

# A new frontier: Enforcing money judgments on cryptocurrencies

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Attorneys devote much of their attention and litigation strategy to successfully obtaining a money judgment, whether through default, summary judgment, or trial. However, once successfully obtained, attorneys face the question of how to enforce the judgment on the assets of the judgment-debtor. Judgment enforcement is highly technical, varies state-by-state, and can involve complex interactions between state and federal law. Adding to this existing complexity, when it comes to the new frontier of cryptocurrencies, there is virtually no case law regarding the enforcement of money judgments on such assets. As digital assets become more common, understanding how to enforce money judgments against these assets will become all the more important. This article provides guidance on enforcing money judgments on accounts at a cryptocurrency exchange.

For illustrative purposes, assume plaintiff obtains a \$1 million judgment against John Smith in the U.S. District Court for the Central District of California. A private investigator uncovers that Mr. Smith has an account at a centralized cryptocurrency exchange in California with a registered agent for service of process in Los Angeles. Much like a bank account, garnishment of an account held at a U.S. cryptocurrency exchange is possible if proper procedures are followed.

To successfully execute on a cryptocurrency account, a judgment-creditor must first determine the location or situs of the account by assessing which state has personal jurisdiction over the cryptocurrency exchange holding the account. Like funds in bank accounts, cryptocurrencies are "intangible" personal property, and the Ninth Circuit has held that the location or situs of intangible property is a "legal fiction." *Office Depot Inc. v. Zuccarini*, 596 F.3d 696, 702 (9th Cir. 2010); see also *Delaware v. New York*, 507 U.S. 490, 498 (1993) ("intangible property is not physical matter which can be located on a map"). The District Court for the Central District of California has clarified that the situs of funds held in an account at a bank is any state with personal jurisdiction over the bank. See *Neill v. Bank of America, N.A.*, 2012 WL 13034847, at \*9 (C.D. Cal. Nov. 14, 2012).

In our example, Mr. Smith's cryptocurrency account is held at a California centralized exchange with a registered agent for service of process in Los Angeles (which is in the Central District of California). Because California has personal jurisdiction over the centralized exchange, the money judgment can be enforced by a writ of execution obtained through the Central District of California in accord with the procedures of the State of California. See Fed. R. Civ. P. 69(a). The writ of execution can be obtained by filing the following documents in the case where judgment was entered: (1) federal court form CV-024, titled "Affidavit and Request for Issuance of Writ of Execution," available at <https://www.cacd.uscourts.gov/sites/default/files/forms/CV-024/CV-24.pdf>; and (2) state court form EJ-130, titled "Writ of Execution," available at <https://www.courts.ca.gov/documents/ej130.pdf>.

The District Court will then issue the writ of execution on the case docket. The writ of execution is not directed at any given entity, but is instead a court order instructing the Sheriff and/or U.S. Marshals Service to enforce your judgment in the county where the assets are located.

Note that if jurisdiction is not in the same district as the court that entered the judgment, counsel may have to take additional steps before seeking a writ of execution, which includes registering a certified copy of the final judgment in a court with jurisdiction over the centralized exchange.

Once the Court issues the writ of execution, the next step is to compile materials for the U.S. Marshals Service, who, upon your instruction, will then send a U.S. Marshal to the cryptocurrency exchange to serve the writ. This includes, among other things: (1) a letter of instruction with detailed instructions, including the name of the judgment debtor, their social security number (if known) and any other personal identifying information, the amount of the judgment, the property to be levied, the location where the writ should be served, and any other instructions required or helpful to facilitate the enforcement; (2) a check to cover the fees of the U.S. Marshal; (3) the USM-285 instruction form, available at [https://www.usmarshals.gov/sites/default/files/media/document/usm-285\\_process-receipt.pdf](https://www.usmarshals.gov/sites/default/files/media/document/usm-285_process-receipt.pdf); (4) the court-issued writ of execution; (5) two EJ-150 Notice of Levy forms (one to the debtor and one to the exchange holding the account), available at <https://www.courts.ca.gov/documents/ej150.pdf>; (6) the EJ-152 Memorandum of Garnishee form, available at <https://www.courts.ca.gov/documents/ej152.pdf>; and (7) the exemption forms. The notice of levy requires a description of the property to be levied upon, and it is best to describe the property as broadly as possible. For example, "All accounts, including all fiat currency or cryptocurrencies therein, in which judgment debtor has any interest."

Before mailing these documents to the U.S. Marshals, counsel should contact the relevant office by telephone to confirm any additional requirements and provide them with advanced notice of the forthcoming documents. The U.S. Marshals may require multiple copies of some documents and separate service packages of documents to be served on the cryptocurrency exchange and debtor. Once received, and assuming all requirements have been met, the U.S. Marshals will serve the writ of execution and other required forms on the cryptocurrency exchange, which will freeze accounts held by the judgment debtor. The U.S. Marshals will then send notice to the debtor at his last known address, including a copy of the writ of execution, notice of levy, and exemption forms.

If the debtor believes his funds are exempt under California law, he or she will have 10 days after receiving notice to file a claim of exemption with the U.S. Marshals to prevent the levy. Similarly, the cryptocurrency exchange has 10 days to either turn the assets over to the U.S. Marshals, or complete the memorandum of garnishee form explaining why the debtor's assets cannot be released.

While the procedures for executing a money judgment will likely vary by court, and counsel should always review the applicable rules and procedures, the guidance above should provide a useful framework.

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