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Unsecured Debts, Insecure Communities

THE FORCED SALE OF FAMILY HOMES

CONSUMER JUSTICE CLINIC - EAST BAY COMMUNITY LAW CENTER



The **East Bay Community Law Center** (EBCLC) is the largest provider of free legal services in Alameda County and Berkeley Law's largest clinical program for law students.

The **Consumer Justice & General Clinic** provides brief services to low-income consumers facing a wide variety of issues, including debt collection, student loans, credit reporting, predatory lending, identity theft, and consumer scams. It pursues state policy initiatives that address the most significant challenges faced by low-income consumers, particularly immigrants and those facing language barriers.



EBCLC is a proud member of the California Low-Income Consumer Coalition, a coalition of non-profit and direct legal services providers whose mission is to give consumers a greater voice in California policy-making.

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EXECUTIVE SUMMARY

Low-income homeowners in California are in a precarious position, as any financial misfortune that results in a court judgment can force them from their home. California law lets a creditor force the sale of a debtor's home over an unpaid judgment, even when the judgment is for a small amount of money. This constant threat of homelessness, made daily by unscrupulous debt collectors, has serious mental and physical health consequences for individuals and creates financial devastation for families. It also perpetuates poverty in the communities of color which are most targeted by this practice.

As long as the creditor follows some procedural rules, there is little a person in this circumstance can do to keep their home. A judge cannot stop the process on the sole grounds that selling the house would be unfair or unjust. The biggest shield for homeowners subjected to this process is the "homestead exemption," which only applies to the property where the homeowner lives. The standard homestead exemption only protects \$75,000, meaning the sale cannot proceed if the home has less equity than the amount of the homestead exemption. However, because the median home value in California is \$600,000, the homestead exemption almost never prevents the forced sale of a home.

This report investigated the troubling legal process of forcing the sale of a home to collect a judgment, and uncovered several trends. The practice is disproportionately concentrated in Southern California, although it occurs all over the state. It is usually debt buyers—members of a notoriously predatory industry—who initiate the forced sale process, not original lenders. Debt buyers disproportionately target communities of color with this process. Nearly every instance of this process begins with a default judgment, meaning the debtor never has their day in court. In addition, while the threat of the sale of the family home drives some homeowners into bankruptcy, the bankruptcy system rarely saves the family home in this circumstance.

Ultimately, victims of this practice experience stress, fear, and intimidation regardless of whether they ultimately lose their home. In addition to the disproportionate impact on communities of color, this process has a unique impact on people with disabilities or health conditions, as well as those burdened with medical debt. In some cases, debt collectors targeted

people's homes for debts that were already paid. Other creditors have attempted to force the sale of the wrong person's home. Because many people do not have the resources to pay off these debts, some live for years without knowing whether their family will be able to keep a roof over their heads. Finally, while creditors mostly use this process to scare people into paying alleged debts, seizure and eviction are not idle threats. Indeed, creditors have tried to foreclose people's homes for debts as small as a \$625 unpaid credit card bill.

Abolishing debt collectors' ability to take the family home will not harm the state's credit economy. Many states, including Texas and Florida, successfully offer stronger protections for their residents by not allowing creditors to foreclose the family home. Other states offer higher homestead exemption amounts than California. Additionally, California's homestead exemption is not nearly as protective as those in other states because of extremely high home values. While California is not the worst state at protecting its people from this harmful practice, it ranks near the bottom.

The solution to this problem is straightforward: California should follow the example of eight other states, and fully exempt a person's home from a forced sale to collect an unsecured consumer debt. It can do this by changing two laws. First, California should add a section to the Code of Civil Procedure that prevents a debt collector from foreclosing on a judgment lien to collect an unsecured consumer debt. Second, to ensure enforcement, debt collectors who want to sell a home should first be required to swear to the court that the judgment is not for an unsecured consumer debt. This solution is simple to implement, it is necessary to protect Californians throughout the state, and it is the right thing to do.

INTRODUCTION: HOW A FAMILY CAN BECOME HOMELESS OVER A \$625 CREDIT CARD DEBT

Low-income homeowners in California currently face a common, but rarely discussed, problem: any financial misfortune that results in a court judgment could cost them their family home. It does not matter whether the debt is for a medical bill, a grandchild's student loan, a loved one's bail, an unpaid phone bill, or a simple credit card. The alleged debt does not need to be more than a few dollars. It does not even need to be the homeowner's debt. Nor does it matter if the homeowner is unable to pay due to a lost job, a family crisis, or any other circumstance. Families have had their homes sold for small judgments that they never knew about nor had a chance to fight.

This threat of homelessness, made implicitly and explicitly by debt collectors every day, causes unnecessary panic, irrational decisions, physical health problems. It also leads to all the emotional, familial, and economic devastation that naturally results from having a family's well-being and biggest financial asset threatened. It prolongs poverty in communities of color, and it takes wealth from poor people and gives it to corporations and the wealthy.

Under California law, debt collectors have the right to place a lien on a person's home once they get a judgment. California law then lets the debt collector force the sale of a person's home to collect the judgment, even if that property is the debtor's only home.¹ Current law does not allow judges to stop this process, regardless of the injustice or inequity. As long as procedures are followed, and there is a chance that the sale of the home will bring in at least some money for the debt collector, the sale will continue.

The strongest protection for homeowners, in theory, is the "homestead exemption," which is much weaker than the name implies.² The sale cannot

Equity Explained

"Equity" means how much more a thing is worth than how much is owed on it.

For example, if a house is worth \$100,000, and it has a mortgage of \$60,000, the house has \$40,000 in "equity."

$$(\$100,000 - \$60,000 = \$40,000)$$

Usually, the longer you own a house, the more equity you have in it, as you continue to pay down the mortgage and the market value of your house increases.

proceed if the home has less equity—the difference between the value of the house and the claims on the house—than the dollar amount specified in the homestead exemption. If the home is sold, the homeowner can keep the amount of the homestead, as well as any equity left over after paying all of the house’s liens. Unfortunately, that exemption can be as little as \$75,000 while the median California home is worth over \$600,000.³ In some counties, the median value is over \$1,000,000.⁴

Even with the protections that California’s homestead exemption affords homeowners,⁵ the potential forced sale of the family home causes instability, worsens financial challenges, and continues cycles of debt.⁶ Once the mechanism for forcing the sale of the home starts, the psychological harm brought by a looming foreclosure can be substantial, regardless of whether the home is ultimately sold.⁷

This report examines the practice of businesses using California law to force or threaten to force the sale of consumers’ real property to collect money judgments for unsecured debts. “Unsecured debts” are obligations to pay money that are *not* backed up by some kind of collateral that can be taken if the debt is not paid.⁸ An example is an unpaid credit card debt, or a hospital bill. Thus, the report excludes sales by mortgage lenders to collect defaulted home loans, or instances where an individual attempts to satisfy a judgment against another individual. Similarly, the report excludes sales of business property. The report, however, includes cases in which judgment creditors sue small business owners and force the sale of the owner’s family home to satisfy an unsecured business loan.

The goal of this report is to shed light on when and how creditors in California exploit this legal process, the consequences for people whose homes are subject to execution sales, and possible legislative options for limiting the number and harmful effects of forced sales of consumers’ homes.

This report focuses on the forced sale of homes by debt collectors to collect unsecured consumer debts for two reasons. First, the debt collection industry has a long and well-earned reputation for using abusive means to extract money from the public, including from people who do not actually owe the debt.⁹ Second, unsecured consumer debts generally come with higher

interest rates—payday loans for example charge, on average, close to 391% in finance charges¹⁰—to compensate for the lack of any collateral. It is unjust to allow these creditors to both charge higher rates and still take a family’s home, especially when there are many alternative ways to collect the debt.¹¹

While few homes were ultimately sold under this process, the sale is not the main point.

Judgments: One of the Best Investments Around

Judgments, like the debts that created them, continue to accrue interest for every day they are not paid.

For example, if a creditor sues for a credit card that had a thirty percent interest rate, it can get a judgment that continues to accrue interest at thirty percent.

If the creditor did not request a specific interest rate, the default rate is ten percent.

Unlike an investment, these interest rates are completely reliable. They can only change by mutual agreement or by court order, neither of which occurs very often. Judgments have performed more than twice as well as the average mutual fund over the past twenty years.

<https://www.creditdonkey.com/average-mutual-fund-return.html> (containing the performance of the average mutual fund over the past twenty years).

Debt collectors know that the thought of losing the family home makes most homeowners take drastic measures, such as scrambling to find thousands or tens of thousands of dollars in a short time, even if doing so requires taking out unpayable loans, skipping basic needs like food and medicine, or otherwise sacrificing their physical and financial health. This is true even for homeowners who live in low-income neighborhoods, or those who are seniors, retired, and/or caring for a loved one.

Part I of this report explains the current state of the law. It also illustrates the process of forcing the sale of a home, step by step, using a hypothetical homeowner. Part II explains how the report gathered and analyzed statewide information about this topic, and presents some of the report’s findings. Part III examines how the process impacted individual families, each of whom lives in a different part of the state, comes from a different background, and had an experience that differed in the details but shares the unnecessary devastation caused by the process. Part IV compares California’s laws with those of other states, some of which do not permit the sale of the family home under any circumstances. Finally, Part V

of the report suggests how to amend the law to avoid these injustices, while being mindful that this collection tool may still be a necessary one in certain circumstances.

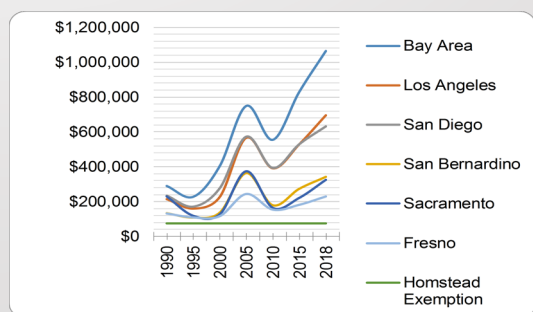
Part I: Current Law, And How It Mandates a Sale If It Might Result in Even a Penny for the Debt Collector

The California Code of Civil Procedure sets out the process for levying and forcing the sale of a person’s home to satisfy a judgment,¹² which this report will explain in more detail below. The process begins by getting a civil judgment against a person (the “debtor”), and then placing a judgment lien on the person’s property. As long as the lien is renewed at least every

Homesteads Are Becoming Less Valuable With Time

California’s homestead amounts were last amended in 1990. Even at the time, \$75,000 was not enough to save most Californians’ homes. As the California housing market has been red-hot for decades, with no relief in sight, \$75,000 has become more and more inadequate.

The chart below tracks the median housing price of a home in different regions since 1990.



decade,¹³ the homeowner cannot get rid of the judgment without either coming to an agreement with the person who owns the judgment (the “judgment creditor”) or getting a court order.¹⁴ Meanwhile, the judgment collects interest, usually at ten percent per year.

California law automatically applies the homestead exemption to a person’s “principal dwelling.” A principal dwelling is where the debtor lived from the time the lien attached to it until the time that a court decided that the dwelling constituted a homestead.¹⁵ It therefore does *not* protect vacation homes, rental properties, business-owned land, or any place owned for investment purposes: only the family house is included.

The homestead exemption also does *not* normally prevent a debtor’s home from being sold under the forced home sale process.¹⁶ Rather, it merely allows the homeowner to keep a certain amount of money after the home is forcibly sold.¹⁷ The only time the homestead

exemption can block the forced sale of a home is if the house has less equity than the dollar amount of the homestead exemption.

The standard homestead exemption in California is \$75,000.¹⁸ This amount applies if the homeowner lives alone, or only with non-relatives. When a family occupies the home, the exemption may increase to \$100,000.¹⁹ The exemption reaches its maximum value of \$175,000 if the homeowner or their spouse is 65 years or older, has a physical or mental disability that prevents them from participating in “substantial gainful employment,” or is 55 years or older with a low annual income.²⁰ Since almost no house in California is worth less than \$175,000, a debtor’s home is at risk when a judgment is entered against them for any amount. If a court thinks it is “likely” that a home could sell for enough to satisfy senior liens, the homestead exemption, and at least part of the judgment amount, the court *must* order the sale of the home.²¹ Judges have no discretion to consider fairness.

DECLARED HOMESTEADS

A person can also “declare” a homestead at any time, without a judge, by filing a form with their county’s clerk recorder.* This reduces potential arguments about whether the exemption applies to a home. It also lets the homeowner sell the house voluntarily and keep the exemption amount instead of any judgment creditor who put a lien on the home after the homeowner has declared homestead.

However, the homeowner only gets to keep that money for six months, and they will forfeit it if they do not use that money to buy another home. It also costs over \$100 to declare a homestead.

*Code of Civil Procedure §§ 704.910 – 704.960

This section will illustrate the process step-by-step using the case of Holly Homeowner, a fictional homeowner whose creditor has used the forced sale process to recover on a judgment for a credit card debt. Holly’s situation is a fictionalized but representative example of many of the cases encountered in the research for this report, including the limited options available to Holly once this process has commenced.

A. JUDGMENT IS ENTERED

Holly is a homeowner who bought a house in 1998. The house is now worth \$575,000. After recently refinancing and borrowing against the house, Holly currently owes a combined \$480,000 for the first and second mortgages. Holly has \$95,000 in equity.

Nine years ago, Holly had a judgment entered against her for a \$5,000 credit card debt in the Alameda County Superior Court. Since then, the judgment has nearly doubled to \$9,500 because of post-judgment interest. After eight years, the original creditor sold the judgment to a fictional business, American Asset Acquisition (“American Asset”), which is a “debt buyer” company. Debt buyers purchase debts and judgments for pennies on the dollar, and then try to collect the full amount allegedly owed. American Asset is now attempting to collect from Holly. However, Holly never knew about the lawsuit, because the process server lied about serving Holly. This practice happens so often that it has its own name: “sewer service.”

SEWER SERVICE: ABUSIVE, RAMPANT, DEVASTATING

Due process demands that a person who is sued must be served with the lawsuit in time to defend themselves. This might require driving to a person’s home at least three times to try to hand-deliver the lawsuit to the defendant.

Debt collectors, who can file hundreds of lawsuits per day, pay professional “process servers” to serve lawsuits on consumers. The process servers are often paid a flat fee, sometimes as little as \$3, even if serving the documents requires at least three attempts.

To avoid multiple trips, some of these process servers lie and tell the court, under oath, that they served the person. This intentional failure to serve process is called “sewer service.” Ultimately, victims lose their lawsuit without knowing there was a lawsuit in the first place.

Sewer service is not only used by back alley lenders. The State of California sued JP Morgan Chase in 2013 because, amongst Chase’s illegal practices, it engaged in widespread “sewer service.” Chase agreed to stop trying to enforce the judgments it had fraudulently won. Other states have sued other lenders for similar practices.

It is not hard to believe sewer service is used more often against people of color. People of color are significantly more likely to lose by default. One commercial lender was eighteen times more likely to get a default judgment against people who lived in predominantly Black neighborhoods.

For more on this topic, see Adrian Gottshall’s article, *Solving Sewer Service: Fighting Fraud with Technology*, Arkansas Law Review, Vol. 70, p. 813

After buying the judgment, American Asset files an “Abstract of Judgment” with the court.²² The Abstract of Judgment includes information on the debtor and the amount of the judgment, and is the easiest way to use a judgment to create a lien on a person’s property. The court certifies the form. American Asset then takes the certified form to the County Clerk Recorder of Holly’s county, Alameda, to record the document.²³ Once the Abstract is recorded, American Asset obtains a lien against any property in Holly’s name, including Holly’s house.²⁴ The lien on the home continues to gather interest over time, and no lender will mortgage or refinance a home until the lien is paid. American Asset will eventually get its money.

B. THE SHERIFF KNOCKS

It has been nine years since entry of the judgment, but no one has yet attempted to contact Holly to collect the debt. Instead, American Asset requests a writ of execution from the court.²⁵

The Waiting Game

It is common for debt buyers to wait for years before trying to enforce the judgment. Several homeowners swore to the court that there had been no contact from any debt collector for years, sometimes over a decade; several more doubtless had the same experience, but lacked the means to notify the court of the injustice.

In 2015, California added section 1788.61 to the Civil Code because many debt buyers were intentionally waiting for years after receiving a default judgment to contact the consumer, and the lengthy delays made it difficult to set aside the judgment under existing law. Unfortunately, even the new law requires a person to timely prepare, serve, file, and argue a legal motion, which is not possible for everyone.

A writ of execution directs a sheriff to enforce the judgment.²⁶ The writ costs \$25,²⁷ which can be added onto the judgment.²⁸ The writ expires after 180 days, so American Asset must hand the writ to the sheriff within 180 days.²⁹ However, once the sale process begins, American Asset has up to two additional years to complete the forced sale process.³⁰ In this case, American Asset delivers the writ to the sheriff—who is the “levying officer”—in the county where the home is located.³¹

In Alameda, the sheriff charges \$1,300 for this service. The exact price varies from county to county, and some allow payment over time, but \$1,300 is a typical amount. This cost can again be passed onto Holly, meaning American Asset will now try to collect \$10,825.

The sheriff serves the notice of the levy on Holly and American Asset. Holly learns of the sale when a deputy knocks on her door with the paperwork, while American Asset receives a letter in the mail. If Holly had not been at home when the deputy visited, the deputy could have simply posted the notice somewhere “conspicuous,” i.e. somewhere a passerby could see it.³² This “posting” appears to be a common manner of service, possibly because most deputies try to serve papers during normal work hours, when few people are home.

C. THE JUDICIAL HEARING

American Asset has twenty days after serving the notice of the levy to ask for an order for sale from the court, or else the levy ends.³³ American Asset timely requests an order for sale from the court, and the court schedules a hearing within the mandatory 45-day period.³⁴

American Asset must pay the court an additional \$60 for this hearing,³⁵ but it will then add this cost to the judgment against Holly. As part of its request for the court order,

A court hearing and order to sell the house is only needed if the property is a “dwelling,” i.e. where a person resides. If it is not, no court order is needed.

American Asset submits evidence to the court regarding any existing liens and legal interests on the home.³⁶

At least 30 days before the hearing, American Asset serves notice of the hearing on Holly.³⁷ At the hearing, the court determines the fair market value of the house.³⁸ The court can appoint a qualified appraiser to do so,³⁹ although it is more common for a debt collector to provide a declaration from a realtor or privately selected appraiser. Holly has her first opportunity to explain to a judge why the sale should not continue in her case.⁴⁰

These hearings are limited to deciding whether the debt collector followed the proper procedures in selling the home. The judge does not consider broader concepts like whether it is fair to sell the home, or whether the judgment is fraudulent. Although the judge sympathizes with Holly’s arguments that the judgment is invalid because she was never served with the complaint, or given a chance to defend herself, the judge is clear that he could not prevent the sale on those grounds at this hearing. Holly will have to bring a separate set of motions,



THE AVERAGE ATTORNEY RATE FOR A
CONSUMER PROTECTION ATTORNEY IN
CALIFORNIA IS \$450 PER HOUR.

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complaints, and other filings to have a judge consider those issues. Holly, unfortunately, lacks the means to pay for an attorney to help her take those steps, and she does not know how to buy herself the time needed to keep her house and defend herself against American Asset's judgment.

Holly could try to argue at the hearing that the house does not have enough equity for the sale to continue.⁴¹ Years ago, Holly had taken the unusual step of recording a homestead exemption for a single person under the age of 65 with the county for her home years ago, so the court can presume that the \$75,000 homestead exemption applies. Holly thus argues that the sale should not go through because an auction might not bring in enough to pay the judgment. However, her argument was not enough to prevent the sale of her home: the \$480,000 owed for the first and second mortgages, plus Holly's \$75,000 homestead exemption, adds up to \$555,000, while the house is estimated to be worth \$575,000. Thus, the court had reason to believe it is likely that the home could sell for more than the mortgages plus the homestead amount, and therefore satisfy at least a part of the now \$10,885 judgment.

The court orders the sale of the dwelling. At least 20 days before the sale, the sheriff serves Holly, posts notice of the sale at the house, in a public place, and in a general-circulation newspaper, and notifies anyone with a recorded lien on the property about the auction.⁴² Had the sheriff failed to comply with these requirements, it could have owed damages to Holly or American Asset, but a sale of the home to anyone but American Asset would still be valid.⁴³

D. THE HOME IS PUT UP FOR AUCTION

Holly's home is put up for auction in Alameda County, as required by law.⁴⁴ The law requires the sheriff to sell the home to the highest bidder.⁴⁵ The purchaser usually must pay at least a deposit in cash or check at the time of purchase, with the rest payable within ten days.⁴⁶

The judgment creditor can even “bid” on the sale itself by offering to deduct a certain amount from the judgment instead of paying money.⁴⁷

The law requires a minimum bid for a home sold at an execution sale. A bid on a home must be enough to satisfy the homestead exemption amount and “any additional amount necessary to satisfy all liens and encumbrances on the property.”⁴⁸ Confusingly, “all liens and encumbrances” only means liens that by law have priority over the executing creditor’s lien.⁴⁹ These usually include tax liens, liens for unpaid child support, and liens that existed on the home before the executing creditor’s lien (such as pre-existing mortgages or home equity lines of credit). A court *must* order the sale if the selling creditor might get some money from the sale.⁵⁰ The sale is not supposed to go through if the highest bid is for less than 90% of the home’s fair market value, as previously determined by the court, unless the court approved a sale for a lesser amount.⁵¹ If the auction price does not fully satisfy the judgment, the creditor can continue to collect the remaining amount.

Because Holly lives in her home alone, does not have a disability, and is only 50 years old, her homestead exemption is \$75,000. At the auction, three property investment companies submit bids. The highest bidder offers \$565,000, which proves to be the winning bid.

E. THE HOME IS LOST

Holly no longer owns the home she has lived in for over two decades. A forced sale is generally “absolute and shall not be set aside for any reason.”⁵² However, if the judgment is later set aside, the homeowner can collect the sale proceeds plus interest from the creditor.⁵³ The law allows this in two situations.

The first situation results when the judgment creditor both buys the property and improperly tampers with the sale or purchase of the home. If this is the case, the debtor can bring an action within 90 days to recover the property.⁵⁴ The law does not prohibit the judgment creditor from purchasing the home; rather it prohibits *unlawful interference* with the sale process before buying the property. None of the cases in this report found that such unlawful interference occurred.

The second situation that allows a debtor to set aside a forced sale requires “equitable redemption.”⁵⁵ Equitable redemption means that the house sold for a “grossly inadequate price” and that the purchaser took unfair advantage of the situation.⁵⁶

Here, because the sheriff and American Asset followed the general procedural requirements set forth in the statute, Holly cannot unwind the sale. Holly has 90 days to either voluntarily leave her former house,⁵⁷ or risk having an eviction appear on her credit report. An eviction would make it even harder for Holly to rent an apartment, or qualify for a mortgage, so she is forced to abandon the place she has called home since 1998.

Holly Homeowner’s fictional case makes it easier to grasp the process of forcing the sale of a person’s home for an unsecured consumer debt, but this simplicity also hides the very real emotional, financial, and familial consequences that happen when debt collectors attempt to sell, or actually force the sale of, a family home. Even when the family avoids homelessness by scraping together whatever money they can and giving it to the debt collector that bought the judgment for pennies on the dollar, the price paid in the family’s economic security and emotional health is unnecessary and unfair.

Part II, below, takes a birds-eye view of California to show whose homes are being sold, for what reasons, and in what neighborhoods. Part III gives a close-up view of six real and recent cases to show how this procedure leaves devastation in its wake. Parts II and III also show the wider societal ramifications of this procedure since debt collectors disproportionately target people of color,⁵⁸ thereby continuing poverty and racial inequality. The rest of this report also

A Home Auctioned for Only \$1,000

A real example of a person’s home being sold comes from Calexico, where a lawyer bought a 1990 judgment and then forced the sale of the home in 2016. The lawyer bought the house by crediting \$1,000 from the judgment. The debt, owed by the previous homeowner, had grown to over \$134,000 at the time.

V.B. Video v. Morris Reisin, Imperial County Superior Court Case CCL19713

includes brief summaries of additional recent cases from throughout the state, to better give names and faces to the victims of this practice.

PART II: MOST FORCED SALES OCCURRED IN SOUTHERN CALIFORNIA AND WERE DONE BY A DEBT BUYER AFTER A DEFAULT JUDGMENT

This report examined data from most sheriffs' departments in California, from January 1, 2015 to November 30, 2018.⁵⁹ The authors of this report sent a Public Records Act request to the sheriff's department of all 58 counties in California, pursuant to the California Public Records Act.⁶⁰ In a letter to each sheriff's department, the authors requested:

“All disclosable records related to the Sheriff's sales of judgment debtors' real property or other dwellings that were levied to satisfy a civil judgment, whether or not the property was eventually sold. These records may include, but are not limited to, writs of execution, notices of levy and sale, certificates and deeds of sale, receipts of fees for administering the Sheriff's sales, and bids received at auction.”

The request garnered 1,610 cases from across the state, of which 231 were relevant. This report classified a case as “relevant” when a business began the forced sale process to collect an unsecured consumer debt, i.e. an alleged bill for unpaid goods or services that were intended for the homeowner's personal, family, or household purposes. This report excluded all debts that were secured by the property, such as mortgages or claims by homeowners associations. It also excludes debts related to the property, such as liens for unpaid home repairs or unpaid homeowners association fees.

The report does include unsecured debt that the homeowner incurred from a commercial lender to start or support the homeowner's small business. Many small business entrepreneurs face the same scenario as consumers: they rely on unsecured credit,

A court-appointed receiver is authorized to manage the property, collect rents, and even sell the home if that is necessary to preserve a party's rights. They are authorized under Code of Civil Procedure § 564.

they pay more in fees and interest because the loan is unsecured, and they risk losing their homes when they default on these commercial loans. However, the report does not include debts owed to the business' employees, contractors, or suppliers. The report also does not include instances where court-appointed receivers sell debtors' real property to satisfy judgments.⁶¹

Not every county responded with data. The Sheriff's Department of Alameda County did not retain these records, although the authors of this report were able to research the Alameda Superior Court's records in person and discover multiple applicable cases. Fresno responded that it did not have any responsive records, but in light of Fresno County's size, it is possible that there was an error in reporting the data. Contra Costa and Riverside only provided the raw number of cases, making it impossible to evaluate which cases were applicable. Santa Cruz provided a spreadsheet which only contained enough information to identify some of the listed cases. There were also issues getting data from Humboldt, Monterey, Sacramento, San Mateo, Siskiyou, and Stanislaus counties. These issues could not be resolved in time to prepare this report. Kern County's sheriff's department was the only department that flatly refused to comply with its obligations, and would not entertain any attempts to compromise or confer.

These counties have a combined population of 6.6 million, or roughly a sixth of the state's population, so there are doubtless many cases this report could not examine. Nevertheless, the data gathered demonstrates that current law allows creditors to unnecessarily abuse consumers, and that often the first time the homeowner learns about a lawsuit is when a debt collector tries to sell their family's home.

This report includes all instances where a judgment creditor formally started the forced sale process, because once the process starts it immediately creates stress and negative effects for the homeowner, regardless of whether the process is completed. It is therefore important to examine all cases in which the forced home sale process started.

It is worth reemphasizing that there are certainly more cases of forced home sales to satisfy unsecured consumer debts than those examined, due to multiple counties not providing the requested data. Additionally, consumer advocates throughout the state have shared that their clients continue to experience this process after November 2018. Consumer advocates have also

shared that homeowners regularly contact them for help with debt collection defense, and that many homeowners make panicked and irrational decisions when they learn there is a chance—however remote—of losing their home for an alleged unpaid debt.

A. SOUTHERN CALIFORNIA SAW MOST OF THE FORCED SALES, BUT EVERY REGION IN CALIFORNIA EXPERIENCED THE PRACTICE

The relevant cases were geographically concentrated in Southern California. Over half the relevant cases—125— took place in Los Angeles County. Los Angeles’ neighboring counties had significantly fewer cases than Los Angeles, with thirteen in Orange County and eight in Ventura County. San Bernardino County had the second most cases in the state, with thirty-six cases total. Imperial County had only one relevant case, while San Diego County—despite its large population— reported a surprisingly low figure of only four cases.

Southern California almost certainly had additional, unreported cases, but not every county in the region provided decipherable results. Riverside County did not identify specific cases, which made it impossible to determine which of their cases were applicable to this report. Riverside, however, foreclosed 294 real property liens during the relevant time. Because the percentage of relevant cases in each county varied so widely, it is impossible to know how many of these levies were done to collect an unsecured consumer debt. However, because there are so many debt collection cases filed in every county in California to collect unsecured debts, it is likely that at least some of these cases were an attempt to collect an unsecured consumer debt. In all, Southern California reported 186 of the 231 cases that this report reviewed.

The San Joaquin Valley experiences the forced sale of homes as well, although many of its counties did not report data. Specifically, Kern County—which has a population of 897,000—refused to provide any information. Most surprisingly, Fresno County—population 989,255—surprisingly reported it had no records of the practice at all. It is unclear if Fresno never foreclosed a property lien in four years; it is possible that Fresno misunderstood the request, withheld the information, or did not retain relevant records. Stanislaus County—population 518,522— also did not provide any data. More people live in these three counties than in the rest of the Valley, which makes it impossible to get a complete picture of the area. Nevertheless, the practice of selling a family’s home to collect an unsecured debt does occur in the region. Merced

had three applicable cases, while Madera and Tulare each had one. The incomplete data makes it impossible to determine the exact number of residents whose homes were threatened under the forced sale process. Nevertheless, the information on hand makes it clear that San Joaquin Valley residents do face threats of losing their homes due to unsecured consumer debts.

The Sacramento metropolitan region also did not provide enough data to get a firm grip on how many cases are occurring in that area, but data that was provided suggests the practice may be common. Sacramento County could not provide the data in time for this report, which is especially unfortunate because it accounts for over half the population in the region. Even so, two of Sacramento's smaller neighbors—Placer and Sutter counties—each reported two cases within the applicable timeframe. In light of those counties' relatively small populations, it is plausible that the practice occurs regularly in the Sacramento region.

Californians north and east of the Sacramento metropolitan region experience this process at a comparable rate to Californians in other parts of the state. Tehama and Calaveras counties each reported one applicable case, while Butte County reported two applicable instances. These four instances are spread over twenty counties, but the combined population of those counties is roughly equivalent to the population of San Jose, where debt collectors attempted to sell five consumers' homes during the same time.

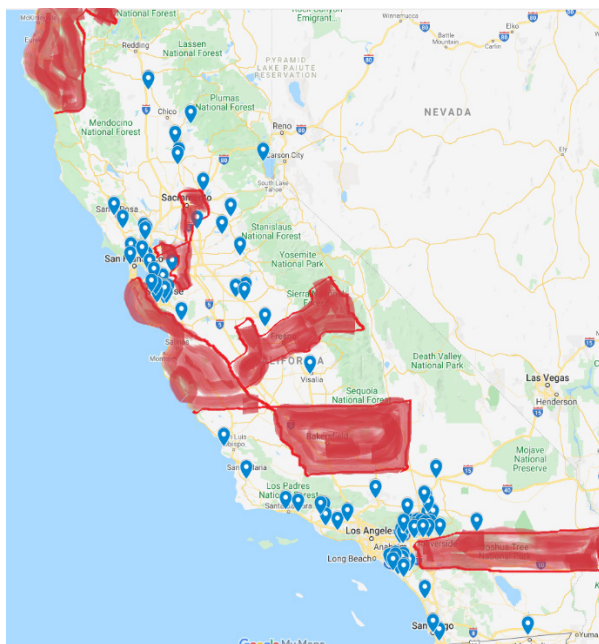
The San Francisco Bay Area saw the second-greatest concentration of the practice. The authors of this report were able to find seven cases in Alameda County through the Alameda Superior Court's records. There were also twelve cases in Santa Clara County. Marin, Napa, and San Francisco counties each reported only one case, while both Sonoma and Solano had two instances. Neither San Mateo nor Contra Costa counties were able to provide sufficiently detailed data to identify relevant cases, although Contra Costa shared that it conducted fifty-eight property levies, and that fourteen of those properties were sold. It is however not currently clear how many of those levies, or sales, were for unsecured consumer debts.

Finally, residents of the Central Coast, from Santa Barbara to Santa Cruz, experienced this process at a higher rate per person than most other Californians. While Monterey did not provide any data, and Santa Cruz County's response did not have enough details to fully analyze, both Santa Barbara (four cases) and San Luis Obispo (two cases) reported that creditors

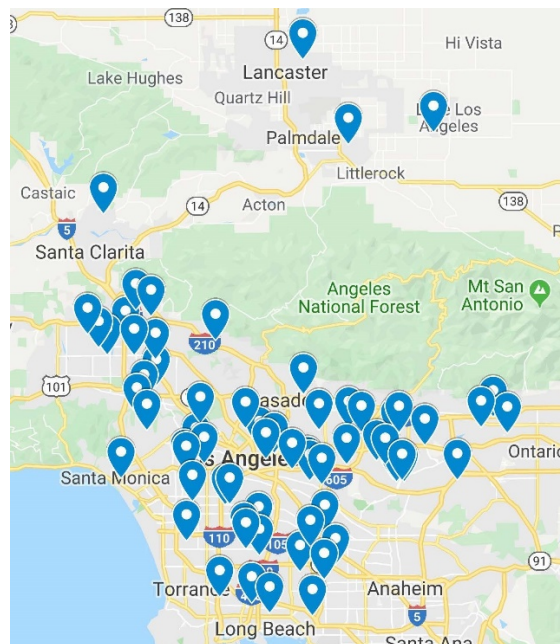
attempted to use the courts to force the sale of a home for an unsecured consumer judgment. The region has about one and a half million residents, which means individual Central Coast residents were more likely to be targeted by debt collectors than residents of the San Francisco Bay Area, or the regions east and north of the Sacramento metropolitan area. This rate will increase if it turns out that debt collectors in Monterey or Santa Cruz also use this process.

Ultimately, many debt buyers and their attorneys operate across the state, and they file debt collection cases in every county. As a result, this report concludes that the process of threatening the sale of a family home to collect an unsecured debt is a statewide problem that should be addressed with a statewide legislative solution.

The maps below illustrate where Californians' homes were sold or threatened with a forced sale to collect an unsecured consumer debt between 2015 and 2018. The counties in red did not provide clear enough data in time for this report to determine whether and how often the process occurred in those counties, although some of those counties provided enough information to assume the practice happens in those counties as well.



Map of locatable statewide cases, excluding Los Angeles County. Counties in red did not provide sufficient data to identify applicable cases.



Map of locatable cases in Los Angeles County.

B. MOST OF THE CASES START WITH AN ALLEGED DEBT OF UNDER \$10,000. OVER A FIFTH OF THE DEBTS STARTS UNDER \$5,000

Although judgment amounts varied greatly, over half of the cases reported—120 of the 231—began with a judgment of less than \$10,000. Fifty-three cases began with a judgment of

less than \$5,000. The smallest of these judgments was a mere \$1,089.45.⁶² This amount included the costs of filing and serving the lawsuit; the underlying alleged debt, which could have cost a family its home, was \$625.16.

No Help in Bankruptcy

One Butte County resident was sued over a \$1,320 credit card debt, which became an almost \$2,000 judgment after the debt collector illegally added hundreds of dollars in fees. The homeowner declared bankruptcy to save her home, but she did not receive a bankruptcy discharge. The debt collector remained free to try to sell the home.

Crown Asset Management, LLC v. Carla C. Arrabito,
Butte County Superior Court case 140159

The average judgment amount was \$19,559.51, but this average was inflated by eight of the cases. Removing those eight cases reduces the average judgment to only \$13,062.35 and the

median to only \$8,506.51. Even these lower numbers do not reflect the small debt amounts for which debt collectors use to coerce homeowners into paying, because these amounts include the alleged principal, interest, and added amounts like court costs, attorney's fees, and post-judgment interest. The amount actually lent to the consumer was lower, often significantly, than the amount demanded. Most of the people targeted by this practice were not racking up large debts. This extreme process is instead used to squeeze some of the most vulnerable homeowners for debts that amount to rounding errors for large banks.

C. DEBT BUYERS INITIATED NEARLY EVERY FORCED SALE OF A HOME

“Debt buyers” are companies that buy thousands of alleged debts at a time for mere cents per each dollar of debt.⁶³ They then try to pressure the alleged debtors to pay as much as possible. Debt buyers are significantly more aggressive in attempting to collect than original creditors and other debt collectors. Several state and federal agencies, as well as non-profit organizations, report that debt buyers are especially reckless in pursuing people, even if the debt

was already paid, or the debt buyer is going after the wrong person.⁶⁴ Indeed, several of the homeowners in this report were not the person whom the debt buyer said it was going after.

DEBT BUYERS: SCAVENGERS FOR PROFIT

There are several reasons why debt buyers' involvement in this process is so problematic. First, the debt buying industry is notoriously untrustworthy. It exists specifically to purchase large portfolios of alleged debts for around four cents on the dollar, and then it tries to extract as much as it can from the alleged debtors. However, the information it gets from the sale about the debtors is often incomplete. Generally, it is just a spreadsheet with names, contact information, an alleged amount, and many errors. Most, if not all, of the contracts selling these portfolios expressly disclaim the accuracy of the information contained in the spreadsheet; when paying pennies, the best you can hope for is "as-is."

Second, because the debt buyers' sole goal is to squeeze as much money as it can using such limited information, debt buyers tend to be both sloppier and more aggressive in their collection efforts. As the Minnesota Attorney General's office succinctly explained, debt buyers:

[A]re often particularly aggressive in their collection attempts. They cast a wide net to find people who may owe money, and they often pursue the wrong people. Debt buyers often run assembly line-like "mills" and quickly turn to courts and lawsuits to collect money. It is routine for debt buyers to continue to hound individuals for debt after such individuals have stated that the debt is not owing. Since it is costly or impossible for debt buyers to verify a debt, they often do not do so, but instead continue with their collection efforts. Some individuals pay debts they do not owe just to get debt buyers to stop calling, or to ensure that the debt does not wrongfully end up on their credit report. Because the debt buyer has no relationship to maintain with the consumer, debt buyers may be particularly aggressive and unprofessional in their dealings with individuals.

From <https://www.ag.state.mn.us/Consumer/Publications/DebtBuyers.asp>. For additional information, please see the Federal Trade Commission's report "The Structure and Practices of the Debt Buying Industry," available at <https://www.ftc.gov/sites/default/files/documents/reports/structure-and-practices-debt-buying-industry/debtbuyingreport.pdf>

Debt buyers were behind nearly every forced sale of a home to collect an unsecured consumer debt. In 196 of the 231 relevant cases analyzed, the company that filed the lawsuit was a debt buyer. In 146 cases, a debt buyer purchased the judgment after it was entered. Therefore, in the majority of cases, it was a debt buyer that had purchased the debt—either from an original creditor or from an intermediate debt buyer—that initiated the forced sale process. This means homeowners were in danger of losing their homes to companies several steps removed from the alleged original creditor.

D. PEOPLE AND COMMUNITIES OF COLOR WERE THE PRIMARY VICTIMS OF THIS PRACTICE

One of the least surprising findings is that a disproportionate number of the people whose homes were threatened with a forced sale of their home to collect an unsecured consumer debt lived in a predominantly-minority neighborhood. One stark example: La Puente, a town of 40,000 people in Los Angeles County whose residents are 84.2% Hispanic,⁶⁵ reported six of the

123 cases that occurred in all of Los Angeles County (population 10,105,518.⁶⁶).

Five Lost Years

David Girnell was sued in Butte County in 2007 by a debt buyer, and had a default judgment entered against him. Mr. Girnell never mentioned being contacted or harassed for the alleged debt to his heir, Forentino Juarez, who was Mr. Girnell's unpaid caretaker for five years before Mr. Girnell's death from cancer. Because Mr. Girnell was too poor to pay for a caretaker or even his own bills, the home was Mr. Juarez's payment.

Soon after Mr. Juarez inherited the house, he started receiving harassing phone calls demanding that he pay Mr. Girnell's debt. This included laughing and cursing at Mr. Juarez. Mr. Juarez, like Mr. Girnell before him, was unable to pay. Despite his requests for judicial mercy or a payment plan, Mr. Juarez's home was sold, in spite of his sworn declaration that selling the house would leave him homeless.

Baker Recovery Services v. David Girnell, Butte County Superior Court case 139293

Additionally, this report found that 134 of 181 threatened consumers lived in a community of color. This report considers a "community of color" to be a zip code that does not have a majority of non-Hispanic White residents. This report used the U.S. Census Bureau's Fact Finder website to determine which zip codes qualified as "communities of color."⁶⁷ The number of applicable cases here is lower than 231 because this report could not confidently locate an address for some of the homeowners, since not every court makes their records readily

accessible.

In brief, nearly three-quarters of the homeowners whose homes faced a forced sale lived in a community of color, even though over a third of the state's population is non-Hispanic White.⁶⁸ This leads to the conclusion that these debt collectors disproportionately threaten people of color with homelessness.

E. NEARLY EVERY CASE BEGAN WITH A DEFAULT JUDGMENT

The majority of cases started with a default judgment. This means the consumer supposedly knew about the lawsuit, but decided not to fight back. It was not possible to get the relevant records for 35 cases, but 89% of the other cases started with a default. It is likely that many of the homeowners never knew about the suit because they were never served.⁶⁹ At least ten of the homeowners swore, under penalty of perjury, that they first learned about the lawsuit when the sale began.

\$50,000 of Someone Else's Debt

One San Bernardino woman was eventually able to defeat a default judgment that had grown to over \$50,000. The woman was supposedly sued in 2005 for two unpaid credit cards. She first learned of the lawsuit in late 2018, when the sheriff's deputy informed her of the forced sale. The debt collector never contacted her before trying to sell her home, and the alleged debts were not hers. This was either mistaken identity, or identity theft. The debt buyer still tried to force the sale, even after she informed them of the above.

Unifund CCR v Diane Burney, San Bernardino Superior Court case CIVDS155508

The actual number of homeowners who were never served with the lawsuit—and therefore never had a chance to defend themselves—is doubtless much higher. Even if a person is aware of the lawsuit, a surprising number of people are too intimidated by the legal system to assert their rights. One study found over half of consumers who had a default judgment entered against them *could* have asserted a valid defense.⁷⁰ Some would rather pay others' debt in the hope that the debt collector will go away. One homeowner did not speak up when the debt collector emptied her bank accounts because she incorrectly believed that this one-time payment

Eighty-five percent of Californians receive no or inadequate legal help with their legal issue each year. Additionally, State Bar funded legal aid organizations expected to receive over 450,000 requests for help in 2019, but estimated they could only fully serve 30% of these requests.

California Justice Gap: Measuring the Unmet Civil Legal Needs of Californians, pp. 6-8.

would end the whole matter.⁷¹ It does not help that lawyers are unaffordable, that there are far too few sources of free legal help, and that only a small fraction of legal-aid attorneys help with consumer matters.

F. THE THREAT OF SELLING THE FAMILY HOME DROVE SOME FAMILIES INTO BANKRUPTCY, ALTHOUGH BANKRUPTCY DID NOT SAVE MOST OF THEIR HOMES

THE LIMITS OF BANKRUPTCY

If a house has equity, bankruptcy is probably not going to be helpful. A bankruptcy discharge would mean the homeowner is no longer personally liable for the debt. Judgment liens, however, generally survive bankruptcy. As a result, a bankruptcy discharge might make it more likely for a debt collector to foreclose on the home.

Bankruptcy only protects the house from foreclosure if the homeowner takes the extra step to “avoid” the lien. A homeowner can only avoid a lien if the house does not have any available equity *before* counting the lien.

For example, a house worth \$100,000 with an \$110,000 mortgage has a judgment lien of \$10,000 and a second mortgage of \$20,000. The house has no available equity, so the judgment lien can be avoided. However, if the house is worth \$120,000, then there is enough equity to cover the \$10,000 judgment lien ($\$110,000 + \$10,000 = \$120,000$), so the judgment lien cannot be avoided (even though the \$20,000 second mortgage *can* be avoided).

Eligible homeowners must file a separate motion within the bankruptcy system to avoid the lien. Bankruptcy courts do not appear to warn homeowners that this extra motion is necessary to protect the home, and not every homeowner is eligible for this in the first place.

Homeowners who complete bankruptcy without also avoiding the judgment lien find that the judgment lien survived the bankruptcy, so the home is in the same danger as before.

Bankruptcy is a powerful and important tool for consumers. Being in debt can be devastating for many reasons. One reason is that most unpaid debts grow over time because of interest, so even when a person pays some or all of the debt they might still owe as much as or more than what they borrowed. Bankruptcy allows honest debtors to get a fresh start in life by “forgiving” many debts, but bankruptcy has some important limitations.

Bankruptcy is unlikely to help if the homeowner has equity in their home. This is true even when the homeowner has little to no equity in their house. After completing bankruptcy, the homeowner must bring a separate motion to “avoid” the judgment lien on the house. Many homeowners, especially those who do not have an attorney, fail to realize this important rule.

The threat of losing the family home appears to have driven at least 19 of the 231 homeowners into

declaring bankruptcy. Unfortunately, the majority of those homeowners discovered that bankruptcy was not the safe harbor they thought it was. Some of these homeowners were unable to complete the bankruptcy process, so the debt collector continued to pursue their claims against the home. Others completed the bankruptcy process and had their debts “forgiven,” only to discover that the judgment lien that lets the debt collector sell the house survived bankruptcy unscathed. One of those homeowners was able to return to bankruptcy court to fix the oversight. The rest of those homeowners discovered that bankruptcy, the supposed last chance to keep the family house, offered little help.

G. TO SUMMARIZE, THE TYPICAL CASE INVOLVES A DEBT BUYER OBTAINING A DEFAULT JUDGMENT AGAINST A PERSON OF COLOR FOR LESS THAN \$10,000, WITH THE DEBT BUYER THEN THREATENING TO SELL THE FAMILY HOME TO COLLECT ON THE UNSECURED CONSUMER DEBT

The data reveals that debt collectors do not use the procedure for selling a person’s house equally. A disproportionate number of the targeted homeowners are people of color. Most of the cases are started by debt buyers, who have a reputation for recklessly pursuing the wrong people for the wrong debts. Homes with a six-figure market value are in danger of being lost for judgments in the four-figure range.

Debt buyers won too many of the judgments by default to believe that every homeowner knew about the lawsuit. Moreover, the bankruptcy system, popularly believed to be a sanctuary for honest debtors, is not well equipped to help the victims of this practice.

Current California law fails to protect low-income homeowners. Rather, it exposes them to abusive collection tactics by people who have little incentive to treat the homeowners with dignity.

Displacing a Deported Man’s Family

A San Bernardino woman appeared on her father’s behalf to contest the sale of the home for a judgment that was originally \$2,800. The judgment was entered only against the father, not anyone else in the family. The daughter informed the court and the debt buyer that her father had been deported a decade earlier. The debt buyer’s response was to immediately ask that the sale continue, but now without the homestead exemption.

Chase Bank v. Jose Solis, San Bernardino Superior Court
case CIVDS141544

PART III: HOW FAMILIES EXPERIENCE THE FORCED-SALE PROCESS

The practice of forcibly selling a home disproportionately targets low-income people, especially those of color, and continues cycles of debt by threatening to strip away people's homes over unpaid consumer debts. Statistically, many of those unpaid consumer debts were used to pay for necessities.⁷² Too many low-income homeowners who cannot afford to live off their income alone, including seniors and people with disabilities, take out a credit card or seek unsecured loans.⁷³ However, credit is not a dependable part of—or replacement for— economic security for low-income homeowners, many of whom are ultimately unable to repay the loans they took out to afford food, utilities, and other everyday needs. This cycle is even crueler to people of color, who are not only often charged more for credit,⁷⁴ but also disproportionately contacted by debt collectors,⁷⁵ and are pursued more aggressively as well.⁷⁶

WEALTH STRIPPING COMMUNITIES OF COLOR

“Wealth stripping” refers to predatory lending practices that target poor communities and financially uneducated people. It is also a term that describes the wealth gap between people of color and White people. Prevalent wealth stripping methods include payday lending, rent-to-own stores, and loss of equity in homes. Payday loans and other predatory lending practices perpetuate cycles of debt and foster a dependency on lenders. Only two percent of payday loan borrowers take out a loan without borrowing more money from lenders, and more than 75% of all payday loans are rollovers from previous payday loan transactions.*

Overdraft fees, high interest rates, and lending fees also contribute to the wealth stripping of poor people and people of color. Foreclosures and equity loss have led to an estimated 66% wealth loss for Latinos, a 54% wealth loss for Asians, and a 53% wealth loss for African Americans.**

* <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/az-payday-communities-of-color-10-2-final.pdf>

** <https://democracyjournal.org/magazine/26/wealth-stripping-why-it-costs-so-much-to-be-poor/>

Losing the family home over an unpaid consumer debt only makes low-income homeowners' lives worse. It causes stress, fear, and intimidation to victims of this practice. The practice of forcibly selling a home to collect an unsecured consumer debt devastates families and leads to financial and housing insecurity. In addition, letting debt collectors sell a person's home to collect an unsecured consumer debt merely transfers wealth from the poor to the rich.

Below are just a few stories of recent victims of the practice. They come from different parts of California, and are of different genders, ages, and ethnicities. Each was unable to repay an unsecured loan for a different reason. Some of these homeowners did not have enough time to seek legal counsel before courts issued orders in favor of the debt collectors. Other homeowners never owed the money, but were being pursued for someone else's debt. Nevertheless, they all unnecessarily suffered so that a debt buyer, who never extended any credit to the homeowner, could pad its bottom line.

A. TAKING HOMES FROM PEOPLE WITH DISABILITIES

The current law on the forced sale of homes treats every debtor the same, without taking into consideration the especially harsh effect the sale may have on people with disabilities. Since a person's physical, mental, and emotional livelihood impacts their ability to handle financial affairs and to obtain and maintain housing, a person with disabilities' loss of their home may be markedly more extreme in terms of upheaval and devastation. The case of *CACH, LLC v. Linda Dominguez*⁷⁷ highlights the effects the practice of forcibly selling a home has on people with mental disabilities.

In 2001, Linda Dominguez obtained a credit card from Household Bank. By 2005, she owed \$4,453.34. Eventually, Household Bank sold the account to CACH, LLC, which was one of the larger debt buyers in the country at the time.⁷⁸ CACH got a default judgment against Ms. Dominguez for \$6,684.54 in 2007, including accumulated interest and court costs. CACH placed a lien on Ms. Dominguez's home, but did nothing for four years. Around 2011, CACH sold the judgment to another debt buyer, Gryphon Solutions, LLC. Gryphon Solutions is one of several

debt buyers owned by licensed realtor Michael Brkich. Within six weeks of buying the judgment, Gryphon tried to sell Ms. Dominguez's home.

A REALTOR FORCIBLY SELLING PEOPLE'S HOMES

Michael Brkich is a licensed realtor who owns many of the debt buyer companies that are responsible for the largest share of the applicable cases found in this report. Brkich is the president and owner of The 704 Group, LLC; GLCS, LLC; Credigy Solutions, Inc.; and NDS, LLC. In the past, Brkich has worked as a managing member for the Gabriel Group, LLC and Gryphon Solutions, LLC. These companies purchase judgment portfolios and collect credit judgments.

In March 2012, Ms. Dominguez received the notice for the sale of her home. Gryphon demanded \$11,650.64—almost triple the original debt amount—and said that it would sell Ms. Dominguez's house if she failed to pay. Ms. Dominguez suffered a debilitating stroke shortly afterwards. A neurologist declared that Ms. Dominguez was no longer fit to make financial or medical decisions. This did not end the matter. Gryphon continued its effort to take Ms. Dominguez's house, even after it learned about Ms. Dominguez's condition. The court delayed the proceedings for several months while Ms. Dominguez's daughter tried to get legal authority over her mother's affairs. It was only after the daughter became Ms. Dominguez's guardian in December 2012 that Gryphon had someone it could force to settle. The Dominguez family spent two years to pay off a debt that Gryphon had purchased for pennies on the dollar.

B. THREATENING HOMEOWNERS FOR PAID-OFF DEBTS

Foreclosing on a home to collect an unsecured consumer debt is unfair, but it becomes even more so if the homeowner has already paid off the underlying debt. Far too often, original creditors fail to keep accurate accounting statements, whether by honest mistake or sheer incompetence. One consequence of this accounting failure is that paid-off debts are sold to debt buyers. Unfortunately, the current law does not protect people from having their homes forcibly sold for unsecured consumer debts, even though they have paid off the debt in full.

In 2005, Fernando Rivas paid off his loan with Washington Mutual. In spite of this, Washington Mutual—which routinely falsified consumer records according to a 2010 U.S. Senate investigation⁷⁹—sold the debt to a debt buyer, Main Street Acquisition Corporation. Main Street sued Mr. Rivas in May 2012⁸⁰ and acquired a default judgment against him for \$2,338.71; the principal was only \$1,595.72. On August 4, 2014, Main Street sold the judgment to Gold Line Credit Service, LLC (“GLCS”). Because Mr. Rivas was never served with the lawsuit, he had no knowledge of the default judgment or the sale of the judgment to GLCS.

Mr. Rivas did not know any of this when he suffered three heart attacks in June 2016. After being hospitalized for three days, his medical bills came out to \$150,000. It is well publicized that medical debt is one of the leading causes of financial hardship in this country.⁸¹ Unsurprisingly, Mr. Rivas’s earnings decreased because of the unpaid medical bills and his health condition, and his debts began to grow. It was at this time that GLCS first contacted Mr. Rivas, not through a phone call or letter asking for payment, but by attempting to sell the family home.

Going After The Wrong Man

Juan Gomes came to the U.S. from Mexico in 1995. After years of working as a delivery driver, he bought a house. A debt buyer tried to sell Mr. Gomes’ home in 2016 for an unpaid medical bill from 1987. The bill was not Mr. Gomes’, and the debt buyer initially stopped the sale when Mr. Gomes provided proof that they had the wrong person. The debt buyer quickly renewed its attempts to sell Mr. Gomes’ house, however, and Mr. Gomes had to get a lawyer. It took until January 2019 for Mr. Gomes to know his home would not be taken for someone else’s medical debt.

Sundance Capital, Inc. v. Juan Gomes, Superior Court of Los Angeles case 07K23816

An Alameda Sheriff’s Department deputy personally served Mr. Rivas with the notice of sale in late September 2016. This was the first time Mr. Rivas learned that Washington Mutual had not credited his 2005 payments. The court date was set for November 15, which meant that Mr. Rivas had about a month to process and prepare for the pending sale of his home. At the November hearing, Mr. Rivas offered to make a \$3,000 lump sum payment, but the debt buyer’s attorney demanded \$5,000 instead, since the debt had risen through interest and the costs the debt buyer had incurred while trying to sell Mr. Rivas’ family home.

Losing his home would have meant displacing eleven people. Ten family members lived with Mr. Rivas, including his 76-year-old mother and his disabled son. To avoid this, Mr. Rivas launched a GoFundMe campaign—a self-initiated online fundraiser—through which he raised enough to pay off the amount demanded by GLCS. Although the Rivas family kept their house, at no point did the debt collector take into account that Mr. Rivas’ health left him unable to keep up with normal expenses, let alone immediately pay—for the second time—an alleged debt from over ten years ago. Mr. Rivas’ offer to pay more than the original judgment was rejected by a debt collector who bought the judgment at a fraction of that amount. It was only through the generosity of strangers that the Rivas family kept their home. Not everyone is so fortunate.

C. YEARS OF HOUSING INSECURITY

Because not everyone is able to raise settlement funds through public donation campaigns, some people experience the stress and anxiety of the forced sale process for years before reaching a resolution. Ms. Linda Dominguez, above, provides one example of how a family can live for years without knowing whether the family home will stay in their name. The Dominguez family, unfortunately, is far from alone.

In *Pride Acquisitions, LLC v. Rochelle Garcia*,⁸² Ms. Garcia learned on January 18, 2019 that her home might be sold for a default judgment that was entered against her six years ago. The debt was for a Chase credit account, which was sold to debt buyer Pride Acquisitions, LLC. The original amount was \$26,681.72, plus 30% interest, for a total of \$46,385.22. A default judgment was entered against Ms. Garcia because she was never served with the lawsuit. In the years following the judgment, Ms. Garcia did not receive any calls or notices attempting to collect the debt. The judgment was later sold to a second debt buyer, NDS, LLC, who filed the paperwork to sell the home. Ms. Garcia first learned about the lawsuit when the sheriff told her that she might lose her home.

When Ms. Garcia finally learned about the lawsuit, she attempted—without the expensive assistance of an attorney—to set aside the judgment because she was never given due process. Ms. Garcia also explicitly pleaded that the sale be denied because the sale would leave her and her family homeless. The Court denied her requests, believing NDS’ claim that NDS had

mailed documents to Ms. Garcia earlier. Ms. Garcia was strong-armed into settlement, but because she unable to find money for the now \$73,925.21 judgment—which had increased because NDS tacked its costs to the judgment—the settlement fell through. NDS therefore returned to its plan to sell the home, and it received permission to do so.

Ms. Garcia was finally able to retain an attorney to help her in late 2019, but the attorney's request for a continuance was denied, and the sale was scheduled to go through shortly afterwards. Through sheer determination, Ms. Garcia was able to scrape up enough funds to mollify NDS, but only at a high emotional and economic cost. It is unclear what new difficulties the Garcia family will face as a result.

D. SOMEONE ELSE'S DEBT, BUT NOT SOMEONE ELSE'S PROBLEM

One of the more offensive aspects of letting debt collectors use the court system to sell a family's home to collect an unsecured consumer judgment is that there are not enough safeguards in place to ensure that the judgment is legitimate. In addition to the many cases where sewer service was used to get the judgment,⁸³ many debt collectors have tried to sell the wrong person's home. And more than one debt collector has used a judgment originating in arbitration—a privately owned and operated court which is selected and largely paid for by the business—to have the sheriff and court force the sale of a family's home, even when the arbitration forum in question was famously corrupt and its practices were illegal.

In *NCO Portfolio v. Brenda Knight*,⁸⁴ debt collectors repeatedly threatened the wrong Brenda Knight with the forced sale of her home. In February 2006 Brenda Knight—who lived in American Canyon, Napa County—rushed her husband to the emergency room because he was suffering from congestive heart failure. Ms. Knight became his primary caregiver after this incident.

Later that same year, in October, a debt buyer won a judgment for \$11,738.46 against a possibly fictitious Brenda Knight who lived in Oakland. The claim allegedly originated from an unpaid Citibank account, which was sold to NCO Portfolio Management. The arbitration was

won by default: “Brenda Knight” never appeared, and an award was issued in favor of the debt buyer by the National Arbitration Forum (“NAF”). NAF was stripped of its right to conduct consumer arbitrations a few years later because it was owned by the same large debt collector that filed the majority of its debt collection cases with NAF, something it never revealed to consumers. Debt collectors won nearly every case that was filed with NAF.

Despite the fact that the possibly fictitious “Brenda Knight” lived in Alameda County, NCO took the arbitration award to the Napa County Superior Court, and had the court confirm the award. This meant that the decision of a private company now had the full force and effect of a judgment rendered by a Superior Court judge. NCO sold the judgment to The 704 Group in July 2011.

In 2011, The 704 Group sued Brenda Knight from American Canyon. The 704 Group asked for permission to foreclose on Ms. Knight’s home in order to collect the judgment it allegedly had against her. This

NATIONAL ARBITRATION FORUM

The National Arbitration Forum (then referred to as “NAF,” and today just called “Forum”) advertised itself as a fair and just third-party arbitration service that arbitrates hundreds of thousands of claims in the consumer sector. At the start of the decade, however, the truth about NAF’s dealings with major debt collection law firms began to come out.

Companies affiliated with NAF would force consumers into arbitration with NAF. Because NAF was affiliated with the collection industry, it mostly ruled in the collectors’ favor. Former Minnesota Attorney General Lori Swanson sued, alleging that NAF committed consumer fraud, deceptive trade practices, and false advertising. Because of this lawsuit, the NAF was no longer allowed to arbitrate consumer collection disputes, a restriction which continues to this day.

A similar lawsuit took place in California. The San Francisco City Attorney’s office accused NAF of working alongside FIA Card Services—now a Bank of America subsidiary— which used NAF to arbitrate its consumer complaints. The case settled with FIA making a \$5 million payment and agreeing to not arbitrate in California for two years.

The Minnesota lawsuit cites statistics that highlight NAF’s unfair practices. According to the complaint, a major investor in NAF—Accretive, LLC—bought Mann Bracken, LLP, the largest debt collection law firm in the country at the time. In 2006, NAF arbitrated 214,000 consumer debt collection claims, 60% of which were filed by Mann Bracken. In the California lawsuit, NAF is cited as deciding in favor of the business and against the consumer 100% of the time.

procedure was improper because filing a new lawsuit is not the appropriate way to enforce these judgments. It is possible these lawsuits were filed in large part to both scare homeowners into paying quickly and to save money for the debt collector, as the filing fee for a lawsuit is a fraction of the cost of following the proper procedure.

Confused, Ms. Knight filed an Answer on November 15, 2011, and explained that she was not the same Brenda Knight from Oakland who was initially sued in 2006. Ms. Knight informed The 704 Group that she did not owe it or anyone else money, and she asked that the case be closed. Ms. Knight received no further communication from the debt collector. Six months later, the debt collector dismissed the case. Ms. Knight understandably assumed this concluded the bizarre affair, but the debt buyer's abuses were only beginning.

One month after The 704 Group dismissed its improper second lawsuit, it used the judgment from the original arbitration case to get a writ of execution. The 704 Group took \$505 from Ms. Knight's bank accounts in June 2012, which completely emptied her bank accounts. Some of the money came from Ms. Knight's granddaughters' accounts, since they had joint bank accounts with Ms. Knight. The family did not get this money back.

Ms. Knight could scarcely afford to lose what little she had, as she and her husband lived on fixed incomes. Unfortunately, in April 2016 the debt buyer tried to take Ms. Knight's house again, this time using the correct procedure. The 704 Group now demanded \$28,453.68, as the alleged debt had grown from its original \$11,738.46. Ms. Knight once more told The 704 Group that she had never lived in Oakland, that she had lived in American Canyon since 2003, and that she had never opened an account with Citibank. None of this deterred the debt buyer, which continued attempting to seize the Knights' home to pay a rubber-stamped judgment against a person who may have never existed.

Ms. Knight tried to contact The 704 Group's attorney, Edward Weber, but she never received any answer. She eventually found a lawyer—James Sturdevant—who was willing to help her. Mr. Sturdevant also tried to contact Weber and explain the situation, but Weber refused to listen, and accused Ms. Knight of both lying and also of defaulting on multiple other credit cards. No one knows what Weber meant.

While the family's home was in limbo, Ms. Knight's husband had a Pulse Generation Replacement Surgery. Ms. Knight herself began relying exclusively on her social security benefits. None of this moved The 704 Group. Ms. Knight's attorney had to file a motion to vacate the judgment with the court, over the debt collector's continued resistance, before the years-long saga finally concluded. Even then, Ms. Knight never got back the \$505 stolen from her by the debt buyer.

E. RARE RELIEF FOR THE HONEST DEBTOR

Mrs. Knight was eventually able to remove the debt collectors' threat to the family home by defeating two separate lawsuits. Although Ms. Knight was able to prove that the alleged debt was never hers, and was lucky enough to find an attorney who would help her, she still had to experience years of confusion and stress to stay housed. Homeowners who cannot prove the alleged debts are not theirs face additional hurdles—even bankruptcy may not be equipped to help many of these families.

In *CACV v. Margaret Hearn*,⁸⁵ a debt buyer sued Ms. Hearn in January 2006 for an unsecured consumer debt. CACV got a default judgment for \$19,319.76 in April. Five years later, at the end of March 2011, the judgment was sold to Gryphon Solutions, LLC. Gryphon's attorneys tried to get Ms. Hearn's money by filing a new lawsuit for judicial foreclosure of the property. This second lawsuit was "verified," meaning that Gryphon's owner, Michael Brkich, swore under penalty of perjury that everything in the lawsuit was true and correct. This included a sworn statement that Gryphon Solutions tried to contact Ms. Hearn in writing and resolve its claim before filing the lawsuit, even though the Complaint was filed at the start of May 2011, just a few weeks after it bought the judgment.

This new, second lawsuit resulted in a second default judgment, meaning the same debt buyer had two judgments against Ms. Hearn for the same alleged debt. The debt buyer pushed for nearly a year to get permission to use the second judgment to force the sale of Ms. Hearn's home, but it appears to have been unsuccessful. Instead, in April 2014, the debt buyer returned to the first judgment—the judgment it had purchased from CACV—and finally attempted to follow the correct legal procedures.

An Unavoided Debt

A bankruptcy discharge was not enough to save a San Bernardino family's home. A judgment that started at \$11,800 was too much for the Rodriguez family to pay, so within weeks of learning the family home could be sold to pay for the judgment, the family head declared bankruptcy.

The bankruptcy discharge was granted a few months later. Unfortunately, the Rodriguez family did not bring a separate motion specifically to remove the lien, so the lien survived. The debt buyer, which was the sixth company that claimed to own the debt, simply picked up where it left off.

The 704 Group, LLC v. Claudia Rodriguez, San Bernardino Superior Court case CIVRS140024

It is unclear if this was the first time that Ms. Hearn learned about the judgment, but this was when Ms. Hearn declared bankruptcy to try to keep her home. By this time, the debt had nearly tripled to \$55,091.94. Ms. Hearn filed for Chapter 7 relief, which (grossly simplified) is a bankruptcy plan that lets a person keep a limited amount of assets, divide the remaining assets between the person's creditors, and get rid of the rest of their debts. As explained on page 23, bankruptcy is not normally helpful to most Californians. However, because

Ms. Hearn's home was valued at only \$145,000, and because she was over 55 and disabled, her homestead exemption was \$175,000. This meant Ms. Hearn was one of the few homeowners who was able to take off the lien through bankruptcy while keeping her home. Had Ms. Hearn not had a disability, however, her homestead exemption would be only \$75,000, and bankruptcy would not have helped her, as several other Californians discovered when they turned to bankruptcy to save the family home.

F. STEALING THE FAMILY HOME

All of the people above are fortunate in one respect: despite the injustice and indignities endured, they were ultimately able to keep their home, at least for the time being. However, while debt collectors use the threat of selling the family home as leverage to extract payment, and largely prefer to get their money without having to complete the process, the Lam family can attest that seizure and eviction are not idle threats.

In August 2012, a debt buyer filed a lawsuit against Ly Lam in the Superior Court of Los Angeles.⁸⁶ The lawsuit alleged that Mr. Lam owed \$1,125.46 for an unpaid Credit One account, and that the debt buyer purchased the account. At this time, Mr. Lam was living at his mother-in-

law's to help support her, as her husband had recently passed away and she was struggling financially and emotionally. Mr. Lam was renting out his personal residence in the meantime, as he needed to support two households.

The debt buyer claimed it served Mr. Lam at his personal residence, although Mr. Lam had not lived there for nearly two years. Mr. Lam was in his mid-forties, and nearly six feet tall. The process server, having never met Mr. Lam, claimed that Mr. Lam was 5'4", and in his late twenties. In short, Mr. Lam was never served. The debt buyer never contacted him, and he was never told about the lawsuit or the resulting default judgment.

Four years later, Mr. Lam returned to his home. Afterwards, the original debt buyer sold the judgment—now valued at \$1,948.34, after adding court costs and interest—to another debt buyer, GLCS, LLC. Within a month, and without ever contacting Mr. Lam, GLCS began the process of forcing the sale of Mr. Lam's home in order to collect a judgment that totaled less than \$2,000, including costs and interest. Mr. Lam did not know about the lawsuit or the sale of his home until November or December of 2016. The paperwork he received was too confusing for him to understand that a debt buyer he had never heard of was using law enforcement and the legal system to take his family's home for a judgment he had never known about. The family home—valued at \$640,000—was sold for a measly \$14,000 to an investment company, The Temple City Group Trust, which promptly moved to evict the family. The Lams were thus hit with two devastating bits of news at the same time: their home was taken from them for a tiny debt they did not know about, and they were being evicted so that an institutional investor could make a few more dollars.

The good news is that the Lam family eventually fought back. The family was able to set aside the Superior Court judgment by proving they were never served with the lawsuit. These proceedings also revealed that the home that was sold to satisfy Mr. Lam's "debt" was not his property, but instead his wife's separate property; the debt collector had misinformed the court

about the property's ownership in order to sell the property. The Lams also fought their eviction, and filed their own lawsuit against the Trust to get their house back. They were successful, because the judgment that led to the sale was void, and because the house belonged solely to Mr. Lam's wife, Brenda Thai. Because the house was not Mr. Lam's property, it was not eligible for seizure in the first place.

An Ex-Spouse's Debt

Charm Logan's home in San Juan Capistrano was nearly put on the auction block to collect her former husband's debt. Ms. Charm had to file her own lawsuit to protect her home, and the debt collector fought her every step of the way.

Statewide Ministorage/Barstow LLC v Garfield Logan, Orange County case 30-2013-00692179-CU-BC-CJC

The bad news is that these successes came at a high price. The Lam family needed attorneys to represent them in three separate, complicated lawsuits, which lasted almost two years. In the meantime, the family faced the trauma of losing their home and the constant specter of being evicted for a tiny debt they did not owe.

Ultimately, the Lams suffered because California currently permits a debt collector to put families in an impossible position: the family can either immediately scrape up thousands of dollars that the family does not have on hand,⁸⁷ or they can watch as the family home is auctioned to pay for a loan that often charged 30% or more in interest. Worse, some families never owed the alleged debt. Many more first learned of the lawsuit when the sheriff's deputy knocked on their door. Not coincidentally, a disproportionate share of the people who underwent this traumatic procedure were people of color. Additionally, countless homeowners are extorted into paying alleged debts every year when collectors implicitly and explicitly threaten to take the family home, with the debt collectors getting paid before having to initiate this process.

To ensure that other homeowners avoid the same plights as those described in this report, California should eliminate this reprehensible practice of foreclosing on a home to collect unsecured consumer debts. The practice is unnecessary, devastating, and too often used against people who never had a chance to defend themselves against the lawsuit. Worse, as many of the stories shared so far demonstrate, there are too few safeguards in place to protect homeowners from debt collectors who seek to sell a person's home to collect someone else's debt.

PART IV – CALIFORNIA DOES LESS TO PROTECT ITS HOMEOWNERS THAN OTHER STATES

States that allow a debt collector to sell a home to collect on a judgment have various ways of protecting homeowners. Two of the most important safeguards are the homeowners' right to automatically protect some or all of the value of their home from a creditor through the homestead exemption, and the procedural safeguards—before and after a sale—to make sure the sales process is fair and only proceeds if the sale brings in a good price. While California shares these two protections with other states, California's protections are much weaker than those offered by sister states.

A. CALIFORNIA'S HOMESTEAD EXEMPTION IS SIGNIFICANTLY WEAKER THAN MOST STATES'

California is not unique in permitting judgment creditors to force the sale of a person's home to collect unsecured consumer debts. In fact, only Arkansas,⁸⁸ South Dakota,⁸⁹ and Texas,⁹⁰ appear to forbid placing a judgment lien on most families' homes. However, many states do not permit judgment creditors to foreclose on those liens in most circumstances. These include Florida,⁹¹ Iowa,⁹² Kansas,⁹³ and Oklahoma.⁹⁴ The District of Columbia⁹⁵ and Puerto Rico⁹⁶ also forbid most judgment creditors from foreclosing on a judgment lien. That Texas and Florida, the nation's second and fourth largest economies respectively,⁹⁷ do not allow creditors to foreclose a judgment lien for the family's home puts to rest any argument that a healthy credit market requires letting debt collectors throw families out on the street.

Every other state, except New Jersey, has a minimum dollar homestead exemption for the homeowner in the event that a creditor tries to take the family home. Several states, including California, have complex laws that protect different amounts for different people. For example, California's default homestead exemption of \$75,000 is only for healthy, young, single homeowners; the amount increases to \$100,000 for families, and can rise up to \$175,000 for seniors and people with disabilities.⁹⁸ Other states provide additional protections for victims of medical emergencies,⁹⁹ parents of minors,¹⁰⁰ or other categories of people.

Excluding the states that outright forbid the sale of a home, examining the default exemption amounts for each state reveals that California's \$75,000 threshold places it in the top

third of states: fourteen states have a higher dollar amount exempted.¹⁰¹ Colorado, Connecticut, Mississippi, and Wisconsin have the same \$75,000 exemption amount as California. The remaining states range from \$72,900 (Alaska) to just \$300 (Pennsylvania).

Unfortunately, the \$75,000 homestead exemption in California does not go as far as it does in the rest of the country. California's median home price passed \$600,000 in 2018,¹⁰² over double the national median.¹⁰³ While that figure is heavily influenced by the obscene housing prices in parts of the San Francisco Bay Area, where the median home goes for over \$1,000,000,¹⁰⁴ only Tehama County had a median home sales price of under \$200,000, and just barely at that (\$197,500).¹⁰⁵ \$75,000 is insufficient to ensure that a family in California can protect its home from a debt collector. This also means that California is doing less than it could to protect its residents. For example, Mississippi's \$75,000 homestead exemption is much more powerful than California's, because the median home in Mississippi is only \$127,206.¹⁰⁶

B. CALIFORNIA'S REQUIREMENT THAT THE MINIMUM WINNING BID AMOUNT TO AT LEAST 90% OF THE HOME'S VALUE IS A SAFEGUARD THAT IS OFTEN IGNORED

While it is no replacement for banning the practice of selling a home for an unsecured consumer debt, one of the California law's few strengths is its requirement that the minimum winning bid equal at least ninety-percent of the home's fair market value, or whatever amount the judge permits.¹⁰⁷ In theory, this

ensures that homes will only be sold if the auction brings in a high price, helping to ensure that the judgment is satisfied as much as possible, and that the homeowner gets to keep enough money to feasibly start a new life. Not every state offers this protection: Wisconsin and New Hampshire, for example, appear to have no set

Out of Commission

One debt buyer had the right to take a quarter of a homeowner's commissions to satisfy a default judgment. The debt buyer sold the judgment to GLCS, which decided being able to take a quarter of the homeowner's income was not enough. Two months after buying the judgment, GLCS began the forced sale process, and asked the court to waive the requirement that the minimum bid equal at least ninety-percent of the home's fair market value.

Main Street Acquisition Corp. v Bok Yoo, Los Angeles Superior Court case 12CF1397

floor beyond the homestead exemption and any potential municipal or tax liens.

In practice, however, some of the orders permitting the sale of a dwelling have a lower, even non-existent, minimum amount. It appears to be the habit of many of the judgment buyers—such as GLCS, Gryphon Solutions, and their sister LLCs—to request the sale be granted without any minimum bid. This was how, for example, Mr. Lam’s wife’s \$695,000 home sold for only \$14,000. Not all judges permit such sales, but at least some orders are granted without any changes to the debt collector’s request.

C. CALIFORNIA’S POST-SALE RIGHTS LAG BEHIND SOME OTHER STATES

California also generally gives homeowners less rights to repurchase the house after the forced sale than some other states. This is also known as the right to “redeem” the house.

A Californian can only unwind the sale to a bona fide purchaser under two circumstances, both of which requires showing unfair behavior by the creditor or the buyer.¹⁰⁸ These require proving that the creditor illegally interfered with the sales process, or that whoever bought the house took unfair advantage of the situation in order to buy the house. It is very hard to prove with evidence that either of these occurred, meaning it is nearly impossible to redeem the house after its sale. California also imposes strict deadlines for exercising this right in some circumstances. For example, if the judgment creditor bought the house at the auction, the homeowner usually must file a motion or a lawsuit with the court within ninety days of the sale,¹⁰⁹ although the homeowner has up to a year to file the motion if the auction brought in too little to satisfy the entire judgment.

By contrast, some states allow the homeowner to redeem the house regardless of the seller or purchaser’s behavior. Alabama gives the homeowner up to six months to buy the property back,¹¹⁰ as does Illinois.¹¹¹ New Mexico provides a window of up to nine months.¹¹² Nor is this list exhaustive. While the right to repurchase the home is not available everywhere, it is available in several states throughout the country.

Some of the states that do let homeowners buy back their house also expand that right to more people than just the homeowner. Alabama, for example, gives this right to not only the homeowner, but also anyone who had a mortgage or other lien on the home, their spouses and

heirs, and anyone who bought the rights to the mortgage or lien, even if they bought those rights after the auction.¹¹³ On the other hand, California restricts its redemption rights to only the homeowner or their successors.¹¹⁴ This cuts Californians off from potential sources of help, and exposes Californians to additional claims from creditors who might otherwise have redeemed the house to protect their financial interest.

While the right to redeem a home would certainly help the homeowners who either have means to repurchase or whose homes were sold for only a fraction of their actual value, ultimately the right to redeem a home under all circumstances is unlikely to be helpful for most Californians. If the home was sold for at least ninety percent of the home's fair market value, few homeowners would have the money to pay within a few months the amount that the auction winner paid. Therefore, while adding the right to redeem to California law is important, it will not provide actual relief to those homeowners who need it the most.

PART V: PROPOSALS AND CONCLUSIONS

The 231 cases examined in this report are simultaneously unusual and depressingly common. The cases are unusual in that a debt collector took the time to formally initiate the forced sale of a person's home in order to collect an unsecured consumer debt. This is just a small fraction of the debt collection cases filed against homeowners in California. Many of the homeowners had other liens on their homes because of other unpaid judgments, for example. For a combination of reasons, including the time and expense of the process, and the terrible publicity that could come with taking a family's home to collect a small judgment, many creditors shy away from forcing the sale of a person's home to get immediate payment of their judgment.

The cases are depressingly common because dozens, if not hundreds, of homeowners are threatened each day with losing their house if they do not pay an unsecured consumer debt. This abusive behavior is even done by large, established banks. The authors of this report have repeatedly attempted to negotiate with the banks on behalf of low-income homeowners—usually seniors—to enter a judgment for the complete amount demanded, on the condition that the banks agree to not forcibly sell the home until the senior tries to refinance or sell the home, or passes

away, at which point the bank can be repaid in full and with interest. Not a single bank has agreed to this term. Banks and debt collectors know that a house can be used as a powerful weapon to scare people into paying money the homeowner does not have. Low-income homeowners too often panic and do economically and physically harmful things to themselves in a sometimes-futile attempt to appease the debt collector.

Letting a debt collector force the sale of a home to collect an unsecured consumer debt is unnecessary. Debt collectors already have many other ways to enforce their judgments, including wage garnishments, bank levies, and leaving a lien on a person's property. Even when the homeowner does not have enough money to pay the debt collector—whether because the homeowner is a senior, is disabled, is unemployed, or otherwise—a debt collector will inevitably get paid when the homeowner refinances or sells the home, and they will have collected interest at a handsome rate of ten percent. Many other states, including large states like Texas and Florida, do not allow this practice at all, and their citizens continue to have access to credit.

The practice is also destructive, especially to communities of color. A home not only allows a family to stay in one place for the long term, and thus become rooted in their community, it also allows them to build their credit, own a valuable and appreciating asset, and pass on something of financial and emotional value to their children, thus building generational wealth. People of color already have less available wealth than White families. The median African-American family owns just two percent of the wealth that the median White family owns, while the median Latino family owns assets worth only four percent of the median White family's assets.¹¹⁵ This disparity is only growing.¹¹⁶ Continuing to let debt collectors take people's homes for unsecured consumer debts hurts people of color's ability to amass generational wealth. It also speeds up gentrification, because once the house is sold its previous owners are unlikely to have enough money to buy another home in the same area.

The situation has only gotten more dire this year due to COVID-19. Unemployment rates in California are at record levels,¹¹⁷ and the risk of unemployment because of the pandemic falls disproportionately on workers in rural areas,¹¹⁸ people with low income,¹¹⁹ and especially Latinos.¹²⁰ People of color are also more likely to contract and die from the virus,¹²¹ with African-Americans being especially vulnerable to COVID-19.¹²² Amongst other things, this

means many families of color will find themselves even more financially strained. If California does not protect homeowners from losing their house for an inability to pay an unsecured consumer debt, many communities may never fully recover.

The solution to this problem is straightforward. California should follow the example of the eight other states that fully exempt a person's home from being sold to collect unsecured consumer debts.¹²³ To that end, California should add a new section to the Code of Civil Procedure that prevents a debt collector from foreclosing on a judgment lien to collect an unsecured consumer debt. In order to make sure everyone can enjoy this new right, including people who speak limited English or are too intimidated by the legal system to assert themselves, the Code of Civil Procedure should also require the judgment creditor to swear to the court that the forced sale of the home is not being done to enforce an unsecured consumer debt judgment.

This narrow protection will allow workers, spouses, and the government to enforce their own judgments. It will not interfere with businesses that wish to extend credit to a consumer who is willing to put their home up as collateral for the loan. It will not prevent businesses collecting unsecured debts from getting paid at a very generous interest rate. Ultimately, this solution will assure homeowners that poverty, temporary or otherwise, will not mean they and their family will lose the roof over their head due to an unsecured debt.

The practice of letting a debt collector seize a family's home to collect an unsecured consumer debt must be banned. Doing this is simple to implement, it is fair to everyone, it is necessary to protect communities of color from further exploitation, and it is the right thing to do.

CITATIONS

¹ California Code of Civil Procedure §§ 700.015, 701.540-701.680 describes the procedures for forcing the sale of a judgment debtor's real property.

² California's homestead exemption applies to debtors' dwellings and offers the best restriction on the sale of real estate to satisfy money judgments. It rarely prevents the forced sale of a home. California Code of Civil Procedure §§ 704.710-704.850.

³ California Association of Realtors, *May homesales and price report* (June 19, 2018), available at <https://www.car.org/en/aboutus/mediacenter/newsreleases/2018releases/May2018homesales> (last visited Feb. 19, 2020).

⁴ California Association of Realtors, *May homesales and price report* (June 19, 2018) (describing the median home price in the San Francisco Bay Area) (last visited Feb. 19, 2020).

⁵ See, e.g., California Code of Civil Procedure § 704.800(a) (setting forth the requirement that a debtor's dwelling be released if none of the bids at auction exceeds the amount of the homestead exemption).

⁶ See, e.g., Part III in this report.

⁷ See generally Patricia Drentea and Paul J. Lavrakas, *Over the Limit: The Association among Health, Race and Debt*, *Social Science & Medicine*, vol. 50, no. 4, 2000, pp. 517–529 (2000) (finding that debt/income ratio is significantly associated with worse physical health and self-reported health and high debt/income ratio is a stressor affecting health); Keene, Danya E., et al. "When You're in a Crisis Like That, You Don't Want People to Know": Mortgage Strain, Stigma, and Mental Health." *American Journal of Public Health*, vol. 105, no. 5, 2015, pp. 1008–1012; Tsai, Alexander C. "Home Foreclosure, Health, and Mental Health: A Systematic Review of Individual, Aggregate, and Contextual Associations." *Plos One*, vol. 10, no. 4, 2015.

⁸ For the purposes of this report, "unsecured consumer debt" is defined broadly and includes any debt taken out from a business for personal, family, or household purposes, or to get credit for the borrower's own business, without putting anything up as security or collateral. Examples include credit card, educational, and medical debts.

⁹ See, e.g., Part III of this report. See also Matthew Ludwig, *Abuse, Harassment, and Deception How the FDCA Is Failing America's Elderly Debtors*, 16 *Elder Law Journal* 135 (2008) (discussing predatory and abusive practices that elderly people face—including force payment for debts not owed by them).

¹⁰ InCharge: Debt Solutions, How Do Payday Loans Work? <https://www.incharge.org/debt-relief/how-payday-loans-work/> (last visited Feb. 19, 2020).

¹¹ The Rutter Group, *Enforcement of Judgments and Debts*, Chapter 6 (explaining methods of enforcing a judgment, e.g. wage garnishments, bank levies, etc.).

¹² California Code of Civil Procedure § 704.710. See also California Code of Civil Procedure §§ 700.015, 701.540-701.680.

¹³ California Code of Civil Procedure § 683.180(a).

¹⁴ See Ann Schwing, 2 *California Affirmative Defenses* § 42:18.

¹⁵ California Code of Civil Procedure § 704.710(a)-(c).

¹⁶ See *In re Reed*, 940 F.2d 1317, 1321 (9th Cir. 1991) (finding that "[t]he language of the relevant statutes makes it clear that the "homestead exemption" in California is merely a debtor's right to retain a certain sum of money when the court orders sale of a homestead in order to enforce a money judgment; it is not an absolute right to retain the homestead itself.").

¹⁷ See *In re Reed*, 940 F.2d 1317, 1321 (9th Cir. 1991).

¹⁸ California Code of Civil Procedure § 704.730.

¹⁹ California Code of Civil Procedure § 704.730.

²⁰ California Code of Civil Procedure § 704.730.

²¹ California Code of Civil Procedure § 704.780(b).

²² California Code of Civil Procedure § 697.310.

²³ California Code of Civil Procedure § 697.320.

²⁴ California Code of Civil Procedure § 697.340

²⁵ California Code of Civil Procedure § 699.510.

²⁶ California Code of Civil Procedure § 699.520.

²⁷ California Government Code §70626.

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- ²⁸ California Code of Civil Procedure § 685.040.
- ²⁹ California Code of Civil Procedure § 699.530
- ³⁰ See California Code of Civil Procedure § 697.710
- ³¹ California Code of Civil Procedure § 699.510.
- ³² California Code of Civil Procedure § 700.015(c).
- ³³ California Code of Civil Procedure § 704.750(a).
- ³⁴ California Code of Civil Procedure § 704.770(a).
- ³⁵ California Government Code § 70617(a)(7).
- ³⁶ California Code of Civil Procedure § 704.760(b).
- ³⁷ California Code of Civil Procedure § 704.770(b).
- ³⁸ California Code of Civil Procedure § 704.780(b).
- ³⁹ California Code of Civil Procedure § 704.770(d).
- ⁴⁰ California Code of Civil Procedure § 704.770(a).
- ⁴¹ California Code of Civil Procedure § 704.780.
- ⁴² California Code of Civil Procedure §§ 701.540 - 701.550.
- ⁴³ California Code of Civil Procedure § 701.560.
- ⁴⁴ California Code of Civil Procedure § 701.570(a).
- ⁴⁵ California Code of Civil Procedure § 701.570(b).
- ⁴⁶ California Code of Civil Procedure § 701.590(a).
- ⁴⁷ California Code of Civil Procedure § 701.590(b).
- ⁴⁸ California Code of Civil Procedure § 704.800(a).
- ⁴⁹ See *Rourke v. Troy*, 17 Cal. App. 4th 880, 885-86 (1993) (finding that “[t]he Legislature was not attempting to ensure that all debts, including the judgment being executed by the sale, be satisfied by the sale of the dwelling. Rather, its purpose was to ensure that senior lies and encumbrances would be paid.”).
- ⁵⁰ See California Code of Civil Procedure § 704.780(b) (“the court shall make an order for sale of the dwelling subject to the homestead exemption, unless the court determines that the sale of the dwelling would not be likely to produce a bid sufficient to satisfy any part of the amount due on the judgment pursuant to Section 704.800”) (emphasis added); see *Bratcher v. Buckner*, 90 Cal. App. 4th 1177, 1189 (2001).
- ⁵¹ California Code of Civil Procedure § 704.800.
- ⁵² California Code of Civil Procedure § 701.680(a).
- ⁵³ California Code of Civil Procedure § 701.680(b).
- ⁵⁴ California Code of Civil Procedure § 701.680(c).
- ⁵⁵ California Code of Civil Procedure § 701.680(e). See also CEB, *Equitable Redemption: California Legislature Breathes New Life into an Old Doctrine*, available at <https://store.ceb.com/equitable-redemption-california-legislature-breathes-new-life-into-an-old-doctrine> (last visited March 1, 2020).
- ⁵⁶ *Lang v. Roché*, 201 Cal. App. 4th 254, 261 (2011), quoting *Gonzalez v. Toews*, 977 Cal. App. 4th 982 (2003).
- ⁵⁷ See California Code of Civil Procedure § 729.030 (giving judgment debtors either 90 days or, in some circumstances, one year to redeem the house).
- ⁵⁸ Paul Kiel and Annie Waldman, *The Color of Debt: How Collection Suits Squeeze Black Neighborhoods*, ProPublica, October 8, 2015, available at <https://www.propublica.org/article/debt-collection-lawsuits-squeeze-black-neighborhood> (last visited Feb. 19, 2020).
- ⁵⁹ The Public Records Act requests were sent in December 2018. This report does not include instances when court-appointed receivers sell debtors’ real property to satisfy judgments. See California Code of Civil Procedure § 708.620. A court-appointed receiver is authorized to manage the property, collect rents, and even sell the home if that is necessary to preserve a party’s rights. They are authorized under California Code of Civil Procedure § 564.
- ⁶⁰ California Government Code § 6253.
- ⁶¹ See California Code of Civil Procedure § 708.620.
- ⁶² *Monogram Credit Car Bank of Georgia v Maria Tellez*, San Bernardino Superior Court case # CIVSS815707.
- ⁶³ Federal Trade Commission, *The Structure and Practices of the Debt Buying Industry*, p. 23 (January 2013).
- ⁶⁴ Carolyn Carter and Jonathan Sheldon, *Collection Actions: Defending Consumers and Their Assets* (4th ed. 2017) § 1.5, updated at www.nclc.org/library.
- ⁶⁵ <https://www.census.gov/quickfacts/lapuentecitycalifornia> (last visited Feb. 19, 2020).
- ⁶⁶ <https://www.census.gov/quickfacts/fact/table/losangelescountycalifornia/PST045218> (last visited Feb. 19, 2020).
- ⁶⁷ Available at <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited Feb. 19, 2020).

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- ⁶⁸ <https://www.census.gov/quickfacts/table/RHI705210/06> (last visited Feb. 19, 2020).
- ⁶⁹ See insert on page 8.
- ⁷⁰ Mary Spector, *Litigating Consumer Debt Collection: A Study*, Banking and Financial Services Policy Report, Vol. 31 p. 3 (2012), citing Hilliard M. Sterling & Philip G. Schrag, *Default Judgments Against Consumers: Has the System Failed?* Denver University Law Review, Vol. 67, pp. 357-59 (1990).
- ⁷¹ *NCEP, LLC v Olive Akinyi*, Riverside Superior Court case RIC1207790.
- ⁷² See generally Abbye Atkinson, *Rethinking Credit as Social Provision*, Stanford Law Review, Vol. 71 (2019).
- ⁷³ Abbye Atkinson, *Rethinking Credit as Social Provision*, Stanford Law Review, Vol. 71, p. 1152 (2019) (finding that “low-income borrowers often use credit to pay for recurrent expenses like rent and utilities, and ‘rarely for frivolous or discretionary expenditures.’”).
- ⁷⁴ Racial Justice & Equal Economic Opportunity Project, National Consumer Law Center, Past Imperfect: How Credit Scores and other Analytics “Bake In” and Perpetuate Past Discrimination 3 (May 2016), available at https://www.nclc.org/images/pdf/credit_discrimination/Past_Imperfect050616.pdf.
- ⁷⁵ Consumer Financial Protection Bureau, *Consumer Experiences with Debt Collection*, pp. 17 – 18 (January 2017).
- ⁷⁶ Jessica LaVoice and Domonkos Vamossy, *Racial Disparities in Debt Collection*, available at <https://ssrn.com/abstract=3465203> (September 2019).
- ⁷⁷ *CACH, LLC v. Linda Dominguez*, Alameda Superior Court Case Number FG07313557.
- ⁷⁸ Richard Symes, *Who is CACH LLC?*, available at <https://www.bankruptcy-law-seattle.com/Articles/who-is-cach-llc/> (last visited March 1, 2020).
- ⁷⁹ Marcy Gordon, “Investigation finds fraud in WaMu Lending: Senate report: Failed bank’s own action couldn’t stop deceptive practices” NBC News (Apr. 12, 2010), available at http://www.nbcnews.com/id/36440421/ns/business-real_estate/t/investigation-finds-fraud-wamu-lending/.
- ⁸⁰ *Main Street Acquisition Corporation v. Fernando Rivas*, Alameda Superior Court case number HG12631954.
- ⁸² *Pride Acquisitions, LLC v. Rochelle Garcia*, San Bernardino Superior Court case number CIVDS1202343.
- ⁸³ See insert on page 8.
- ⁸⁴ *NCO Portfolio v. Brenda Knight*, Napa County Superior Court case number 26-31743.
- ⁸⁵ *CACV v. Margaret Hearn*, San Bernardino Superior Court case number RCIRS092774.
- ⁸⁶ *Main Street Acquisition Corp v. Ly Lam*, Los Angeles Superior Court case number 12CV1966.
- ⁸⁷ See Board of Governors of the Federal Reserve System, *Report on the Economic Well-Being of U.S. Households in 2016*, p. 26 (2017) (roughly 44% of Americans cannot afford to cover an emergency expense of \$400 without selling property or borrowing money).
- ⁸⁸ Arkansas Code § 16-66-210.
- ⁸⁹ South Dakota Codified Laws § 43-31-1.
- ⁹⁰ Texas Property Code § 41.001.
- ⁹¹ Florida Statute § 222.05.
- ⁹² Iowa Code §§ 561.2, 561.16.
- ⁹³ Kansas Statute Annotated § 60-2301.
- ⁹⁴ Oklahoma Statute Annotated title 31, §§ 1 - 2.
- ⁹⁵ District of Columbia Code § 15-501(a)(14).
- ⁹⁶ Puerto Rico Laws Annotated title 31, § 1858.
- ⁹⁷ https://www.bea.gov/system/files/2020-01/qgdpstate0120_2.pdf, p.7.
- ⁹⁸ California Code of Civil Procedure § 704.730.
- ⁹⁹ Louisiana Laws Revised Statute § 20:1(2).
- ¹⁰⁰ Tennessee Code § 26-2-301(f).
- ¹⁰¹ These states are: Arizona, Idaho, Maine, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New York, North Dakota, Ohio, Rhode Island, Vermont, and Washington.
- ¹⁰² California Association of Realtors, *May homesales and price report* (June 19, 2018), available at <https://www.car.org/en/aboutus/mediacenter/newsreleases/2018releases/May2018homesales> (last visited February 2, 2020).
- ¹⁰³ Emmie Martin, *This map shows how much it costs to own a home in every US state* (December 17, 2018), available at <https://www.cnbc.com/2018/12/14/median-home-value-in-every-us-state-via-the-us-census-bureau.html>.

¹⁰⁴ California Association of Realtors, *May homesales and price report* (June 19, 2018), available at <https://www.car.org/en/aboutus/mediacenter/newsreleases/2018releases/May2018homesales> (last visited February 19, 2020).

¹⁰⁵ California Association of Realtors, *May homesales and price report* (June 19, 2018), available at <https://www.car.org/en/aboutus/mediacenter/newsreleases/2018releases/May2018homesales> (last visited February 19, 2020).

¹⁰⁶ See Zillow, *Mississippi Home Prices & Values*, available at <https://www.zillow.com/ms/home-values/>.

¹⁰⁷ California Code of Civil Procedure § 704.800. (last visited March 2, 2020).

¹⁰⁸ California Code of Civil Procedure § 701.680(c), (e).

¹⁰⁹ California Code of Civil Procedure § 701.680(c)(1).

¹¹⁰ Alabama Code 1975 § 6-5-248(c).

¹¹¹ Illinois State Chapter 735 § 5/12-101.

¹¹² New Mexico Statutes Annotated 1978, § 39-5-18.

¹¹³ Alabama Code 1975 § 6-5-248(a).

¹¹⁴ California Code of Civil Procedure § 701.680(c)(1).

¹¹⁵ Chuck Collins, Dedrick Asante-Muhammed, Josh Hoxie, and Sabrina Terry, *Dreams Deferred: How Enriching the 1% Widens the Racial Wealth Divide*, p. 3 (2019).

¹¹⁶ Chuck Collins, Dedrick Asante-Muhammed, Josh Hoxie, and Sabrina Terry, *Dreams Deferred: How Enriching the 1% Widens the Racial Wealth Divide*, p. 3 (2019).

¹¹⁷ Governor Newsom Announces Additional Unemployment Benefits for Workers Impacted by COVID-19, as Unemployment Claims Reach Record Levels, available at <https://www.gov.ca.gov/2020/04/09/governor-newsom-announces-additional-unemployment-benefits-for-workers-impacted-by-covid-19-as-unemployment-claims-reach-record-levels/>

¹¹⁸ Daniel Fleming and Patrick Burns, *In Harm's Way: California Workers at High Risk of Unemployment in the COVID-19 Pandemic*, p.4, available at https://economicrt.org/wp-content/uploads/2020/04/In-Harms-Way.pdf?campaign_id=49&emc=edit_ca_20200416&instance_id=17690&nl=california-today®i_id=117236753&segment_id=25312&te=1&user_id=bab51ed5d28ad6b282477c1a68334da3

¹¹⁹ Daniel Fleming and Patrick Burns, *In Harm's Way: California Workers at High Risk of Unemployment in the COVID-19 Pandemic*, p.7, available at https://economicrt.org/wp-content/uploads/2020/04/In-Harms-Way.pdf?campaign_id=49&emc=edit_ca_20200416&instance_id=17690&nl=california-today®i_id=117236753&segment_id=25312&te=1&user_id=bab51ed5d28ad6b282477c1a68334da3

¹²⁰ Daniel Fleming and Patrick Burns, *In Harm's Way: California Workers at High Risk of Unemployment in the COVID-19 Pandemic*, p.7, available at https://economicrt.org/wp-content/uploads/2020/04/In-Harms-Way.pdf?campaign_id=49&emc=edit_ca_20200416&instance_id=17690&nl=california-today®i_id=117236753&segment_id=25312&te=1&user_id=bab51ed5d28ad6b282477c1a68334da3

¹²¹ Jeffery C. Mays and Andy Newman, Virus Is Twice as Deadly for Black and Latino People Than Whites in N.Y.C., <https://www.nytimes.com/2020/04/08/nyregion/coronavirus-race-deaths.html>

¹²² Nina Misuraca Ignaczak and Michael Hobbes, *Black People are Dying of COVID-19 at Alarming Rates. Here's Why*, available at https://www.huffpost.com/entry/black-people-are-dying-of-covid-19-at-alarming-rates-heres-why_n_5e8cdb76c5b62459a930512a

¹²³ These eight states are Arkansas, Florida, Iowa, Kansas, Oklahoma, South Dakota, and Texas.