. This order may be served by a sheriff, marshal, registered process server, or other person authorized by law.

Enter the date, time, and location of the examination.

Date: _____ JUDGE: _____

This order must be served not less than 10 days before the date set for the examination.

CHECK JUDGMENT CREDITOR.

IMPORTANT NOTICES ON REVERSE

APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION

4. ☒ Original judgment creditor ☐ Assignee of record ☐ Plaintiff who has a right to attach order
applies for an order requiring (name): Doug J. Debtor to appear and furnish information to aid in enforcement of the money judgment or ☐ Name of the person to be examined.

5. The person to be examined is
a. ☒ the judgment debtor.
b. ☐ a third person (1) who has possession or control of property belonging to the judgment debtor or the defendant or (2) who owes the judgment debtor or the defendant money. Procedure section 491.110 or 708.120 is attached.

CHECK THE BOX DESCRIBING THE PERSON TO BE EXAMINED.

6. The person to be examined resides or has a place of business in the county of _____ of the place of examination.

7. ☐ This court is not the court in which the money judgment is entered or (attachment only) the court that issued the writ of attachment. An affidavit supporting an application under Code of Civil Procedure section 491.150 or 708.160 is attached.

8. ☐ The judgment debtor has been examined within the past 120 days. An affidavit showing good cause for another examination is attached.

QUESTIONS 7 AND 8 APPLY ONLY IN RARE SITUATIONS. CHECK THE BOX ONLY IF THE ENTIRE STATEMENT IS TRUE.

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

Date: _____

Calvin J. Creditor
(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

(Continued on reverse)

Form Adopted for Mandatory Use
Judicial Council of California
A1-128/EJ-125 (Rev. January 1, 2011)

Page 1 of 2
Code of Civil Procedure,
§§ 491.110, 708.110, 708.120, 708.170
www.courts.ca.gov

Enter your name, date and sign.

(Attachment—Enforcement of Judgment)

Order to Appear for Examination (AT-138/EJ-125)