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CLAIM OF EXEMPTION: BANK LEVY

Ask the Court to Stop or Reduce a Bank Levy

This Guide includes instructions and sample forms. Links to download the fillable forms are at the end of this Guide. Additional copies of this Guide can be accessed at: saclaw.org/coe-bank-levy

BACKGROUND

A common method used by creditors to collect on court judgments is to levy bank accounts and safe deposit boxes held in the debtor's name. To do this, the creditor must request that the court issue a *Writ of Execution* (EJ-130), which is a court order directing the sheriff of a particular county to enforce the judgment. With this Writ, the creditor may instruct the sheriff of the appropriate county to levy the accounts or safe deposit boxes in the debtor's name at a particular bank.

Upon receiving the order to levy from the sheriff or registered process server, the bank will typically freeze the funds in the affected account(s) (up to the amount of levy), or will give those funds to the sheriff. Only funds in the account at the time of the levy will be frozen or seized.

If a judgment creditor attempts to levy your bank account, you will be mailed a *Notice of Levy* (EJ-150), along with some other informational documents. The sheriff will hold the seized funds for ten days, allowing you the opportunity to seek to stop or reduce the levy by filing a *Claim of Exemption* (EJ-160), which explains why you believe the seized money should be exempt.

The court may order some or all of the funds in an account exempt if:

- The money in the account is from a source that is exempt by law, such as Social Security; or
- The money in the account is required for the basic necessities of life.

Even if the court orders funds in the account exempt from collection, the judgment still exists, and will continue to accrue 10% simple interest each year.

One of the documents that you should receive with your *Notice of Levy* (EJ-150) is *Exemptions from the Enforcement of Judgments* (EJ-155). This form lists the various asset types that may be exempt

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

You may also need...

Related Guides

- [Claim of Exemption for Wage Garnishment](#)
- [Exemptions from Enforcement of Judgment](#)

Related Videos

- [Enforcement of Judgments](#)

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from collection. An adaptation of this document, with hyperlinks to the applicable code sections, is available on the Law Library's website at saclaw.org/exemptions-enforce-judgment. It is very important to read and understand the specific exemption(s) that may apply to you, because not all of these exemptions are complete (for example, employment wages are only 75% exempt), and some have limits on the amount of the exemption (for example, \$2300 in a vehicle's equity is exempt).

IMPORTANT: Remember, once you receive these documents you have **10 days** (15 days, if served by mail) to file your *Claim of Exemption* (EJ-160) and *Declaration* (MC-030) with the sheriff's department listed on the *Notice of Levy* (EJ-150).

NOTE: A Claim of Exemption can only be used to ask the court to determine whether a specific source of funds or other asset is exempt from being collected against and cannot be used to attack the underlying validity of the debt or judgment. If the judgment was obtained by default, you may be able to ask the court to set aside the judgment, and allow you to present a defense to the claim. For more information, see the Step-by-Step guide on Relief from Default Judgments on our website at saclaw.org/relief-default-judgment.

Before completing your forms:

Gather these documents, which provide needed information:

- Notice of Levy
- Three months of bank statements issued prior to and including or ending with the levy date
- At least one month of paystubs (more if income varies monthly)
- A list of your monthly expenses (e.g., rent, utilities, insurance, etc.)

STEP-BY-STEP INSTRUCTIONS

Step 1: Complete the Necessary Forms

The forms commonly used in this procedure are:

- [Claim of Exemption \(EJ-160\)](#)
- [Financial Statement \(WG-007/EJ-165\)](#) (if you're claiming the funds are necessary for the basic necessities of life)
- [Declaration \(MC-030\)](#)

Instructions for completing the necessary forms are included at the end of this packet.

Step 2: Copying and Assembling

Make two copies of each:

- *Claim of Exemption* (EJ-160)
- *Financial Statement* (WG-007/EJ-165) (if applicable)
- *Declaration* (MC-030)

If you are submitting a *Financial Statement* (WG-007/EJ-165), attach one copy to each copy of your *Claim of Exemption* (EJ-160).

Step 3: Turn in your Papers

Take the original and one photocopy of your documents to the levying officer listed on the *Notice of Levy* (EJ-150). This is most commonly the sheriff's department. The sheriff will mail one copy to the judgment creditor and keep the second. Keep the other copy you made in Step 2 for your records.

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Step 4: What Happens Next?

The sheriff or levying officer will hold the money or property until one of the following happens:

The creditor agrees that the funds are exempt, or takes no action

If the creditor does not oppose your claim of exemption within 10 days (15 days if served by mail), it is automatically granted. The money or property will be returned to you.

The creditor opposes your claim

You will receive a *Notice of Opposition to Claim of Exemption* (EJ-170) and *Notice of Hearing on Claim of Exemption* (EJ-175) that will set a court date for a judge to make a decision. If the judge agrees with your claim of exemption, you will get your money or property back. If the judge agrees with the creditor, the sheriff or levying officer will send the money or property to the judgment creditor. The judge may also partially grant your claim, and will instruct the sheriff or levying officer to return a portion of the money to you, and forward the remainder to the judgment creditor.

Pursuant to Local Rule 1.06 (www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf), the court will make a tentative ruling on your claim of exemption by 2:00 p.m. **the court day before the hearing.** You may read the tentative ruling online, or may call the Presiding Judge's department at 874-8142 to hear it. For more information, see the Sacramento County Superior Court's website at www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx.

Closely review the tentative ruling, because there will be a lot of important information included in it. Hopefully, you see that your claim of exemption is "GRANTED." If this is the case, the tentative ruling will also order the sheriff to return the funds to you. If your claim is "GRANTED in part," the court will order that a portion of the funds be returned to you. If claim is "DENIED," the funds will be released to the judgment creditor. You may also find that your hearing is "CONTINUED" to a future date. This is common if the court needs more information from you before making a ruling. Be sure to read the tentative ruling very carefully, because the court will specify what information or documents are required from you, and a date by which the information must be provided to the court.

If you are happy with the tentative ruling, you do not need to do anything. You won't have to go to court unless ordered to appear in the tentative ruling or unless the other side calls you and the court between 2:00 p.m. and 4:00 p.m. the court day before your hearing date to request an oral argument in front of the judge. If that happens, you should go to the court hearing and be prepared to argue your case.

If you are not happy with the tentative ruling, and wish to present arguments in front of the judge, you must call all opposing counsel and/or self-represented parties, and the clerk for Department 53 ((916) 874-7858) or Department 54 ((916) 874-7848) no later than 4:00 p.m. the court day before your hearing and state that you are requesting oral argument on the motion. If neither you nor the opposing counsel or self-represented party requests oral argument, the court will simply make the tentative ruling the order of the court, and no oral argument will be permitted.

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FOR HELP

Sacramento County Public Law Library Civil Self Help Center

609 9th Street, Sacramento 95814

saclaw.org/self-help/civil-self-help-center/

Services Provided: The Sacramento County Public Law Library Civil Self Help Center provides general information and basic assistance to self-represented litigants on a variety of civil legal issues. Appointments will be made beginning at 8:30 a.m. Patrons who are present at 8:30 a.m. will be entered into a random drawing to determine the order their case will be evaluated. If an appointment is appropriate, it will be made for later in the day. You are encouraged to arrive by 8:25 a.m. to participate in the appointment setting drawing.

Eligibility: Must be a Sacramento County resident or have a [qualifying](#) case in the Sacramento County Superior Court.

For assistance with a Claim of Exemption- Bank Levy, you must bring:

- Notice of Levy
- Three months of bank statements issued prior to and including or ending with the levy date
- At least one month of paystubs (more if income varies monthly)
- A list, including the amounts of, your monthly expenses (e.g., rent, utilities, insurance, etc.)

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

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updated 8/17 mpj

ATTACHMENTS: FORMS AND INSTRUCTIONS

The Judicial Council forms commonly used in this procedure are:

- [Claim of Exemption \(EJ-160\)](#)
- [Financial Statement \(WG-007/EJ-165\)](#)
- [Declaration \(MC-030\)](#)

Sample filled-in forms with instructions are available at the end of this Guide.

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ATTORNEY OR PARTY WITHOUT ATTORNEY

Doug Debtor
123 Any Street
Sacramento, CA 95814
TELEPHONE NO.: 916-555-9876
E-MAIL ADDRESS (Optional):
ATTORNEY FOR (Name): **In Pro Per**

FOR LEVYING OFFICER USE ONLY
(Levying Officer Name and Address)
Sacramento County Sheriff's Dept
Civil Division
3341 Power Inn Rd. Rm. 313
Sacramento, CA 95826

Insert Court County, Address, City, State, Zip, and Branch.

PLAINTIFF/PETITIONER: **Chris Creditor**
DEFENDANT/RESPONDENT: **Doug Debtor**

PLAINTIFF = Judgment Creditor
Defendant = Judgment Debtor
Names as they appear in Notice of Levy.

Sheriff's Levy Number, found on the Notice of Levy.

2012-12345

FOR COURT USE ONLY

CLAIM OF EXEMPTION
(Enforcement of Judgment)

Copy all the information required above (except the top left space) from the Notice of Levy. The top left space is for your name or your attorney's name and address. The original and one copy of this form must be filed with the levying officer. DO NOT FILE WITH THE COURT.

1. My name is: **Doug Debtor**

2. Papers should be sent to:
 me.
 my attorney (I have filed with the court and seek a court order requesting that papers be sent to my attorney and I have written on the request to receive these papers.)
 at the address shown above following (specify):

3. I am not the judgment debtor named in the notice of levy. The name and last known address of the judgment debtor is (specify):

4. The property I claim to be exempt is (describe):
Any and all deposits and accounts held in my name at Fictional Savings Bank.

5. The property is claimed to be exempt under the following code and section (specify):
42 USC Section 47 and CCP Section 704.080.

6. The facts which support this claim are (describe):
See attached Declaration.

7. The claim is made pursuant to a provision exempting property to the extent necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor. **A Financial Statement form is attached to this claim.**

8. The property claimed to be exempt is
 a. a motor vehicle, the proceeds of an execution sale of a motor vehicle, or the proceeds of insurance or indemnification for the loss, damage, or destruction of a motor vehicle
 b. tools, implements, materials, uniforms, furnishings, books, equipment or other personal property used in the trade, business or profession of the judgment debtor
 c. all other property of the same type owned by the judgment debtor, either alone or jointly with others.

9. The property claimed to be exempt consists of the loan value of unexpired life insurance policies (including endowment policies) or benefits from matured life insurance policies (including endowment policies) or other property of the same type owned by the judgment debtor or the spouse of the judgment debtor, either alone or jointly with others, is (describe):

4. Describe the property that is exempt.
5. Insert applicable code sections.
6. Insert "See attached Declaration."

Case Number
34-2011-12345678

I declare under penalty of perjury that the foregoing is true and correct.
Date: **2/15/2012**
Doug Debtor
(TYPE OR PRINT NAME)

Print name and date

Signature

Form Approved by the State of California
CLAIM OF EXEMPTION
Code of Civil Procedure, § 703.520
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Your name, address, and phone number. "In Pro Per" means you are representing yourself.

Insert County, Name, and Address of the Levying Officer, as shown on the Notice of Levy.

Insert Court County, Address, City, State, Zip, and Branch.

Sheriff's Levy Number, found on the Notice of Levy.

Plaintiff = Judgment Creditor
Defendant = Judgment Debtor
Names as they appear in Notice of Levy.

Case Number

4. Describe the property that is exempt.
5. Insert applicable code sections.
6. Insert "See attached Declaration."

Complete paragraphs 7, 8, & 9 ONLY if they pertain to your situation.

If you are claiming that some, or all, of the amount levied should be withheld because it is needed for the basic necessities of life, you will need to check box 7 and complete and attach a Financial Statement (WG-007/EJ-165).

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If you are claiming that some, or all, of the amount levied should be withheld because it is needed for the basic necessities of life, you will need to complete and attach a *Financial Statement* (WG-007/EJ-165). The statement provides the court with a snapshot of your monthly income and expenses. If your only claim is that the funds are statutorily exempt, you do not need to complete this form.

WG-007/EJ-165

SHORT TITLE: Creditor v. Debtor	LEVYING OFFICER FILE NO.: 2012-12345	COURT CASE NO.: 34-2011-12345678
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FINANCIAL STATEMENT
(Wage Garnishment - Enforcement of Judgment)

NOTE: If you are married, this form must be signed by your spouse unless you and your spouse are living separate and apart. If this form is not signed by your spouse, check the applicable box on the reverse in item 9.

1. The following persons other than myself depend, in whole or in part, on me or my spouse for support:

NAME	AGE	RELATIONSHIP TO ME	MONTHLY TAKE-HOME INCOME & SOURCE
a. Debbie Debtor	39	Spouse	1,328.43 Employment at Acme Inc.
b. David Debtor	10	Son	0.00
c. Darla Debtor	7	Daughter	0.00
d.			
e.			

List each person in your household. If you have no spouse, write "none" on line a.

2. My monthly income

a. My gross monthly pay is: _____ 2a. \$ 2,600.00

b. My payroll deductions are (specify purpose and amount):

(1) Federal and state withholding, FICA, and SDI _____ \$ 461.23

(2) _____ \$ _____

(3) _____ \$ _____

(4) _____ \$ _____

My TOTAL payroll deduction amount is (add (1) through (4)): _____ b. \$ 461.23

c. My monthly take-home pay is (a minus b): _____ c. \$ 2,138.77

d. Other money I get each month from (specify source): _____ is _____ d. \$ _____

e. **TOTAL MONTHLY INCOME (c plus d)** _____ e. \$ 2,138.77

Describe your monthly income. You may need several pay stubs to complete this section.

3. I, my spouse, and my other dependents own the following property:

a. Cash _____ 3a. \$ 45.00

b. Checking, savings, and credit union accounts (list banks):

(1) **Fictional Savings Bank Checking (levied)** _____ \$ 734.00

(2) **Arbitrary Credit Union Savings Shares Acct.** _____ \$ 80.00

(3) _____ \$ _____ b. \$ 814.00

c. Cars, other vehicles, and boat equity (list make, year of each):

(1) **1989 Adobe Automobile** _____ \$ \$100.00

(2) _____ \$ _____

(3) _____ \$ _____ c. \$ 100.00

d. Real estate equity _____ d. \$ 0.00

e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.) (list separately):

Misc. Household furnishings _____

e. \$ 300.00

Complete your asset information. Remember that "equity" is the fair value of the property minus the amount owed on it. If the total is negative, the equity is \$0.

As a general rule, entertainment (line 4(l)) and most installment payments (line 4(j) and section 5) are not considered "basic necessities of life," and such amounts will typically be ordered paid to the creditor. Exceptions are installments being paid to prior judgment debtors, installments being paid to the government for back taxes, or other debts that are legally entitled to priority over the judgment in this case.

WG-007/EJ-165

SHORT TITLE: Creditor v. Debtor	LEVYING OFFICER FILE NO.:	COURT CASE NO.:
		34-2011-12345678

4. The monthly expenses for me, my spouse, and my other dependants

a. Rent or house payment and maintenance	4a. \$	<u>1,000.00</u>
b. Food and household supplies	b. \$	<u>425.00</u>
c. Utilities and telephone	c. \$	<u>250.00</u>
d. Clothing	d. \$	<u>60.00</u>
e. Medical and dental payments	e. \$	<u>85.00</u>
f. Insurance (life, health, accident, etc.)	f. \$	<u>479.00</u>
g. School, child care	g. \$	<u>450.00</u>
h. Child, spousal support (prior marriage)	h. \$	<u>0.00</u>
i. Transportation & auto expenses (insurance, gas, repair) (list car payments in item 5)	i. \$	<u>400.00</u>
j. Installment payments (insert total and itemize below in item 5)	j. \$	<u>197.00</u>
k. Laundry and cleaning	k. \$	<u>38.00</u>
l. Entertainment	l. \$	<u>18.00</u>
m. Other (specify):		

List your monthly expenses. If not paid monthly, estimate the amount if broken into monthly payments.

m. \$ _____	n. \$ <u>3,402.00</u>
n. TOTAL MONTHLY EXPENSES (add a through m):	

5. I, my spouse, and my other dependants owe the following debts:

CREDITOR'S NAME	FOR	MO. PAYMENTS	BALANCE OWED	OWED BY (State person's name)
Adobe Car Finance Corp	Car Loan	197.00	900.00	

If there are other facts to consider, list them here.

6. Other facts which support this Claim of Exemption (i.e., unusual medical needs, school tuition, expenses for recent family emergencies, or other unusual expenses to help your creditor and the judge understand your budget) (describe below) (If more space is needed, attach page labeled Attachment 6.)

7. An earnings withholding order is now in effect with respect to my earnings or those of my spouse or dependants named in item 1 (specify each person's name and monthly amount):

8. A wage assignment for support is now in effect with respect to my earnings or those of my spouse or dependants named in item 1 (specify each person's name and monthly amount):

Earnings withholdings or assignments (support payments) in effect as to your income or the income of a household member are listed in paragraphs 7 or 8.

- 9. My spouse has signed below.
- I have no spouse.
- My spouse and I are living separate and apart.

Check the appropriate box in paragraph 9. If the debtor is married, his or her spouse must sign unless the two are separated and living apart.

I declare under penalty of perjury under the laws of the State of Ohio that the information provided is true and correct.
Date: 2/15/2012

Doug Debtor _____	Print name(s) and date	▶ _____	Signature(s)
Debbie Debtor _____	(TYPE OR PRINT NAME OF SPOUSE)	▶ _____	(SIGNATURE OF SPOUSE)

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Your name, address, and phone number. "In Pro Per" means you are representing yourself.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State E...)		FOR COURT USE ONLY	
Doug Debtor 123 Any Street Sacramento, CA 95814 TELEPHONE NO.: 916-555-9876 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): In Pro Per		MC-030	
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		Insert Court information.	
PLAINTIFF/PETITIONER: Chris Creditor DEFENDANT/RESPONDENT: Doug Debtor		Plaintiff = Judgment Creditor Defendant = Judgment Debtor Names as they appear in Notice of Levy	
DECLARATION		CASE NUMBER: 34-2011-12345678	Court Case Number

I, Doug Debtor, declare:

The bank account that is levied is should be exempt from collection because the entire source of those funds are from my spouse, Deborah Debtor's Social Security Disability. I have attached redacted bank statements for the last three months showing that the only money deposited into this account was her Social Security Disability payment, and that no other transactions took place.

Your declaration should provide a detailed description of why any funds are exempt from collection. You will also need to attach two or three months' worth of bank statements to show the source of any money that goes into the bank account. The more sources of income, the more complicated the declaration will be in "tracing" the funds in the bank account. The amount of the funds that can be traced back to exempt sources (i.e. Social Security, SSI, etc.) will be exempt up to the amount allowed for each exemption. Keep in mind that this is being read by a sheriff, creditor, and possibly judge who has no prior knowledge of your circumstances, so be sure to explain things concisely and with sufficient detail. If you are attaching bank statements, be sure to "redact" (black out so they cannot be read) the account numbers (except the last four digits), as this document might eventually end up filed with the court.

If your Claim of Exemption is based on the necessities of life, it is possible to use a declaration to explain your household circumstances.

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

Date: 2/15/2012

Doug Debtor (TYPE OR PRINT NAME)

Print name and date

(SIGNATURE OF DECLARANT)

Attorney for Plaintiff
 Respondent
 Plaintiff
 Other (Specify):
 Defendant

Form Approved for Optional Use
Judicial Council of California
MC-030 [Rev. January 1, 2006]



DECLARATION

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Sign and mark the "Defendant" box if you are the defendant, otherwise check the appropriate box. If no other box fits, check "Other" and write your title in this space.