

## California Restitution Self-Help Package

This package has court forms you can use to help you recover restitution in California state courts and suggestions for how to use these forms. You should review these forms and try to understand the information they need. You should always bring at least 3 extra blank forms of each to any court hearing.

### Statement of Assets from Defendant

At the time of sentencing a victim is entitled to a Statement of Assets from the defendant: [CR-115](#). This is supposed to tell you what the defendant has of value. Please make sure that the Court orders the defendant to complete this form and send it to you by a specific date. If you do not get the completed form by that date, call the prosecuting attorney.

### Restitution Order and Getting an Abstract of Judgment

As soon as restitution is being discussed, you should review form [CR -110](#), the Restitution Order and abstract of judgment form [CR-111](#). This form states what the victim is owed. At the restitution hearing or when restitution is agreed, the judge must sign this form - it does not count until the Judge signs it. You should receive a certified copy - that means one with an original court clerk stamp - not just a copy. Make 3 or 4 copies of it. If the defendant owns land or a home, you can send the original to the county recorder in the county where the land or home is located. The county recorder has specific fees which you can usually find on their web site. If you send an original with the exact fee to the county recorder, it will become a lien on the land or home. This means that before the land or house can be refinanced or sold, you must be paid. This does not mean that the owner must sell or refinance now to pay you.

### Wage Garnishment

If the defendant is working, at the time of the restitution hearing you should also ask the court to issue form [CR-118](#) which may get the employer to send you money. You must also ask the court to determine how much you should be paid each month. If you feel this is too low or unfair, you need to prove to the court you are right using the information on Statement of Assets, [CR-115](#).

### Arranging a Court Hearing

You should ask the prosecuting attorney for help in having the court issue these forms. Tell the prosecuting attorney which forms you would like the court to issue and ask the prosecuting attorney to get a court date. The prosecuting attorney can "notice" a court date. "Notice" means get a reservation on the court's calendar.

Remember both you and the prosecuting attorney **must be there**. If a conflict develops and you cannot make the date, you must call the prosecuting attorney in advance and arrange another date.

### At the Court

Always be there before the time of the hearing with the forms and the case name and number. Many courts have lists of cases outside the court room. Check to see if your case is on the list. As soon as the court opens, check in with the deputy in the court and explain you are a victim and which case. If your case was not on the list ask the deputy about it.

Try to find the prosecuting attorney and speak to them before the hearing. Sometimes this is not possible. If it is possible, remind them of which forms you hope the court will issue. Show the prosecutor

which forms you would like completed and explain that you would like to have a deadline for the Statement of Assets. During the Court hearing make sure it is clear to you and the defendant:

1. Whether the court is issuing the Restitution Order ([CR-110](#)) and Abstract of Judgement ([CR-111](#)) that day;
2. When you can pick up a certified copy;
3. When the Statement of Assets ([CR-115](#)) is due and that the defendant is ordered to complete it by a specific date and send it to you; and
4. Whether the court is issuing a wage garnishment order ([CR-118](#)) and if so how you can get a copy.

#### **More Asset Information from Defendant**

You can also use written questions to get more information from a defendant on form [CR-200](#). This form can be issued by the prosecuting attorney, but you must remember to ask that you get a copy of the answers. You must also mark your calendar for when the answers are due. If you do not get a copy at that time, call the prosecuting attorney.

#### **Conversion into Civil Judgment**

Many county clerks will convert a restitution order into a civil judgment. You must call the civil (not the criminal) clerk's office and ask to speak to someone familiar with converting a restitution order into a civil judgment. Notice that Form [CR-110](#), at the bottom of page 2 in bold in a box says that it is enforceable as a civil judgment. This does not mean this is an automatic process, so try to understand what the clerk needs.

Only call a court clerk when you have patience and the time to wait on hold. Do not expect a complete answer in your first conversation. It is likely you will be referred to another clerk.

#### **Defendant on Probation**

If the defendant is on probation and fails to comply with any court order, that is extremely serious. If, for example, the defendant fails to provide the Statement of Assets when ordered, that violates a court order and his probation. This should be brought to the attention of the prosecuting attorney. The prosecuting attorney can notice a hearing for any violation of probation.

#### **Last Tip**

Although you are the victim and have been harmed, it is important to understand that prosecutors and court clerks are very busy. They can really help you, so please be patient and courteous although you may feel frustrated.

#### **Additional Information**

These links provide additional information:

<http://www.boc.ca.gov/restitution/victim.aspx>

<http://www.1800victims.org>

#### **Caution:**

**This information does not create an attorney/client relation with IP Business Law, Inc. and is not legal advice for your individual case.**