

2017 ANNUAL CHILD SUPPORT TRAINING CONFERENCE & EXPO



**PARTNERSHIP
OF HEROES**

MAY 1-4, 2017 • GARDEN GROVE, CALIFORNIA

CHILD SUPPORT DIRECTORS ASSOCIATION OF CALIFORNIA

2017 ANNUAL CHILD SUPPORT TRAINING CONFERENCE & EXPO

WELCOME TO

HERO ACADEMY

Child Support Division



CHILD SUPPORT DIRECTORS ASSOCIATION OF CALIFORNIA



HERO ACADEMY

Child Support Division

Lesson of the Day:

THE HERO'S METHOD OF ENFORCEMENT

**The Best Tools at the Right Time Tailored to
Each Person for the Best Outcome.**

2017 ANNUAL CHILD SUPPORT TRAINING CONFERENCE & EXPO

HERO ACADEMY

Child Support Division

“No matter how many times you save the world, it always manages to get back in jeopardy again. Sometimes I just want it to stay saved!”

-Mr. Incredible



HERO ACADEMY

Child Support Division

➤ TOOLS

- Enforcement options

➤ T.I.M.E.

- Total case review
- Individual case plan
- Modification
- Early intervention

➤ PERSON

- Family-Centered: Addressing Barriers to Success

➤ OUTCOME

- Improved performance with increased self-sufficiency

2017 ANNUAL CHILD SUPPORT TRAINING CONFERENCE & EXPO

HERO ACADEMY TOOLS

- Income Withholding Orders
- Judgment Debtor Examinations
- Work Search Order
- Writs/Liens/Levies
 - FIDM
 - Probate
- Contempt

HERO ACADEMY TOOLS

Income Withholding Orders/Earnings Assignment

Fam Code §5206: Earnings

(a) Wages, salary, **bonus**, money,

(b) Payments due for services of **independent contractors, interest, dividends**, rents, **royalties**, residuals, **patent rights**, or mineral or other natural **resource rights**.

(c) Payments or credits due or becoming due as a result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(d) Payments due for workers' compensation temporary disability benefits.

(e) Payments due as a result of disability from benefits described in Section 704.130 of the Code of Civil Procedure.

(f) **Any other payments or credits due or becoming due, regardless of source.**

HERO ACADEMY TOOLS

How to Identify

- (a) **Bonus** – pay stubs (Lump sum IWO)
- (b) **Independent contractors**- IRS: 1040 line 12 & Schedule C
- (b) **Interest**-IRS 1040 line 8 or Schedule B
- (b) **Dividends** –IRS: 1040, line 9 or Schedule B (more than \$1,500)
- (b) **Royalties (copyright, patent, resource leases)**- IRS:1040, line 17 & Schedule E
- (f) **Any other payments...regardless of source**- IRS 1040, line 21

HERO ACADEMY TOOLS

IRS FORM 1040

Income Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld. If you did not get a W-2, see instructions.	7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	
	8a	Taxable interest. Attach Schedule B if required	8a	
	b	Tax-exempt interest. Do not include on line 8a	8b	
	9a	Ordinary dividends. Attach Schedule B if required	9a	
	b	Qualified dividends	9b	
	10	Taxable refunds, credits, or offsets of state and local income taxes	10	
	11	Alimony received	11	
	12	Business income or (loss). Attach Schedule C or C-EZ	12	
	13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ► <input type="checkbox"/>	13	
	14	Other gains or (losses). Attach Form 4797	14	
	15a	IRA distributions	15a	
	b	Taxable amount	15b	
	16a	Pensions and annuities	16a	
	b	Taxable amount	16b	
	17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
	18	Farm income or (loss). Attach Schedule F	18	
	19	Unemployment compensation	19	
	20a	Social security benefits	20a	
	b	Taxable amount	20b	
	21	Other income. List type and amount _____	21	
	22	Combine the amounts in the far right column for lines 7 through 21. This is your total income ►	22	

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TOOLS

Who to serve

- (a) **Bonus** –Employer
- (b) **Independent contractors**- “Employer” issuing 1099
 - Careful to verify that 1099 is issued to Obligor and not to Obligor’s company
- (b) **Interest**-Financial institution or Government entity
 - If interest is paid into a standing financial account, consider FIDM levy
- (b) **Dividends** –Company
 - NASDAQ.com
- (b) **Royalties (copyright, patent, resource leases)**- IRS:1040, line 17 & Schedule E
 - Copyright
 - Music/Film/TV: ASCAP, SAG-AFTRA BMI, SESAC or SoundExchange
 - Patent: Patentscope search <http://www.wipo.int/patentscope>
 - Natural Resources: Lessee
- (f) **Any other payments...regardless of source**- IRS 1040, line 21
 - Information gathering

HERO ACADEMY TOOLS

Information Gathering



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Judgment Debtor Examination

CCP §708.110.

(a) The judgment creditor may apply to the proper court for an order requiring the judgment **debtor** to appear before the court, or before a referee appointed by the court, at a time and place specified in the order, to furnish information to aid in enforcement of the money judgment.

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TOOLS

Third-Person Judgment Debtor Examination

CCP §708.120 (a)

Upon Ex parte application

With proof by affidavit based on information and belief that a **third person**

- (a) has possession/control of property in which the judgment debtor has an interest, OR**
- (b) is indebted to the judgment debtor in an amount exceeding two hundred fifty dollars (\$250),**

Court *shall make an order* directing the third person to appear before the court at a time and place specified in the order, to answer concerning such property or debt.

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Work Search Order

Fam Code §4505(a):

A court may require a parent who alleges that the parent's default in a child or family support order is due to the parent's unemployment **to submit** to the appropriate child support enforcement agency or any other entity designated by the court, including, but not limited to, the court itself, **each two weeks**, or at a frequency deemed appropriate by the court, **a list of at least five different places the parent has applied for employment.**

HERO ACADEMY TOOLS

Work Search Order *and...*

Fam Code §290

A judgment or order entered pursuant to this code may be enforced by the court by execution, the appointment of a receiver, or contempt, or **by any other order as the court in its discretion determines from time to time to be necessary.**

HERO ACADEMY TOOLS

Americasjobcenter.ca.gov

 **Welcome to America's Job Center of CaliforniaSM**

Building Bridges to Employment

America's Job Center of CaliforniaSM (AJCC) is your easy one-stop access to the state's employment-related services. Explore the resources through this Web portal or visit a local center. We're located throughout the state to help employers find qualified workers and job seekers find good jobs. Employers can get help in posting job openings and recruiting candidates. Job seekers can get assistance in assessing skills, finding job opportunities and training, prepping a résumé, and much more.

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HERO ACADEMY TOOLS

Writs/Levies

- Bank Levies
- Lottery Winnings
- Future Support
 - Third party contracts
 - **Fam Code §§4012 & 4560**

HERO ACADEMY TOOLS

Writs/Levies

- Probate
 - What is it?
 - How can an LCSA learn of a probate action?
 - When does an LCSA have an interest in a probate action?

HERO ACADEMY TOOLS

Probate

WHEN THE OBLIGOR IS THE DECEDENT

Child support arrears are enforceable against an obligor's estate.

HERO ACADEMY TOOLS

Probate Estates

The Creditor Claim

When a probate has been initiated in court, creditors of a decedent must file a Creditor Claim against the estate of the decedent in order to collect money for a debt owed them. The procedures for filing a creditor's claim are set forth in **Probate Code §9000** et seq.

HERO ACADEMY TOOLS

Probate Estates

Priority of Payments (Creditor Claim)

During payment of Creditor Claims, the administrator must follow the statutory priority of payments when deciding which Claims to pay first. The priority of debts are outlined in **Probate Code §11420**.

Remember, the final distribution of an estate is a complete and total bar to any further claims. Therefore, timeliness is very important in these matters.

HERO ACADEMY TOOLS

Trust Estates

Petition to Enforce a Money Judgment Against a Trust

The way to collect child support arrears from a trust is by means of a Petition to Enforce a Money Judgment Against a Trust (not a J.C. Form). See **Probate Code § 19300** et seq.

HERO ACADEMY TOOLS

Trust Estates

Most Trusts Not Subject to Claims

Most of the time, a well-written trust will never be involved in court proceedings. Most estate planning trusts are designed to simply be distributed upon the death of the settler without any need for court proceedings.

HERO ACADEMY TOOLS

OBLIGOR IS BENEFICIARY OF PROBATE ESTATE

COLLECTION FROM PROBATE ESTATES

General Rule: Creditors of an estate's beneficiary cannot take a direct distribution from the estate.

Distinguish: This relates to creditors of the beneficiary of an estate, not creditors of the decedent or the decedent's estate. Generally, the creditors of a beneficiary of an estate are not treated as assignees or transferees with direct rights to distribution from the estate. The claims and rights of creditors of a beneficiary may not be determined in the probate proceeding. Creditors must raise the issue in an independent action against the debtor-beneficiary. (See *McGee v. Allen* (1936) 7 C2d 468 at 471).

Solution: File a Lien and Request for Special Notice.

HERO ACADEMY TOOLS

OBLIGOR IS BENEFICIARY OF TRUST ESTATE

PETITION TO ENFORCE MONEY JUDGMENT

The mechanism for collecting money from a trust (any kind of trust, be it a trust estate or otherwise) is to file a Petition to enforce a Money Judgment Against a Trust Beneficiary.

You may also use the Petition as the “opening document” in an action.

HERO ACADEMY TOOLS

OBLIGOR IS BENEFICIARY OF TRUST ESTATE

SAFETY NET PROVISIONS

“Spendthrift Clauses” in a trust are no protection from the child support claims.

Even if the trust states that the beneficiary’s interest in the trust shall not be subject to claims of the beneficiary’s creditors or the legal process, the beneficiary’s interest is subject to the enforcement of a support judgment upon petition for such an order on enforcement.

HERO ACADEMY TOOLS

OBLIGOR IS BENEFICIARY OF TRUST ESTATE

Probate Code §§15305 (c) and (d) state:

(c) Whether or not the beneficiary has the right under the trust to compel the trustee to pay income or principal or both to or for the benefit of the beneficiary, the court may, to the extent that the court determines it is equitable and reasonable under the circumstances of the particular case, order the trustee to satisfy all or part of the support judgment out of all or part of future payments that the trustee, pursuant to exercise of the trustee's discretion, determines to make to or for the benefit of the beneficiary.

(d) This section applies to a **support judgment** notwithstanding **any provision** in the trust instrument (emphasis added).

HERO ACADEMY TOOLS

OBLIGOR IS BENEFICIARY OF TRUST ESTATE

Law Revision Commission Comments to **Probate Code §15305**:

“...[a]lthough a trust is a spendthrift trust or a trust for support, the interest of the beneficiary can be reached in satisfaction of a money judgment against the beneficiary for child or support. In some cases a spendthrift clause may be construed as not intended to exclude the beneficiary’s dependents”

(See also *Estate of Johnson* (1967) 252 Cal.App.2d 923, discussing public policy relative to dependents of trust beneficiaries).

HERO ACADEMY TOOLS

WHEN THE CUSTODIAL PARENT IS THE DECEDENT

CHILD SUPPORT IS AN ESTATE ASSET

Child support owing to a CP decedent is an asset of that decedent's estate, just as a car or watch or land would be; it is "property".

Probate Code §62 defines "property" as "anything that may be the subject of ownership and includes both real and personal property and any interest therein."

Probate Code §8850 states the requirements for the contents of a probate inventory. The inventory, which lists the property of the decedent, must specifically include "[m]oney owed to the decedent, including debts...."

HERO ACADEMY TOOLS

WHEN THE CUSTODIAL PARENT IS THE DECEDENT

Final Action: Close Case. (See **CSS LETTER 11-13**, dated November 1, 2011, which directs cases to be closed when the CP dies, except for collection of assigned arrears, if any).

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Contempt

CCP §1209.5

Prima facie evidence of a contempt of court

- When a court of competent jurisdiction makes an order compelling a parent to furnish support...for his or her child:
 - proof that the order was made, filed, and served on the parent **or**
 - proof that the parent was present in court at the time the order was pronounced **and**
 - proof that the parent did not comply with the order

HERO ACADEMY TOOLS

Contempt

- Future of Contempt in light of Federal Final Rule?

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TOOLS

45 CFR 303.6 Enforcement of Support Obligations

(c)(4) Establishing guidelines for the use of civil contempt citations in IV–D cases. The guidelines must include requirements that the IV–D agency:

(i) Screen the case for information regarding the noncustodial parent’s ability to pay or otherwise comply with the order;

(ii) Provide the court with such information regarding the noncustodial parent’s ability to pay, or otherwise comply with the order, which may assist the court in making a factual determination regarding the noncustodial parent’s ability to pay the purge amount or comply with the purge conditions; and

(iii) Provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action;

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“With Great Power Comes Great Responsibility”

- Ben Parker



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T.I.M.E.

- **T.I.M.E.**
 - Total case review
 - Individual case plan
 - Modification
 - Early intervention

HERO ACADEMY PERSON

State Strategic Plan Goals 2015-2019:

1. Increase support for children
2. Deliver excellent and consistent customer service
3. Enhance program performance and sustainability
4. Develop and strengthen collaborative partnerships
5. **Be innovative in meeting the needs of families**

HERO ACADEMY PERSON

Be innovative in meeting the needs of families

Family-Centered: Addressing Barriers and Opening Doors

Breakout session

- Common barriers
- How to identify and bridge the gap
- Community resources for referrals
- Your County's best practices

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HERO ACADEMY PERSON

“Just because someone stumbles and loses their way, it doesn’t mean they’re lost forever. Sometimes we need a little help.”



-Charles Xavier
(Professor X)

HERO ACADEMY OUTCOME

IMPROVED PERFORMANCE AND INCREASED
FAMILY SELF-SUFFICIENCY



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Child Support Division

Your **MISSION**

(Should you choose to accept it)

Promote parental responsibility to enhance the well-being of children by providing child support services to establish parentage and collect child support.

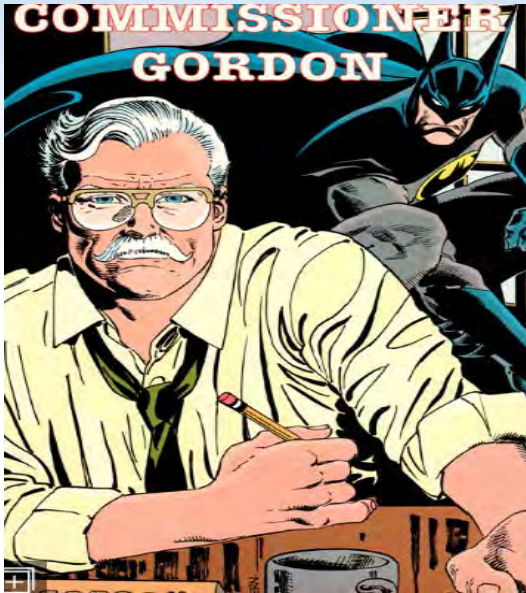


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“You’re going to make a difference. A lot of times it won’t be huge, it won’t be visible even. But it will matter just the same.”



-Commissioner James Gordon

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Speaker Contact Information

Elizabeth Lawrence

elawrence@hss.sbcounty.gov

909-478-7379

Jonathan Shugart

jshugart@co.kern.ca.us

661-868-8470

Please be sure to complete the session evaluation.



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