

Collect Those Old Debts from Tenants Now! **by Stephen Duringer, Attorney**

After the tenant has been evicted, and you have obtained a money judgment for the back rent, attorney's fees, and court costs, you can pursue the money rightfully due. Turn your judgments over to collection where they will aggressively pursue the judgment debtor until you are paid in full. There is almost always no additional charge for collection unless money is recovered from your ex-tenant.

Obtaining the Money Judgment

In the contested case, the money judgment is entered after the lockout is complete and you have regained possession of the premises. If the tenant "skips" returning possession without the need for an eviction, you may secure a judgment through the small claims court.

Obtaining a money judgment is a powerful tool for recovering your loss. Approximately 75% of all judgment debtors pay at least part of the judgment. The judgment allows you to add your post judgment legal costs to the balance and accrues interest on the judgment amount at the rate of 10% per year. It is enforceable for 10 years and can be renewed every 10 years.

Locating the Debtor

Once the judgment is obtained, locating the debtor and/or his assets becomes the greatest concern. Most often, the debtor has not given the landlord notice of his whereabouts. Frequently, debtors try to hide from their creditors. The rental application is very important in providing clues to skilled skip tracers in tracking down the tenant. Even seemingly minor details such as cell phone numbers, vehicle license plate numbers, a physical description or the debtors' habits, are useful in finding their new residence. Former neighbors and other personal contacts of the debtors can also provide valuable leads in locating the tenant.

As an integral part of some law firms, the collection department has resources that are not available to a collection agency. Privileged, comprehensive national databases are used to track the errant debtor. Attorneys fully exercise the legal power to subpoena information from otherwise private sources. In some cases, debtors go underground and do not surface for years. Nevertheless, when they do surface, the relentless search finds them, even if they are in another state.

Communicating with the Debtor

When the debtor is located, they are contacted to request that they pay the debt voluntarily without incurring more legal costs (which would be added to their debt). . Since collection efforts on their case have been reported to the credit reporting agencies, they are motivated to cooperate with us. Unequivocal demands are conducted professionally, observing the Federal Fair Debt Collection Practices Act and the California Robbins-Rosenthal Fair Debt Collection Practices Act.

Locating the Debtor's Assets and Income

After the debtor is located, their ability to repay the debt is assessed. Since many debtors will feign indigence, or refuse to cooperate in any way, it becomes necessary to divine their means of support. In addition to the skip tracing resources, additional methods are used to uncover their property and their income. One of these methods is a legal process known as the Order for Debtor Examination. A court order is obtained that requires the debtor to appear before a judge with all of their financial information for examination. For the examination, other pertinent information is regularly subpoenaed from parties with whom the debtor does business. It is common to receive a cash payment at the examination and arrange a payment plan. If the debtor fails to appear, the judge may issue a warrant for their arrest.

Attaching the Debtor's Assets

For the debtor who obstinately refuses to pay their debt, you can effect legal seizure or lien of their bank accounts, real and personal property, wages and/or business income. Since there are

many exempt sources of income and exempt assets, it is crucial to know exactly what they have and what legal process to use to attach it. When this is certain, a court order is obtained to effect collection of the debt.

If the debtor is employed, up to 25% of their wages can be garnished. If they have a business, the Sheriff can enforce a "till tap" and remove all cash receipts from their place of business. Their non exempt bank accounts can be levied for the full amount of the judgment. In some cases, some personal property such as automobiles, jewelry and luxury items can be identified and attached by the Sheriff's office for judicial sale.

While the Sheriff is in possession of the confiscated funds or property, the debtor can file a claim of exemption to stop the process. On the rare occasions that this happens, you can file opposition papers and with thorough preparation, appears at the hearing to oppose the claim of exemption.

Another effective tool used is the filing of an Abstract of Judgment in the county where the debtor has or is likely to have real property. The Abstract will create a lien on the property which must be satisfied before a purchase, sale or mortgaging of the property can be completed.

Even if the debtor has assets or income in another state, you can collect in most states through what is known as a "sister state judgment". Although a somewhat lengthy and complex process, you can domesticate judgments in the state and county of the debtor's residence or business, and enforce the judgment as though it were here in California.

Whether with a judgment or pursuing a tenant who has just skipped with a balance due, turning your debt over for collection gives you the ability to successfully recover your money as soon as possible.

Attorney Stephen Duringer is with The Duringer Law Group. The Duringer Law Group is committed to providing you with the absolute highest level of personal service and support. For eviction and/or collection questions, please call 800.829.6994. Reprinted with permission.