

ALERT: COVID-19 has temporarily changed the way courts are providing services. Our guides do not reflect these temporary changes. Contact the court directly for the most up to date information on court processes and procedures. www.saccourt.ca.gov

DEBTOR'S EXAMINATION

Discover the Judgment Debtor's Assets

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/debtor-exam.

BACKGROUND

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. 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.

Related Legal Research Guide

- [Enforcement of Judgments](#)

STEP-BY-STEP INSTRUCTIONS

Step 1: Complete the Form

The Judicial Council form used in this procedure is:

- [Application and Order for Appearance and Examination \(EJ-125\)](#)
www.courts.ca.gov/documents/ej125.pdf

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 \(MC-031\)](#)
www.courts.ca.gov/documents/ej125.pdf

The declaration must be attached to your application.

In Sacramento County, hearing dates for orders of examination are self-selected. This means you, as the person requesting the hearing, are responsible for selecting the hearing date. Orders of examination are currently heard in Department 43 on Fridays at 9:00 a.m. Write the date you choose on the *Application and Order for Appearance and Examination* (EJ-125); you do not need to reserve the time with the court.

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.

There are two separate time periods to consider when choosing 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 days prior to the hearing date California Code of Civil Procedure (CCP) [§ 708.110\(d\)](#).

Be sure to select a date that will allow enough time for service.

Step 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).
- A file-endorsed (stamped) copy of your Judgment, if entered prior to November 13, 2007. If you do not have a copy of the judgment, you may obtain one from the court. See www.saccourt.ca.gov/civil/file-status.aspx for more information.
- Filing fee (currently \$60 per application; see www.saccourt.ca.gov/fees/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 Room 102 of the Gordon D. Schaber Courthouse, located at 720 Ninth Street. 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.

Step 3: Serve Your Order

The examinee 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**, unless the court specially appointed a different server ([CCP § 708.170](#)). To have your documents served by the Sacramento County Sheriff's Department, submit the following documents to the Sheriff's Civil Bureau at 3341 Power Inn Road #313:

- Original Sheriff Instructions (available at <https://www.sacsheriff.com/documents/7483%20Form%20049A-Instructions%20to%20the%20Sheriff%20Rev%2007-18.pdf>)
- *Application and Order for Appearance and Examination* (EJ-125) signed by the judge (original + 1 copy)
- Fee for service (currently \$40, see <https://www.sacsheriff.com/documents/2020%20Fee%20Schedule.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](#)).

Step 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 provide 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 at www.ncrasourcebook.com.

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

Sample questions to ask the debtor

California Courts Self-Help Website - Sample Questions to Ask a Debtor
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

Electronic Access: On the Law Library's computers, using *OnLaw*.

Step 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 §§ 708.170\(a\)\(1\)\(A\), 708.170\(a\)\(1\)\(B\)](#)). To have the warrant issued, you must submit the following Sacramento County local forms to the court:

- [Civil Bench Warrant \(CV/E-127A\)](#) (original + 2 copies)
- [Instructions to Serve Civil Bench Warrant \(CV/E-127B\)](#) (original + 2 copies)
- Sheriff's fee for service (currently \$50 or \$140 per warrant, depending on the court's order, see <https://www.sacsheriff.com/documents/2020%20Fee%20Schedule.pdf>)
- 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.

Step 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 on our website at saclaw.org/law-101/collecting-resisting-judgments-topic.

FOR MORE INFORMATION

On the Web:

California Courts Self-Help Website - Get Information about the Debtor's Assets

www.courts.ca.gov/11187.htm

California Courts Self-Help Website - Sample Questions to Ask a Debtor

www.courts.ca.gov/11328.htm

Sacramento County Superior Court - Orders of Examination

www.saccourt.ca.gov/civil/orders-of-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

Electronic Access: On the Law Library's computers, using *WestlawNext*.

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

Electronic Access: On the Law Library's computers, using *WestlawNext*.

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.

ATTACHMENTS: FORMS AND INSTRUCTIONS

The Judicial Council form commonly used in this procedure is:

- [Application and Order for Appearance and Examination \(EJ-125\)](http://www.courts.ca.gov/documents/ej125.pdf)
www.courts.ca.gov/documents/ej125.pdf

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

AT-138/EJ-125

ATTORNEY OR PARTY WITHOUT ATTORNEY:
 NAME: Calvin J. Creditor
 FIRM NAME:
 STREET ADDRESS: 2036 Donner Drive
 CITY: Sacramento
 TELEPHONE NO.: 916-123-4567
 E-MAIL ADDRESS: ccreditor@email.com
 ATTORNEY FOR (name): In Pro Per

FOR COURT USE ONLY

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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento
 ADDRESS: 720 Ninth Street
 ADDRESS: 720 Ninth Street
 ZIP CODE: Sacramento, CA 95814
 COURT NAME: Civil

PLAINTIFF Calvin J. Creditor
 DEFENDANT Doua J. Debtor

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

COURT NAME, ADDRESS, AND BRANCH.

CASE NUMBER: 34-2009-00012345

Check Enforcement of Judgment and Judgment Debtor or Third Person, as appropriate.

Check Judgment Creditor.

Check the box describing the person to be examined.

Questions 7 and 8 apply only in rare situations. Check the box only if the entire statement is true.

Enter your name, date and sign.

(Attachment—Enforcement of Judgment)

ORDER TO APPEAR FOR EXAMINATION

- TO (name): Doua J. Debtor
- YOU ARE ORDERED TO APPEAR personally before a referee appointed by the court, to answer questions concerning a debt you owe the plaintiff or defendant.
- furnish information to aid in enforcement of the judgment debtor.
 - answer concerning property of the judgment debtor.
 - answer concerning property of the defendant that is subject to attachment.

Date: 2/6/2013 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 to serve process.

Date: _____

JUDGE

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

IMPORTANT NOTICES ON REVERSE

- APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION**
- Original judgment creditor Assignee of record Plaintiff who has a right to attach order
 - applies for an order requiring (name): Doua J. Debtor to appear and furnish information to aid in enforcement of the money judgment or to answer questions concerning a debt you owe the plaintiff or defendant.
 - The person to be examined is
 - the judgment debtor.
 - 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 more than the amount of the money judgment or (3) whose application under Code of Civil Procedure section 491.110 or 708.120 is attached.
 - The person to be examined resides or has a place of business at _____ the place of examination.
 - 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.
 - The judgment debtor has been examined within the past 120 days. An affidavit showing good cause for another examination is attached.

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)