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Enforcing Judgments Against
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CASEY KAUFMAN & BRIAN J. MALLOY

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Enforcing Judgments Against Local Public Entities In California

Now that you have obtained a judgment against a local public entity, how can you get the judgment paid? What if the local public entity decides that it does not want to satisfy your judgment? Now what do you do?

Enforcement of judgments against local public entities is not governed by the typical judgment enforcement remedies available against private parties. Instead, enforcement of these judgments is governed by special statutory provisions located in the California Government Code (“Government Code”) sections 970 *et seq.* This article will highlight the provisions of the Government Code relating to the payment of judgments by local public entities and the enforcement mechanisms available to obtain satisfaction of judgments.

Payment of Judgments By Local Public Entities

A local public entity is defined as including “a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state.”¹ The definition “does not include the Regents of the University of California and does not include the state or any office, officer, department, division, bureau, board, commission or agency of the state claims against which are paid by warrants drawn by the Controller.”²

Local public entities are required to pay judgments against them, with interest, as provided by the Government Code: “[e]ach local public entity shall in each fiscal year include in its budget a provision to provide funds in an amount sufficient to pay all judgments in accordance with this article.”³ Specifically, the local public entity shall pay, to the extent funds are available in the fiscal year in which

it becomes final, the judgment plus interest from any funds that are unappropriated for any other purpose or appropriated specifically to pay judgments.⁴ If a local public entity fails to pay a judgment during that first fiscal year, it must pay, with interest, during the next fiscal year upon receiving appropriate funds.⁵

Surprising to many that find themselves in this position, local public entities have the option of paying the judgment in installments over a 10 year period.⁶ The local public entity may pay the judgment in a maximum of 10 equal payments over just as many years provided that the court finds that: “(1) The governing body of the local public entity has adopted an ordinance or resolution finding that an unreasonable hardship will result unless the judgment is paid in installments [and] (2) The court, after hearing, has found that payment of the judgment in installments as ordered by the court is necessary to avoid an unreasonable hardship.”⁷ If the entity pays the judgment through this installment procedure, it is also allowed to prepay any of these installments at its discretion.⁸ We believe that we may see more of these 10-year payment plans in the near future due to the current economic condition of our government agencies.

Enforcement of Judgments Against Local Public Entities

What if the local public entity decides not to comply with the above statutes for payment of a judgment? There is a 10-year limitations period for enforcing a monetary judgment against a local public entity once the judgment becomes final.⁹ Importantly, the typical judgment enforcement remedies that are available against private judgment-debtors – such as



Casey Kaufman is an associate at The Brandt Law Firm. He is a member of the California, Arizona, Nevada, and Washington D.C. bars where he represents clients in the areas of elder abuse, product liability, personal injury, and actions against public entities.



Brian J. Malloy is an associate at The Brandt Law Firm in San Francisco. He specializes in consumer fraud, financial fraud, elder abuse, class actions, and severe personal injury/wrongful death.

attachment, garnishment, and execution – are *not available* against a local public entity.¹⁰ Instead, the Government Code provides that a “writ of mandate is an appropriate remedy to compel a local public entity” to satisfy the judgment.¹¹ Therefore, if the local public entity refuses to satisfy the judgment, you should file a writ of mandate and seek an order directing the local public entity to comply with the Government Code sections 970 *et seq.* For example, the proposed writ of mandate would direct that the local public entity “will pay the judgment if funds are available, and if unavailable, that the proper steps will be taken to appropriate the amount required to meet that obligation.”¹²

What if the court grants a writ of mandate but the local public entity *still* refuses to satisfy the judgment? As a writ of mandate is an order of the court that requires compliance, a local public entity that refuses to satisfy the judgment pursuant to that writ is in violation of a court order.

If that occurs, the judgment-creditor can seek to have the local public entity held in contempt of court. California Code of Civil Procedure (“CCP”) sections 128(a)(4) and 1209(a)(5) codify the court’s power to enforce its orders and declares that disobedience of such an order is contempt. Four elements must be established before a finding of contempt: (1) a valid order, (2) knowledge of the order, (3) ability to comply with the order, and (4) willful failure to comply with the order.¹³ This may require an evidentiary hearing to determine, among other things, what steps the local public entity has actually taken to comply with the writ and satisfy the judgment.¹⁴

A number of sanctions are available if a local public entity is found in contempt of court. The court may imprison the decision makers until compliance with the writ of mandate is achieved.¹⁵ The local public entity and decision makers could be fined up to \$1,000 for each contempt violation.¹⁶ The court may also order the local public entity “to pay to the party initiating the contempt proceeding the reasonable attorney’s fees and costs incurred by this party in connection with the contempt proceeding.”¹⁷

The judgment-creditor can also seek appointment of a receiver over the local public agency whose purpose would be to comply with the order and see that the judgment is satisfied.¹⁸ Code of Civil Procedure sections 564 *et seq.* addresses in more detail the appointment, powers, and obligations of receivers. Notably, appointment of a receiver over a local public entity has been approved of by two judges of the San Francisco Superior Court, where the local public entity was found to be in contempt of court for willfully disobeying various writs of mandate.¹⁹

Finally, filing an action “on the judgment” against a local public entity, which can then extend the life of the judgment, has received approval, provided the action “on the judgment” is commenced within the limitations period set forth in CCP

section 337.5.²⁰

The Government Code maps out a way for local public entities to satisfy judgments against them. But if they refuse to do so, there are several ways to get a recalcitrant agency to live up to its obligations under the law. ■

End Notes

1 Government Code section 970(c).

2 Id.

3 Government Code section 970.8(a).

4 Government Code section 970.4.

5 Government Code section 970.5.

6 Government Code section 970.6.

7 Government Code section 970.6(a) and (b).

8 Government Code section 970.6(b).

9 Government Code section 970.1(a). If the local public entity is paying the judgment in installments, the limitations period on enforcing the judgment does not begin “until 10 years after the final installment becomes due.” Id.

10 Government Code section 970.1(b).

11 Government Code section 970.2.

12 The Court of Appeal in *Joseph v. San Francisco Housing Authority* (2005) 127 Cal.App.4th 78, in which The Brandi Law Firm represented judgment-creditors who had obtained a writ of mandate against the San Francisco Housing Authority for failing to satisfy a judgment against it, affirmed the issuance of a writ which used this language.

13 See *In re Ivey* (2000) 85 Cal.App.4th 793, 798 (citing *Anderson v. Superior Court* (1998) 68 Cal.App.4th 1240, 1245 and *In re Cassil* (1995) 37 Cal.App.4th 1081, 1087).

14 The San Francisco Housing Authority and its Executive Director were found in contempt of court for willfully failing to comply with writs of mandate issued by two Judges of the San Francisco Superior Court. See *Joseph/Evans v. San Francisco Housing Authority*, San Francisco Superior Court Case Nos. 999791, 999823 and 999850 (The Honorable Kevin M. McCarthy); *Drummer v. San Francisco Housing Authority*, San Francisco Superior Court No. 306816 (The Honorable Ernest H. Goldsmith); *Walker v. San Francisco Housing Authority*, San Francisco Superior Court Case No. 998090 (The Honorable Ernest H. Goldsmith).

15 CCP section 1219(a); see also CCP section 1097.

16 CCP section 1218; see also CCP section 1097.

17 CCP section 1218.

18 See CCP section 564 (cases in which appointment of receiver is authorized); see also CCP section 1097 (refusal or neglect to obey a writ).

19 *Joseph/Evans v. San Francisco Housing Authority*, San Francisco Superior Court Case Nos. 999791, 999823 and 999850 (The Honorable Kevin M. McCarthy); *Drummer v. San Francisco Housing Authority*, San Francisco Superior Court No. 306816 (The Honorable Ernest H. Goldsmith); *Walker v. San Francisco Housing Authority*, San Francisco Superior Court Case No. 998090 (The Honorable Ernest H. Goldsmith). The San Francisco Housing Authority appealed each of these orders appointing a receiver. Each of these cases resolved while these appeals were pending, and the appeals were subsequently dismissed before decisions by the appellate court.

20 *Barkley v. City of Blue Lake* (1993) 18 Cal.App.4th 1