



**COLLECT
YOUR AWARD**
FROM THE CALIFORNIA LABOR
COMMISSIONER'S OFFICE

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The Labor Commissioner's Office,

also called the Division of Labor Standards Enforcement (DLSE), is part of the California Department of Industrial Relations. The Labor Commissioner's Office is the state agency that decides claims for unpaid wages. It enforces labor standards to ensure employees are not permitted to work under substandard, unlawful conditions. It also protects employers who comply with the law from having to compete with those who do not.

UNDERSTAND YOUR AWARD

If the Labor Commissioner decides a wage claim in your favor, you will receive an **Order, Decision or Award (ODA)** that states the amount that your employer owes you. You will also receive an ODA if you agreed to settle your claim, but your employer violated the settlement agreement. The law requires your employer to pay or appeal the decision within 10 days. If your employer does not appeal and fails to pay, the Labor Commissioner mails the ODA to the local Superior Court and it becomes a legal **judgment**. This judgment enables you to collect the judgment amount from your employer using legal tools described here. You have the right to recover from your employer any fees and costs necessary to collect your judgment.

You may need to file papers and visit offices without translation services. You may want to ask someone who reads and writes in English to assist you with this process.

You may only collect your award from the exact individual person or entity named in the judgment. Owners of companies often form a separate legal entity to protect themselves from being personally responsible for the company's debts. If your judgment names a company that is one of these entities, "Inc.," "LLC," or "LLP" may appear after the company name. If the judgment is against a legal entity and not an individual, you must collect from the company's property only, not from its owners. If an individual's name appears on your judgment, you may collect from that individual and the company named on the judgment, if any.

THE LABOR COMMISSIONER'S OFFICE ENFORCES LABOR LAWS THROUGH THE FOLLOWING UNITS:

THE WAGE CLAIM ADJUDICATION UNIT reviews and decides individual claims for unpaid wages and other labor law violations.

THE GARMENT WAGE CLAIM ADJUDICATION UNIT reviews and decides claims filed by garment workers under the Garment Worker Protection Act, a law known as AB 633.

THE BUREAU OF FIELD ENFORCEMENT (BOFE) investigates reports of employers' failure to provide minimum wage, overtime, or meal and rest periods to groups of workers. BOFE also investigates complaints against employers for violations of workers' compensation, child labor, recordkeeping, licensing, and registration laws.

THE PUBLIC WORKS UNIT investigates violations of labor laws on public works construction projects. Prevailing wages are higher than the State minimum wage and are required for workers on most public construction projects.

THE RETALIATION COMPLAINT INVESTIGATION UNIT investigates complaints of retaliation. Retaliation occurs when an employer takes actions such as firing a worker or reducing hours or pay because the worker took steps to enforce his or her labor rights.

THE JUDGMENT ENFORCEMENT UNIT helps workers collect their wages after the Labor Commissioner determines that an employer owes unpaid wages.

HOW TO COLLECT YOUR JUDGMENT

INVESTIGATE YOUR EMPLOYER'S ASSETS

Collect information about the property your employer owns to help you decide which collection tools to use. For example, if your employer is a company, you can collect from that company's **real property (real estate)**, cash register, inventory, machinery, equipment, and bank accounts. Income from customers is often the most valuable property for many companies. If the employer is an individual, you can also collect from that individual's bank account, personal real estate, or valuables, like jewelry or furniture. Review your judgment carefully to determine if the employer is listed as a company, an individual, or both. You may only collect your judgment from the exact entity named in the judgment. To locate property, make your own observations and ask co-workers for theirs. Paychecks from your employer may include bank account information. Visit the County Recorder's Office to search for your employer's land for free, or use the County Tax Assessor's website.

LIEN VS. LEVY

A **LIEN** PLACES A HOLD ON THE PROPERTY TO PREVENT IT FROM BEING SOLD OR TRANSFERRED WHILE YOU ARE TRYING TO COLLECT YOUR JUDGMENT. YOU CAN ALSO ORDER THE SHERIFF TO SEIZE PROPERTY DIRECTLY THROUGH A **LEVY**.

WHAT IT DOES:

- Places a hold on your employer's property so that your employer and potential buyers are notified that you have a right to collect payment of your judgment from the debtor. A judgment lien makes it difficult for a debtor to sell property because most buyers will not buy property with lien(s).

WHAT IT HOLDS:

- A company's land, buildings, houses, inventory, equipment, and machinery.
- An individual's land, buildings, houses, jewelry, furniture, art, and other valuables.

REQUIRED COURT FORMS:

- Abstract of Judgment (Form EJ-001)
- Notice of Judgment Lien (Form JLI)
- Acknowledgment of Satisfaction of Judgment (Form EJ-100)
- Proof of Service (Form POS-040)

WHAT IT DOES:

- Seizes your employer's property to pay you directly.

WHAT IT TAKES:

- A company's cash, money from bank accounts, customer payments, and rental income.
- An individual's rental income and wages.

REQUIRED COURT FORMS:

- Writ of Execution (Form EJ-130)
- Memorandum of Costs (Form MC-012)
- Acknowledgment of Satisfaction of Judgment (Form EJ-100)
- Proof of Service (Form POS-040)

ASK YOUR EMPLOYER TO PAY

You should write a “demand letter” to your employer to request payment of the amount owed and to notify them of your intent to use legal collection tools. You may consider sending your demand letter **after** you file a lien on your employer’s property to prevent your employer from selling the property needed to collect your judgment. In your letter, you should demand the amount your employer owes you and also state:

- Whether you are willing to accept payment in installments.
- The amount owed will increase daily, since the judgment accumulates interest at the rate of 10% per year.
- You will seek reimbursement from your employer of any reasonable and necessary costs of collection.
- The debt may appear on your employer’s credit report and lower its credit score.
- You will collect the judgment through legal processes, such as the seizure of any assets by the Sheriff, without further notice to your employer.

FILE A LIEN ON YOUR EMPLOYER’S PROPERTY

If you received your decision after January 1, 2014 and your employer owns real property (buildings and land), the Labor Commissioner should have filed a lien on your employer’s real property on your behalf in the same county where the judgment was entered. A notice stating that a lien has been filed should have been included with the ODA. If your employer owns buildings and land in another county, you should file a lien in that county as well. If your employer does not own buildings or land, you can file a lien on other types of property belonging to your employer, such as inventory, equipment, and valuables.

You should file a lien on your employer’s real and personal property, particularly if you worry that your employer will file for bankruptcy, sell, or transfer their property before you collect. Filing a lien involves two legal forms that you may complete on your own. Your employer may contact you after receiving notice of the lien or when attempting to sell the property. Your employer or the new buyer of the property should pay you first before the sale is completed. If your employer ignores the lien, you can have the Sheriff levy the property or hire a lawyer to help you force a sale of the property at a public auction to collect your unpaid wages.

Liens on real property last for 10 years and attach to all your employer’s buildings and land located in the county where you file the lien. If you received your decision on any date after January 1, 2014, the Labor Commissioner should have filed this lien on your behalf. If you received your judgment before this date, you will need to:

- Complete and file at the court that mailed you the judgment a form called Abstract of Judgment (Form EJ-001), available on the internet at <http://www.courts.ca.gov/documents/ej001.pdf>. The Abstract of Judgment is an official court summary of the judgment that was originally entered by the court.
- Record (file) the Abstract of Judgment with all the County Recorder’s Offices in counties where you know the employer has real property. The County Recorder’s Office can give you instructions on how to have this document recorded.

Liens on all other property, such as inventory, equipment, and valuables, last for 5 years and attach to all such property in the state. In order to file a lien on property that is not real property, you will need to:

- Complete and file with the Secretary of State a form called Notice of Judgment Lien (Form JLI), available on the internet at <http://www.sos.ca.gov/business-programs/ucc/judgment-lien/>.
- Provide a copy of this Notice of Judgment Lien to your employer following the special legal procedures called service of process, using instructions available at your local court, or from the internet at <http://www.courts.ca.gov/selfhelp-serving.htm>.

RELEASE YOUR EMPLOYER FROM DEBT

After your employer pays the judgment or a partial amount that satisfies you, then you must release your employer from the debt.

- Complete the form Acknowledgment of Satisfaction of Judgment (Form EJ-100) available at your local courthouse and on the internet at: <http://www.courts.ca.gov/documents/ej100.pdf>. This form informs the court that your employer no longer owes you a debt from the judgment. You should file it at the same court that mailed you the judgment.
- Get the Acknowledgment of Satisfaction of Judgment notarized if you recorded any real property liens.
- Provide a copy of this Acknowledgment of Satisfaction of Judgment to your employer following the special legal procedures called service of process, using instructions available at: <http://www.courts.ca.gov/selfhelp-serving.htm>.

USING A LEVY, HAVE THE SHERIFF SEIZE YOUR EMPLOYER'S PROPERTY

Using a levy, you can take possession of your employer's property with the assistance of the County Sheriff. First, you must obtain a Writ of Execution, which is a court document that instructs the County Sheriff to take action to collect the judgment. The Writ of Execution gives you 180 days to request that the Sheriff seize property and collect your judgment amount. If you fail to recover your full judgment on the first try, you can obtain a writ of execution multiple times.

- Complete the Writ of Execution (Form EJ-130), available at your local courthouse and on the internet at <http://www.courts.ca.gov/documents/ej130.pdf>.
- Along with your Writ of Execution, complete and file a form called Memorandum of Costs after Judgment (Form MC-012), available at your local courthouse and on the internet at <http://www.courts.ca.gov/documents/mc012.pdf>. The Memorandum of Costs is a summary of interest that has accrued on the judgment amount and the various fees that you have paid to collect the judgment. You are not required to submit this form to collect your judgment, only to collect the interest, fees and costs.
- Get Writs of Execution in all the counties where your employer has assets.
- Provide the Sheriff their fees, an original Writ of Execution, and instructions. Since each Sheriff operates differently, contact them for detailed instructions.
- If you wait longer than 180 days after you obtain the Writ of Execution before you request that the Sheriff perform the levy, you will need to file and get a new Writ of Execution following the same procedure outlined above.

“My employer refused to pay or contact me, even after I filed liens on his property. After two years, my judgment for \$5,000 had gained another \$1,000 in interest. I was very frustrated and filed a levy. It was intimidating, but with the help of a friend, I went to the Sheriff’s station in the county where my employer does business. The Sheriff gave me a list of options to choose from to levy my employer’s property, and the Sheriff’s fees for each option. I wanted to file a bank levy and take my judgment directly from my employer’s bank account, but I didn’t know my employer’s bank account information because I was paid in cash without paystubs. Then I remembered that my employer made a lot of money on the weekends. I decided to have the Sheriff visit my employer during busy hours over the weekend to seize all the income from sales transactions. Next, I went to the Superior Court that mailed me my judgment. I asked the clerk for a Writ of Execution and provided my Memorandum of Costs. The Memorandum of Costs showed the court all my fees and the interest my judgment had accumulated. The court issued a Writ of Execution directing the Sheriff to collect the total amount of my judgment, fees, and interest. It was a lot of work, but when I received the \$6,000 owed to me, I felt like I had finally won.”



PREPARING FORMS

You will need to complete the Abstract of Judgment in order to file a lien and the Writ of Execution to have the Sheriff levy your employer’s property. Below are some tips on how to complete various sections of the forms. However, be sure to read and complete the entire form before filing with the court. Some of these forms require fees to file. Ask the court clerk or Sheriff’s office whether you qualify for fee waivers.

YOUR NAME ADDRESS PHONE

NAME & ADDRESS
(OF COURT THAT MAILED YOU YOUR JUDGMENT)
BRANCH NAME: CIVIL
PLAINTIFF: YOU
DEFENDANT: YOUR EMPLOYER

10. AN EXECUTION LIEN
a. JUDGMENT AMOUNT
b. YOUR NAME & ADDRESS
11. a. NOT BEEN ORDERED BY THE COURT

ABSTRACT OF JUDGMENT—CIVIL AND SMALL CLAIMS

ABSTRACT OF JUDGMENT [EJ-001]

YOUR NAME ADDRESS PHONE

NAME & ADDRESS
(OF COURT THAT MAILED YOU YOUR JUDGMENT)
BRANCH NAME: CIVIL
PLAINTIFF: YOU
DEFENDANT: YOUR EMPLOYER

1. COUNTY WHERE YOU WANT THE LEVY PERFORMED

11. JUDGMENT AMOUNT
12. COSTS & FEES FROM MEMORANDUM
16. INTEREST TO DATE

WRIT OF EXECUTION

WRIT OF EXECUTION [EJ-130]

LEGAL TERMS TO HELP YOU COLLECT YOUR AWARD

ODA: Order, Decision or Award states the Labor Commissioner’s decision on your claim for unpaid wages and the amount the employer must pay, if any.

PLAINTIFF & DEFENDANT: The court generally refers to wage claimants as plaintiffs and employers as defendants. Plaintiffs make a legal claim that a defendant has violated the law.

JUDGMENT: A court document that orders the losing party to pay the winning party a specific amount of money. If you receive a judgment in your favor, you have 10 years to collect the judgment amount. You must renew the judgment before the 10 years pass if you are still attempting to collect at that time. The judgment amount accumulates interest at a rate of 10% per year.

JUDGMENT CREDITOR & DEBTOR: If you received an ODA in your favor and it becomes a court judgment, you become the judgment creditor, and the employer becomes the judgment debtor. While enforcing your judgment, you are both the “plaintiff” and “judgment creditor,” and your employer is the “defendant” and “judgment debtor.”

JUDGMENT ENFORCEMENT: The process of using legal collection tools to collect the judgment amount that is owed to you by the judgment debtor.

JUDGMENT LIEN: A special legal hold on property—including land, buildings, and valuables like equipment—that makes it more difficult for the judgment debtor to sell the property that could be used to pay a judgment.

LEVY: Allows you to have the County Sheriff collect the wages owed to you by taking money or property from the employer. For example, you may have the Sheriff sell the employer’s property or seize cash from the employer’s business.

REAL PROPERTY: Land, houses, or buildings.

SERVICE OF PROCESS & PROOF OF SERVICE: Special procedures for providing your employer with copies of legal documents. In service of process, a third person (not you) is the one who actually delivers the documents to your employer. The person who delivers the documents to your employer must fill out and sign the Proof of Service form. Service of process is required for some of the legal collection tools described in this pamphlet. Rules must be followed precisely and instructions are available at <http://www.courts.ca.gov/selfhelp-serving.htm>.

ASSIGNING YOUR JUDGMENT TO THE LABOR COMMISSIONER’S OFFICE

The Labor Commissioner helps some workers collect their awards. If this option is available to you, you will receive a form called “Assignment of Judgment” to sign in person at any of the Labor Commissioner’s offices or to have notarized. If you agree to assign your judgment to the Labor Commissioner, you can no longer try to collect the judgment on your own. If the Labor Commissioner cannot assist you to collect your ODA amount, you will receive a letter explaining the different steps you can take to collect.

GARMENT, CAR WASH, AND FARM WORKERS:

Special restitution funds compensate workers in the garment, car wash, and agricultural industries when their employers do not pay wages they owe. Ask the Deputy Labor Commissioner assigned to your claim whether you may be compensated through these special funds.

WHEN SHOULD I WRITE A DEMAND LETTER?

“I filed a claim at the Labor Commissioner’s Office, and my employer ignored all the notices. After my hearing, the Labor Commissioner mailed me a decision in my favor, and the Superior Court mailed me a final judgment. Co-workers told me they had also won judgments, but when they tried to collect, our employer said he had no money. I went to the County Recorder’s Office and learned that the company had no real property, but I knew it owned equipment and inventory. I was afraid that if I wrote a letter to demand payment, the equipment would be sold and I would never be paid. So I filed a lien on the equipment first. I printed out a form called Notice of Judgment Lien (JLI) from the internet and followed the instructions on the form. I served my employer a copy of the JLI by following the special legal procedures called service of process. Then, I wrote my employer to demand payment of my judgment. When my employer tried to sell the equipment, the new buyer saw my lien and refused to buy it until I was paid and had released the lien—then my employer paid me.”



- Stay organized. Keep all your documents in one place, and keep a journal of everything you have done to collect your judgment.
- Follow instructions for all court forms, and make copies of all forms before you submit them.
- On all forms, you are always the “creditor” and “plaintiff,” and your employer is always the “judgment debtor” and “defendant.”
- If you have any questions about court forms, ask the clerk or find help to complete them.
- Find all of the addresses of the government offices and courthouses you will need to visit or correspond with, which may include:
 - The name and address of the court that mailed you your judgment. The court branch will always be “civil.”
 - The County Recorder’s Office in counties where your employer owns real property (to research and file liens on your employer’s real property).
 - The Secretary of State (to file liens on your employer’s personal property).
 - The Sheriff’s station in counties where your employer operates (to order the Sheriff to seize your employer’s property through a levy).
- Follow the special legal process (called “service of process”) for providing your employer with copies of legal documents.

You may need the following forms (you may ask the clerk or Sheriff’s station if you qualify for fee waivers):

- Abstract of Judgment (Form EJ-001)
- Writ of Execution (Form EJ-130)
- Notice of Judgment Lien (Form JL1)
- Acknowledgment of Satisfaction of Judgment (Form EJ-100)
- Memorandum of Costs (Form MC-012)
- Proof of Service (Form POS-040)

1. What if my employer files for bankruptcy?

If you receive notice that your employer has filed for bankruptcy, you can no longer file liens or use levies to collect your judgment. Instead, you must follow the bankruptcy court’s process for collecting your judgment, along with your employer’s other creditors. You should receive a bankruptcy notice in the mail listing your judgment as one of your employer’s debts. Read this document carefully, follow instructions, and honor deadlines. If you had previously filed a lien, you may be paid from any proceeds distributed between all creditors. However, you must file a Proof of Claim form with the bankruptcy court by the deadline set by that court or you may lose your right to collect through the bankruptcy process. You may want to contact an attorney for further assistance to collect through the bankruptcy court.

2. How can I get help with collecting my judgment?

You may consult a non-profit Legal Services Provider in your area. You may also hire a lawyer or collection agency to help you collect your judgment. Find a reputable attorney who has experience with debtor-creditor law or commercial debt collection (sometimes called creditor’s rights attorneys).



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