

**ATTORNEY GENERAL SPECIAL COLLECTIONS UNIT AND
THE MYSTERIES CONTAINED THEREIN**

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LICENSE & MEMBERSHIPS

Attorney and Counselor at Law, Texas, 1987
Board Certified - Family Law, Texas Board of Legal Specialization 2008 - present
State Bar of Texas & Family Law Section
Board of Directors, Family Law Section of San Antonio Bar Association, 2002 - 2010;
President, 2007-2008
Texas Academy of Family Law Specialists - 2009 - present
Texas Family Law Foundation - Legislative Review Committee: 2009, 2011; 2013
San Antonio Family Lawyer's Association, Board of Directors 2011- 2012; President 2013-'14
College of the State Bar of Texas - 2012 - present

EDUCATION

J.D., Texas Tech University School of Law, 1987
B.A. in English (Writing) and Psychology, McMurry University, Abilene, TX 1984

HONORS/RECOGNITIONS

Texas Super Lawyers 2008 - present Family Law
San Antonio's Best Lawyers - Family Law, Scene in SA magazine 2007 - present
Texas Honorary Life Member, Harmony Hills Elementary PTA, 2010

SELECTED PUBLICATIONS & PRESENTATIONS (Author, Co-Author, Presenter)

Child Support Collection/Liens: Creative Forms & Concepts, Advanced Family Law Drafting, 2017
When Your Good Deed Goes Bad - How Child Support for an Adult Child with a Disability Can Reduce SSI Benefits (and How to Fix It), State Bar Family Law Section Report, Fall 2017
Child Support Enforcement - It Only Takes One, 41st Advanced Family Law Course, 2015
All Things Enforcement, 41st Advanced Family Law Course Associate Judge's Workshop, 2015
Acknowledged contributor, *O'Connor's Family Law Handbook* 2009; 2010 (Jones-McClure)
Essay featured in *Women Attorneys Speak Out!* by Judi Craig, Ph.D., MCC, (Thomson-West 2008)
Creative Ways to Collect & Defend Child Support Claims, 2009 Marriage Dissolution Institute
(selected by Pro Bono Project of Texas Bar Family Law Section for distribution in *Family Law Essentials*)
Creative Ways to Collect & Enforce Child Support Claims, 2009 State Bar College Summer School (selected by Texas Bar CLE for rebroadcast as part of "Best of 2009" series)
Child Support Workshop (with Frederick Adams, David Farr & Hon. Marilea Lewis), 35th Advanced Family Law Course, 2009

Secrets of Success from the Law Rockstars, #HOH Cancun Seminar & Retreat, 2018
Child Support Enforcement, Paralegal Division Annual Meeting, State Bar of Texas, 2016
UIFSA - Avoiding Road Bumps on the Interstate Highways Extreme Family Law Makeover XIV, San Antonio Bar Assoc. 2016
Child Support (workshop presenter) Lawyer Forward 2016, Austin
Child Support & the Special Needs Child, 2012 State Bar College Summer School
Creative Ways to Set Child Support, 2011 State Bar College Summer School
Creative Ways to Enforce Child Support Claims, 2010 State Bar College Summer School

Judicial & Administrative Remedies for Enforcing Child Support, 2010 Texas Academy of Family Law Specialists Trial Institute

Caution! Watch Out for Acronyms on the Interstate Case Highway, 2010 UT Parent-Child Relationships: Critical Thinking for Critical Issues

Show Me the Money – Creative Child Support Remedies, 2009 Corpus Christi Bar Assoc. Family Law Seminar

Dividing Assets with Fluctuating Values: Slicing the Pie on a SeeSaw Webcast, panelist, 2009, State Bar of Texas

Money Matters Extreme Family Law Makeover 2009, SA Bar Assoc. Family Law Section

Obtaining Child Support 2009 UT Parent Child Relationships: Critical Thinking for Critical Issues

Unique Child Support Remedies Webcast, paper author and panelist, 2009, State Bar of Texas

Trial Treasures in Tampa, Trial Brief Author & planning committee, 2009, Texas Academy of Family Law Specialists Trial Institute

Dealing with Children with Special Needs; 2008 Marriage Dissolution Institute

Setting & Collecting Child Support; 2007 State Bar of Texas Annual Meeting

Contributing Editor, *How to Do Your Own Divorce in Texas*, Nolo Press-Occidental, 1993-2001

State Bar Pro Bono Law Project Speaker: 9/2005 Eagle Pass; 6/2007 Kerrville; 9/2007 Big Spring, 9/2010, Kingsville; 8/2012 Corpus Christi

SELECTED SIGNIFICANT CASES

Granado v. Meza, 398 S.W.3d 193 (Tex. 2013) [clerical error by Attorney General does not relieve obligor of child support obligation]

In Re M.C.C., 142 S.W.3d 504 (Tex. 2006) [legislative amendments to statutes apply prospectively; interest rate on child support is rate in effect at time obligation accrued until 1/1/2002, thereafter 6% simple interest on all balances not reduced to money judgment]

Holmes v. Williams, 355 S.W.3d 215 (Tex. App. – Houston [1st Dist.] 2011, no pet.) [child support lien 157.323 can be used to establish arrears when court loses jurisdiction under 157.005 to enter cumulative money judgment]

In the Interest of S.C.S. 48 S.W.3d 831 (Tex. App.-Houston [14th Dist.] 2001) pet. denied *per curiam*, *sub. nom. Sprouse v. Sprouse*, 92 S.W.3d 502 (Tex. 2002) [time periods for securing child support judgments are jurisdictional – legislature may extend time for a remedy]

In the Interest of D.T., No. 12-05-00420-CV, 2007 WL 4465250 (Tex. App.– Tyler 2007, no pet.) [child support lien reaches community property retirement of new spouse when lien was perfected before divorce and new spouse does not raise evidence of his/her interest]

COMMUNITY ACTIVITIES

Band Parents Association of Winston Churchill HS Vice President – Corporate Fundraising 2016-2018

First Presbyterian Church, San Antonio, Godly Play Teacher 2005-present; JOY Ministry; Shawl Ministry (Circle 5); Deacon on Rotation

Eisenhower MS PTA, Executive Board, 2011-2014

Harmony Hills Elementary PTA, San Antonio, 3rd VP, 2010-2011

Autism Society of Greater San Antonio, Board Member, volunteer General Counsel 2005 - 2008

GOLD Youth Leadership Foundation (*Giving Opportunities for Leadership Development*), Program Chair 2003, Board of Directors, 2003- 2006, general counsel to non-profit corporation

Hugh O'Brian Youth Leadership, West Texas Leadership Seminar, leadership training program for high school sophomores: Senior Staff, 1992-2002; Corporate Board 1994-2002; President of Board 1994-1999

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PROFESSIONAL EXPERIENCE

MARVEL & WONG, PLLC, San Antonio, Texas (present)

The Law Office of Brandon J. Wong, San Antonio, Texas

Law Offices of Sinkin & Marvel, San Antonio, Texas

Thirteenth Court of Appeals, Corpus Christi, Texas

Mediation and Arbitration Clinic, University of Denver, Denver, Colorado

EDUCATION

J.D., University of Denver Sturm College of Law, Denver, Colorado 2008

B.B.A. in Economics and Operations Management, Honors College – Baylor Interdisciplinary Core, Baylor University, Waco, Texas 2005

LICENSE & MEMBERSHIPS

Attorney and Counselor at Law, Texas, 2008

State Bar of Texas & Family Law Section

San Antonio Bar Association, Family Law Section - Board Member / Treasurer

Texas Family Law Foundation

Domestic Relations Office Advisory Board Member

SELECTED PUBLICATIONS & PRESENTATIONS

Technology in Law Firms, SAPA 2018 CLE Conference

Controlling Tribes: Law Practice Management, Extreme Family Law Makeover XVI

Child Support Collections/Liens – Creative Forms and Concepts, 2017 Advanced Family Law Drafting

UIFSA – Avoiding Road Bumps on the Interstate Highways, 14th Annual Extreme Family Law Makeover Seminar, 2016

Child Support Enforcement – Medical Support, QDROs & Liens, Oh My!, 41st Annual Advanced Family Law Course, 2015

All Things Enforcement or Get that Nasty Writ Away From Me!, 41st Annual Advanced Family Law Course, 2015

HONORS/COMMUNITY INVOLVEMENT

S.A. Scene Top 50 Family Law Attorney

S.A. Scene Best Family Law Attorney

S.A. Scene Rising Star

Marshall High School Bowling Team – Head Coach 2008 - Present

Megan R. Meyerson, J.D.

EDUCATION	University of Nebraska College of Law <i>Juris Doctor, with Distinction</i> Class of 2018 Commencement Speaker Pro Bono Certificate, Silver level (53 hours completed)	Conferred: 5/2018
	Nebraska Wesleyan University <i>Bachelor of Arts</i> Major: K-12 Spanish Education Class of 2013 Commencement Speaker	Conferred 5/2013
LANGUAGES	Spanish: ILR Self-Assessed S-3, R-3, L-3 Portuguese: ILR Self-Assessed S-1, R-2, L-1	
EXPERIENCE	Marvel & Wong, PLLC	05/2018–Present
	<ul style="list-style-type: none">◆ Drafted documents related to uncontested divorces, including petitions, waivers of service, and decrees◆ Attended client hearings and mediation sessions	
	University of Nebraska General Counsel	04/2017–04/2018
	<ul style="list-style-type: none">◆ Assisted associate general counsel in researching a large variety of legal issues including education, civil rights, contract, property, and immigration law◆ Completed legal analysis on short notice and strict deadlines◆ Research legal documents and outcomes of similar issues at other Big 10 universities	
	University of Nebraska Civil Clinic – Senior Certified Law Student	01/2018-05/2018
	<ul style="list-style-type: none">◆ Represented low-income citizens, seniors, and veterans in a wide variety of civil and administrative cases◆ Co-led the Veteran’s Advocacy Project Coffee & Counsel, a monthly event that provides veterans with receive free, limited scope legal advice◆ Researched and communicated legal information with clients facing issues related to child support modification, divorce, small claims procedure, criminal set-asides, name changes, estate planning, and defense to creditor claims◆ Assisted a client through a divorce from initial meeting. I successfully co-drafted the parenting plan, the financial plan, the property settlement agreement, and represented the client at the final divorce hearing in the Lancaster County District Court.	
	Dept. of Justice Executive Office of Immigration Review – Extern	01/2017–05/2017
	<ul style="list-style-type: none">◆ Evaluated cases, prepared, edited, and proofread judicial opinions◆ Researched, analyzed, and applied the Immigration and Nationality Act to asylum applications, cancellation of removal applications, and aggravated felony situations◆ Evaluated evidence related to individual cases with strict deadlines	
	Lancaster County Public Defender’s Office – Law Clerk	02/2016–04/2017
	<ul style="list-style-type: none">◆ Researched, analyzed, and applied legal authority to provide fair representation to all◆ Prepared, edited, and proofread written materials such as legal memorandums and briefs◆ Interviewed and informed clients with mental health issues of their options before mental health board meetings	
	Fulbright Scholar – English Teaching Assistant	02/2014–11/2014

- ◆ Effectively planned and administered English and American Culture lessons for students at the Universidade Federal de Sergipe
- ◆ Crafted hands-on activities unique to a language learning classroom
- ◆ Worked collaboratively with university personnel to create a safe and welcoming language learning classroom for students
- ◆ Effectively adjusted teaching methods to meet the needs of both university and elementary students
- ◆ Immersed myself in Brazilian culture through Capoeira lessons and through living with Brazilian students
- ◆ Studied Portuguese through daily interactions

PUBLICATIONS Beyond the ‘To Be’ Syndrome - Co-author

Published: 2015

- ◆ Published “Beyond the ‘To Be’ Syndrome: An Alternative Method to Teaching Language” to Amazon.com and BarnesandNobel.com
- ◆ Provided ideas and activities to over 3,000 students and professors world-wide
- ◆ Obtained recognition from the U.S. Fulbright Program, the U.S. State Department, and the Coordination for the Improvement of High Education Personnel (CAPES), a division of the Brazilian Ministry of Education
- ◆ Provided free DVD book access to members of the American English teaching community throughout Central and South America via americanenglish.state.gov

LEADERSHIP Student Bar Association-- 3L Class President

04/2017–05/2018

2L Class Vice President

05/2016–04/2017

1L Class Vice President

10/2015–04/2016

- ◆ Attend bi-weekly meetings to discuss techniques to improve the law community
- ◆ Organize school wide events such as Family Fun Day, Barrister Ball, and the 2018 Class Gift and Outside Commencement Speaker

HONORS

CALI Excellence for the Future Recipient – Civil Clinic

05/2018

- ◆ The “CALI award” is given to the student with the highest grade in a class

Outstanding Civil Clinic Student for Spring 2018

05/2018

- ◆ Selected as a co-recipient by the Civil Clinic advisors for my work with clients through the Veterans Advocacy Project, where my partner and I provided legal services to 18 veterans through the clinic Coffee & Counsel Program

INADR 2018 International Law School Mediation Tournament

02/2018

- ◆ Recipient of “Spirit of Mediation” Award voted on by competitors

College of Law 2018 Frank & Lawson Client Counseling Competition

01/2018

- ◆ University of Nebraska Client Counseling Competition Champion – 2018
- ◆ University of Nebraska Client Counseling Competition Participant – 2017
- ◆ University of Nebraska 1L Client Counseling Competition Participant - 2016

Young Leaders Fellowship, Confucius China Studies Program - Xi’an, China

05/2017

- ◆ Attended comparative law courses taught by Chinese professors at Xi’an Jiaotong University
- ◆ Participated in cultural exchange activities with Chinese law students
- ◆ Completed a comparative research analysis of the history of same sex marriage, where the law stands now, and where it may go in the future in China and the United States

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ATTORNEY GENERAL SPECIAL COLLECTIONS UNIT AND THE MYSTERIES CONTAINED THEREIN

I. SCOPE OF PAPER

When a potential client calls with the frantic news that their bank account has been seized for back child support, the client wants answers immediately. The Office of the Attorney General, as the statutory Title IV-D agency in Texas, (OAG) collects child support arrearages from assets of the obligor. Income withholding is the statutory (and typical) method for withholding from wages for current and past due child support. TEX. FAM. CODE §158.001. But any asset owned by the obligor is subject to lien, seizure, and/or foreclosure to pay off back child support.

This paper will address the collection methods managed by the Special Collections Unit (SCU) of the OAG. This department processes lump sum payments to reduce arrearages. The paper explains the collection method, statutory authority and gives the practitioner steps to assist the client in resolving the claim.

II. ACKNOWLEDGEMENTS

Barry Brooks, managing attorney of the Special Collections Unit, provided much of the background information on the inner workings of the SCU. His boss, Joel Rogers, Associate Director for Policy & Legislation for the Child Support Division, also assisted in the review and preparation of this paper. I am grateful for their background information and for shedding light on the mysterious processes behind the curtain at the SCU.

III. STATUTORY AUTHORITY

In response to the crisis of unpaid child support and a perceived explosion of welfare cases, Congress required each state create a state plan for child and spousal support laws, which work to improve child support effectiveness. 42 U.S.C 654(20)(A). Income withholding is the most familiar result of this law, along with a statewide child support disbursement unit that processes and records payments. TEX. FAM. CODE §231.101(a)(6).

Section 454 of the Social Security Act of 1975 requires a State to provide for the establishment or designation of a single and separate organizational unit . . . within the State to administer the child support plan. 42 U.S.C 654. As directed by federal statute, the Texas Legislature appointed the Office of the Attorney General as the responsible Title IV agency for child support enforcement functions. TEX. FAM. CODE 101.033; 231.001. As the Title IV-D agency, the Office of the Attorney General holds the power to take any action with respect to execution, collection, and release of a judgment or lien for child support necessary to satisfy the judgment or lien. TEX. FAM. CODE.

231.002(e)(4); 231.101(a)(6) (amendments effective Sept. 1, 2018).

In order to meet this objective, when a support arrearage exists, a state agency, in Texas, the Office of the Attorney General, may secure assets in order to satisfy any current support obligation and the arrearage by imposing a lien, and in appropriate cases, may force sale of property and distribute the proceeds. 42 U.S.C 666(c)(1)(G)(iv); TEX. FAM. CODE 231.101(a); 231.104(b).

IV. USEFUL OAG SLANG & TERMS

CP – Obligee who receives child support

NCP – Obligor who pays child support

FIDM – Financial Institution Data Match – see section 9 below.

SCU – Special Collections Unit – OAG department tasked with handling these unusual collections.

Local Unit – the AG office(s) in the county assigned to handle the case.

V. SPECIAL COLLECTIONS UNIT OF OAG

The Special Collections Unit (SCU) is comprised of 45 employees, including a managing attorney and two staff attorneys. Monthly collections average \$10 million dollars. It is housed in Austin. Their duties include capturing child support arrears from any source outside of periodic income withholding. TEX. FAM. CODE §231.002(a), (e)(4). This unit also oversees collection and enforcement of child support for children in foster care and Child Protective Services cases and manages the Interstate Central Registry. The Interstate Central Registry receives and opens child support cases initiated by other states and then farms the case out to the local unit for legal processes. TEX. FAM. CODE Ch. 159, *et. seq.*

The SCU does not handle unclaimed property accounts through the Texas Comptroller or driver's and professional license suspension (handled by local unit and referred to State Office of Administrative Hearings). Additionally, the SCU does not respond to obligee (CP) inquiries or give information to obligees (or their attorneys) about property seized and the results of their work. The local unit may be able to give the obligee (CP) some information about the status but also does not disclose the activities of the SCU.

VI. HOW DO I REACH THESE PEOPLE?

A pull-out sheet with contact information is provided in the appendix. The telephone number is 866-445-4556. First, they need permission to talk to you. If you are not listed in the AG system as the attorney of record, fax a letter of representation on your firm letterhead to 888-272-5122. A sample letter of representation is provided in the appendix. You can also

use the OAG Authorization for Release of Information, executed by your client, which is provided in the appendix and can be accessed at <https://www.texasattorneygeneral.gov/files/cs/1A004ae.pdf>. The telephone number is 866-445-4556. Attorneys can press the attorney prompt line when calling. Their voicemail is monitored continuously, and calls will be returned within two business days. The SCU requests you always leave a message if you do not reach a representative immediately, giving your telephone number and case information (client name and OAG case number or social security number).

No, you cannot contact the SCU through email.

VII. CHILD SUPPORT LIENS THROUGH THE SCU

The child support lien permits the SCU to attach many types of assets. While the lien process is available to private attorneys this paper will address the SCU's use of child support liens in various actions, most of which are only available to the SCU as the statutory Title IV-D agency. TEX. FAM. CODE §§231.002(e)(4), (g). For a discussion of child support liens and levies in private cases, see Marvel, Karen, et. al., *Child Support Enforcement – It Only Takes One*, Chapter 28, 41st Annual Advanced Family Law Course (2015).

VIII. OVERVIEW OF CHILD SUPPORT LIENS – WHEN & HOW

A lien arises by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State. 42 USC 666(a)(4). TEX. FAM. CODE 157.313; 157.312(d). A child support lien can attach to any property owned by the obligor, except for a homestead. Tex. Fam Code 157.317(b); Tex. Const. Art. XVI, sec. 50. The precise contents required in a lien notice are found in TEX. FAM. CODE 157.3131, and must be filed by the claimant with either the county clerk of any county where the obligor is believed to own nonexempt real or personal property of in the county in which the obligor resides; with the clerk of the court in which a claim, counterclaim, or suit by the obligor is pending (providing that a copy of the lien is mailed to the attorney of record for the obligor); or with an attorney who represents the obligor in a claim or counterclaim that has not been filed with a court. TEX. FAM. CODE §157.314. The filing of the lien serves as a record of notice and is effective for 10 years from the date the notice is recorded in the county clerk's office in the county where the property of the obligor is located and can be renewed. TEX. FAM. CODE §§157.318; 157.319. For real property in which the original filing was after May 26, 2009, this lien may be extended for

an additional 10-year period if requested prior to the expiration of the original recording of notice. TEX. FAM. CODE §157.318. The power of the lien is broad—it can be used as a means of recouping the original child support and arrearages, as well as all current support and child support arrearages, including interest, any costs and reasonable attorney's fees, and any Title IV-D services fees have been paid." TEX. FAM. CODE §157.318(a).

Liens for real property are generally sent out by the local OAG units. The SCU uses child support liens to capture funds at financial institutions and for insurance or personal injury or civil case claims.

IX. FINANCIAL INSTITUTION DATA MATCH

A. What Happens –

Obligor's bank account, 401k or certificates of deposit are frozen.

If a match is made, the SCU issues a Notice of Child Support Lien to the financial institution to freeze the funds. Contrary to urban legend, the money is not immediately seized and delivered to the CP. The financial institution holds the money until it receives instructions from the SCU for a levy. The SCU issues a Notice of Child Support Levy. TEX. FAM. CODE §157.327. When a levy is issued, the NCP has 10 days to contest the notice of levy. If no contest is received by the OAG and the financial institution, the financial institution must deliver the funds to the State Disbursement Unit.

B. Statutory Authority—

The Financial Institution Data Match is authorized by federal statute. 42 U.S.C. 666(a)(17). Financial institutions shall provide customer information (name, address and social security number) to the OAG on a quarterly basis. Tex. Admin. Code §§55.553; 55.556. The AG participates in data matches for federal and state chartered financial institutions. A local unit will review the match in the system when funds are discovered and approve the issuance of the lien. The SCU checks the financial institution report to match obligors with bank accounts.

C. What Can You Do—

Contact the SCU to negotiate an agreed payment and release of account. If the account is jointly owned by obligor and spouse, the SCU generally will release 50% of the funds to the spouse. The SCU will negotiate the amount of the seizure, depending on the amount of arrearages, length of time since last payment and any hardships in obligor's family. When you reach agreement, the OAG will have obligor sign an agreed notice of levy for the amount to be paid and the OAG

1 A notice of a lien for child support may be in the form authorized by federal law or regulation—the federal form

does not require verification when used by the Title IV-D agency. Tex. Fam. Code 157.313(e).

will release the remainder of the funds in the account. This process takes several business days.

X. INCOME TAX REFUND INTERCEPT

A. What Happens –

After filing a tax return, the obligor is notified by the IRS via mail the tax refund has been intercepted and transferred to the State Disbursement Unit for distribution to the CP. The AG holds the tax refund for 120 days to allow for appeals by a taxpayer (usually the obligor's spouse.) If no appeal is filed, the funds are released to the CP.

B. Statutory Authority –

- (a) [. . .] If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to the past-due support, shall concurrently send notice to such individual that the withholding has been made (including in or with such notice a notification to any other person who may have filed a joint return with such individual of the steps which such other person may take in order to secure his or her proper share of the refund), and shall pay such amount to the State agency (together with notice of the individual's home address) for distribution in accordance with section 657 of this title. This subsection may be executed by the disbursing official of the Department of the Treasury. 42 U.S.C. 644.

There is no minimum amount of arrearages that triggers an tax refund intercept.

C. What Can You Do –

The NCP has a right to protest the income tax intercept through administrative remedies. Tex. Admin. Code §55.101. The request for review is due 30 days after the date of the notice of tax intercept is received. Tex. Admin. Code §55.101(c). Often, a portion of the refund can be released to the innocent spouse of the obligor. Contact the SCU and provide a copy of the parties' income tax return and supporting documents (W-2 of spouse for example) to prove eligibility. As with other remedies, the SCU may negotiate for a partial release of the refund to the NCP under extenuating circumstances. The refund will not be released to the NCP or his spouse. Note – a CP can request early release of tax refund in a hardship case. Examples include a pending eviction or utilities cut off date. Frequently, the obligor stops paying child support when the tax return is seized in a mistaken belief that the funds will apply to current and past due support or to future payments. The problem with that plan is the 120 day hold on the seized refund, which means the CP does not receive the tax

intercept for four months. The SCU and AG will not intercept tax money above the amount due for outstanding arrearages. In other words, there will not be money held for future payments coming due. Advise your obligor client the duty to pay, at least the current support, continues while the tax refund intercept is pending.

If the obligor agrees to release the tax refund to the CP, contact the SCU and execute a waiver of hold period and agreement for application of tax intercept funds to child support arrears. This document can be prepared by the SCU. The obligor may want to do this to pay off a remaining balance to clear her credit report or remove the passport hold.

XI. INSURANCE CLAIMS MATCHING & INTERCEPTS

A. What Happens –

Client has a personal injury case that reaches a settlement. A lien was placed on the proceeds from the insurance company for child support arrearages. Note: personal injury and civil lawsuit issues make up two-thirds of the inquiries to the SCU.

B. Statutory Authority –

Texas mandates the reporting of all property and casualty insurance claims. TEX. FAM. CODE §231.015; Tex. Admin. Code §55.601. The SCU works with the Child Support Lien Network, a national network of insurance companies who report claims against obligors. Tex. Admin. Code §55.602. The claims are matched with obligors owing arrearages and a lien is created.

Some exceptions exist to this reporting requirement. First party property damage claims, third party property damage claims to be paid for repairs, and loss of use reimbursement claims for residences or vehicles. TEX. FAM. CODE §231.015(c)(1), (c)(2). Additionally, benefits for medical expenses incurred by the obligor, benefits assigned to a funeral provider and claims under "limited benefit" (e.g., cancer insurance, dental or vision benefits) programs are not subject to the lien. TEX. FAM. CODE §231.015(c)(3). In a personal injury case, the child support lien is secondary to attorney's fees and statutory hospital liens. Letters of Protection (LOP) will not be honored by the SCU, nor will financing liens for a personal injury case.

C. What Can You Do –

The attorney handling the case where funds are payable by an insurer should be notified by his client about back child support. Any settlement due the obligor will be intercepted and applied to arrearages. The attorney does not have an affirmative duty to seek out the existence of child support arrearages owed by his client. Despite that, a child support lien can ruin a good car wreck settlement offer when the client realizes how

little money she will receive after the child support is paid off. Two-thirds of the inquiries to the SCU involve insurance intercepts or civil case settlements.

Is a negotiation of the amount possible? Sometimes. If the obligor and CP agree to a deal where only a portion of the arrearages will be paid, a child support arrearage judgment for the entire amount due must be secured from the court. TEX. FAM. CODE §157.263(b-1); *Williams v. Patton*, 821 S.W.2d 141 (Tex. 1991). After the cumulative money judgment is granted, the CP and NCP have the right to negotiate a reduction of the judgment and that reduction can be part of the settlement of the case. If that happens, the CP must execute a partial release of the judgment. If the remaining funds paid to the CP extinguish the child support arrearages, a full release of judgment should be prepared and executed.

XII. PASSPORT DENIAL AND NON-RENEWAL

A. What Happens –

Obligor applies for a passport or to renew her passport and the application is rejected by the State Department.

B. Statutory Authority –

The U.S. Secretary of State cannot issue a passport to an individual who owes child support arrearages of more than \$2,500.00. 42 U.S.C. 652(k), 652(k)(2); 22 C.F.R. 51.60. The \$2,500.00 threshold includes judgments or arrearages not reduced to judgment. Even if obligor is in a repayment plan and complying with the plan, so long as at least \$2,500.00 is owed, a passport application will automatically be denied. 22 C.F.R. 51.60. The OAG submits arrearages to the State Department, who matches the flagged individuals when an obligor applies for a passport.

C. What Can You Do—

Negotiate a payment with the SCU to secure a passport release. The SCU considers the amount of unpaid arrearages, the purpose of the travel (work or pleasure) and the amount of lump sum that can be paid. When satisfactory payment is made, the SCU notifies the State Department to clear the passport hold. According to the State Department website, there may be a 2 – 3 week wait. <https://travel.state.gov/content/travel/en/passports/legal-matters/child-support.html> (accessed 7/13/2018). Note – the magic number is \$2,500.00 in arrears. So long as obligor owes at least that much the passport hold is automatic. A trial court has no jurisdiction to remove a passport restriction. All arrears must be paid to release the passport hold. It takes approximately seven business days for the State Department to release the hold. In the case of obligor applying to work out of the country, the SCU will usually negotiate a release with proof of employment and the ability to issue an income

withholding order to the obligor's employer. If the obligor owes child support in more than one state, each state must release the passport hold before the State Department reinstates passport eligibility.

XIII. ANNUITY OR STRUCTURED SETTLEMENT

A. What Happens—

An NCP who receives an annuity or structured settlement is subject to an administrative writ for income withholding. If the payee arranges for an advance of the payments by transferring the structured settlement payment to an entity a portion of the advance can be withheld to pay child support.

B. Statutory Authority—

Earnings include payments under an annuity. TEX. FAM. CODE §101.011. All disposable earnings (the portion remaining after certain mandatory deductions) are subject to child support withholding. TEX. FAM. CODE §§101.010; 158.001.

C. What Can You Do—

When a structured settlement is sold, a court must approve the terms of the sale and make a finding that the sale is in the best interest of the payee, after considering the welfare of the payee and dependents. Tex. Gov't. Code §141.004(1). The SCU will work with the NCP payee to negotiate payment of the child support.

XIV. CIVIL ASSET FORFEITURE UNDER CODE OF CRIMINAL PROCEDURE

A. What Happens—

Property from a “criminal enterprise” is seized by law enforcement. The enforcement agency abandons their right to collect on the property. The SCU will make a claim. This collection occurs infrequently because law enforcement agencies get first dibs on the property. The AG has the right pursue the forfeiture as a law enforcement agency. Tex. Code Crim. P. art. 59.01(1). Note – most law enforcement agencies retain the right to capture these funds. Bexar and Harris Counties notify the SCU if they abandon their claim so the SCU can step in and seize the asset.

B. Statutory Authority—

Any property used in the commission of a crime is contraband and subject to forfeiture. Tex. Code Crim. Proc. Art. 59.01(2). The list of crimes that fall under this statute is copious. A forfeiture hearing is filed as a civil suit. Tex. Code Crim. P. art. 59.05.

C. What You Can Do—

Civil asset forfeiture is the subject of much debate in Texas. The seized property will be subject to a child support lien and the SCU can negotiate this settlement.

XV. CLASS ACTION SUITS**A. What Happens—**

Proceeds from a class action lawsuit can be captured by a child support lien.

B. Statutory Authority—

See section 8 above for the reach of a child support lien. No national database or tracking mechanism matches class action lawsuit claimants with unpaid child support cases. The SCU searches these cases to determine if an obligor can receive funds. In these cases, both the plaintiffs (class action representative law firm) and defendants are put on notice of a child support lien.

C. What You Can Do—

As with every child support lien, a negotiation and settlement may be available through the SCU.

XVI. EMPLOYEE LUMP SUM**A. What Happens –**

If an income withholding order is in effect and arrearages are due, employers who pay bonus lump sum payments to NCPs must withhold child support from the lump sum payments to apply to the arrearages. The employer must notify the AG of the lump sum owed to the obligor and cannot pay the lump sum until 10 days after delivering notice to the AG.

B. Statutory Authority –

TEX. FAM. CODE §158.215 states a lump sum is income paid to an obligor other than vacation or other leave time. This section only applies to administrative income withholding writs issued by the AG.

C. What Can You Do –

Any Notice of Income Withholding (administrative writ of income withholding) issued by the AG can be challenged. TEX. FAM. CODE §158.506. First a request for review is initiated by the NCP. TEX. FAM. CODE §158.506(a). This request for review can be in the form of letter. Contact the SCU. The review may be as informal as a telephone conference with the SCU. *Id.* If no agreement is reached at this informal review, a motion requesting modification of the administrative writ is filed in the court of continuing exclusive jurisdiction. TEX. FAM. CODE §158.506(c). The deadline for filing this motion and requesting a hearing is the 30th day after the NCP receives notice of the result of the informal review. At the hearing, which is the formal review of the administrative writ, the court can determine whether the arrearages are correct and accept or modify the withholding amount. While the motion for review is pending, the administrative writ remains in effect. *Id.* The local unit represents the AG at these hearings.

Like any other withholding or intercept, call the SCU to see if an agreement can be worked out to pay a portion of the withheld money rather than all of it. In practice the SCU generally will not agree to a partial repayment in these cases. There is no statutory deadline to object to a withholding but there is a practical one. If the employer does not receive any communication from the AG within 10 days, the employer may pay the employee. The SCU carefully tracks these cases and if your client wants part of the bonus, the SCU must be notified of the objection to the withholding.

XVII. EMPLOYEE SEVERANCE PAY**A. What Happens –**

When an employee is terminated and severance pay will be remitted, the employer withholds a portion of the severance to pay as child support.

B. Statutory Authority –

TEX. FAM. CODE §158.214 requires the employer to withhold the regular periodic amount from a severance check and send that in addition to the amount withheld for any pay period.

C. What Can You Do—

Probably nothing. The withholding is capped at the maximum amount due for the pay period. So if NCP receives one month's severance, the employer withholds one month's child support and one month's arrearages, with a limit of 50% of the NCP's disposable earnings. TEX. FAM. CODE §158.214(c).

XVIII. EXCESS TAX SALE PROCEEDS –**A. What Happens—**

A notice of child support lien is on file in the real property records. If property is posted for sale at a tax foreclosure, the taxing entities name all other lienholders (like AG) as in rem defendants. If excess proceeds remain after the taxing entities are paid, the child support arrearages can be paid from the proceeds.

B. Statutory Authority—

Tex. Tax Code §34.01, et. seq. governs delinquent tax sales. The OAG, as an in rem defendant, files a response.

C. What Can You Do—

A court order will be entered to collect the excess proceeds. At that time a negotiation of division of the proceeds is possible.

XIX. LOTTERY INTERCEPT**A. What Happens—**

The executive director of the Texas Lottery seizes lottery winnings from NCPs who owe child support. The OAG reports delinquent obligors to the Lottery Commission in a data match.

B. Statutory Authority—

Tex. Gov't Code §466.4075 Deductions of Child Support from Certain Lottery Winnings:

- (b) In the event of a single payment, the executive director shall deduct from winnings of the prize winner an amount for delinquent child support owed by the prize winner if the executive director has been provided with a certified copy of a court order or a writ of withholding issued under Chapter 158, Family Code, or notice of a child support lien created under Subchapter G, Chapter 157, Family Code.
- (c) If the prize is paid in periodic installments, the executive director shall deduct from periodic installment winnings paid to a prize winner amounts owed by the prize winner for child support if the executive director has been provided with a certified copy of a court order or a writ of withholding issued under Chapter 158, Family Code, or notice of a child support lien created under Subchapter G, Chapter 157, Family Code. This subsection does not apply to the payment of amounts to a person to whom the prize winner assigns the right to receive prize payments under Section 466.410. [§466.410 allows an individual to assign their prize to another person, except if the person attempting to assign the right owes child support arrearages.]

C. What Can You Do—

As with every other lien and writ of withholding, some negotiation is possible. The local unit handles the negotiations.

XX. MOTOR VEHICLE REGISTRATION DENIAL**A. What Happens—**

The annual vehicle registration will be denied if an NCP owes more than six months in child support arrearages. The denial is automatic and based on a data match between the SCU and the Department of Transportation (TXDOT).

B. Statutory Authority—

TEX. FAM. CODE §§232.0022 and 232.0135. Although this chapter permits suspension of licenses if the obligor is 90 days behind in child support, it also permits the OAG to deny the issuance or renewal of licenses if the NCP failed to pay child support for six

months or more. With motor vehicle registrations, the OAG notifies TXDOT of obligors who meet the criteria for denial. Tex. Admin. Code Title 43, part 10, Rule §217.30. Full payment of the arrears, or an immediate payment of not less than \$200, is required by statute before the OAG is authorized to lift the denial. Consequently, this is one of the few statutory remedies that compels payment of past due child support from 100% disabled veterans and SSI recipients. TXDOT must notify the NCP of the denial when it mails the registration form. The suspension amount applies to each vehicle owned by the NCP.

C. What Can You Do—

The dedicated phone line for registration renewal denial is 866-646-5611. The SCU will negotiate with obligors and the denial can be cleared in a few business days.

XXI. PROBATE –**A. What Happens—**

If the NCP dies, child support remains an obligation of the estate. An NCP who is an heir to an estate can have the inheritance seized for repayment of arrearages. The SCU, working with local unit, will file and litigate in probate court to collect past due child support.

B. Statutory Authority

Every child support payment not timely made becomes a final judgment by operation of law. TEX. FAM. CODE §157.261. Child support is a class 4 claim against estate assets regardless of whether the arrearages have been reduced to judgment. Tex. Estates Code §355.102(e). A child support lien can be delivered to the clerk of the court and the attorney for the Executor/Administrator when the NCP is a potential heir. TEX. FAM. CODE §157.314(b)(1).

C. What Can You Do—**i. If the NCP is the decedent—**

The obligee files a claim with the estate in the probate court.

ii. If the NCP is the Heir –

Put executor or administrator on notice for any funds payable to NCP as heir. The NCP heir cannot disclaim their share of estate if a child support claim is made. Tex. Prop. Code §240.151(g). A determination of arrearages from the court of continuing, exclusive jurisdiction (cumulative judgment) determines the estate's liability and will assist the NCP in negotiating what portion of the inheritance will be paid to satisfy the child support.

XXII. QUALIFIED DOMESTIC RELATIONS ORDERS (QDROS)**A. What Happens—**

A defined contribution plan can be garnished to pay child support arrearages (and current support). A QDRO must be signed by a court.

B. Statutory Authority—

QDROs are governed by federal law – specifically, the Employee Retiree Income Security Act (ERISA), 29 U.S.C. §1002(2). A Texas court of appeals approved the use of a QDRO for a lump sum payment of child support. *Quijano v. Quijano*, 347 S.W.3d 345 (Tex. App. – Houston [14th Dist.] 2011, no pet.

C. What You Can Do—

The repayment terms can be negotiated with the SCU. Contact the SCU to request an informal review. If the informal review is not satisfactory, an action to modify the terms of the QDRO can be filed. The form will be similar to a challenge to an administrative writ of income withholding in section 16, page . Practice Tip – In a divorce case, get the QDRO awarding property to your client submitted immediately. Under ERISA, QDROS are processed as “first in time, first in right”. If the NCP owes child support to someone else, the QDRO issued by the SCU may capture the property owed to your client.

XXIII. SOCIAL SECURITY LUMP SUM COLLECTION**A. What Happens—**

The Social Security Administration (SSA) withholds part of a lump sum for back pay award for child support. arrearages.

B. Statutory Authority—

SSA POMS GN 02410.215(A)(5) instructs the SSA on income withholding for child support. The maximum amount withheld via income withholding is 50% of 50% of the lump sum award. Note – this statute applies to social security disability benefits (SSDI) only. Supplemental Security Income (SSI) cannot be garnished to pay child support or child support arrearages. The SCU must have an income withholding order already in effect with SSA to capture any lump sum awards.

C. What Can You Do—

See section 16 above, which explains how to challenge an administrative writ of income withholding. The Social Security Administration has no control over this process.

XXIV. STATE DEBT SET OFF**A. What Happens –**

NCP is owed money for a state contract. This includes state employees, contractors, or a tort settlement with the State of Texas. Through a data match with the Comptroller’s office NCPs are identified and the funds are intercepted. A Notice of Income Withholding will be delivered to the Comptroller. TEX. FAM. CODE §158.501(a). The AG will give notice to the NCP before or at the time the Notice of Income Withholding is delivered.

B. Statutory Authority

TEX. FAM. CODE §231.007 describes the authority and mechanism for capturing a State of Texas debt owed to NCP. Funds subject to capture include any warrants (State of Texas checks) or electronic fund transfers owed by the state to the obligor. The OAG submits information on obligors to the Comptroller and a data match confirms money owed by an NCP.

C. What Can You Do—

The NCP should initially contact the number on the notice they receive. This is answered and dealt with by State Office. It is only if an agreement cannot be reached that the NCP is referred to the SCU for further negotiations. See section XVI above for a description of how to challenge a Notice of Income Withholding.

XXV. TDCJ INMATE TRUST ACCOUNTS**A. What Happens –**

A child support lien is issued against the Inmate Trust Fund. This lien applies to NCP prisoners in the Texas Department of Criminal Justice – Institutional Division who have more than \$500 in the inmate account. Once the lien is filed the AG must institute a foreclosure action unless the NCP agrees to surrender the funds.² A foreclosure is required even if a child support judgment is already in place. As in all cases, a notice of child support lien must be delivered to the NCP. For inmates the AG gives notice by mail and provides the inmate with the form to contest the lien as well as a self-addressed stamped envelope.

B. Statutory Authority

An inmate’s money is subject to lien upon receipt of a “court order”. Tex. Gov’t. Code §501.014.

C. What Can You Do—

A lien can be contested under §157.323 by filing an action in district court. Prior to that, as with all child support liens issued by the SCU, negotiation is an

² A notice of child support levy under Tex. Fam. Code §157.327 does not apply to these accounts because the Inmate Trust Fund is not a financial institution.

option and an agreement can be implemented without court intervention.

XXVI. CONCLUSION

The reach of the SCU extends well beyond bank liens and passports. When dealing with the SCU, your client's willingness to acknowledge the outstanding arrearages will assuage some ruffled feathers. There are few cases where an obligor reclaims everything captured by the SCU. But in the quest to collect child support, there is room for compromise on lump sum assets.

Contact Information for Special Collections Unit

Office of the Attorney General
Special Collections Unit
P.O. Box 12027
Austin, TX 78711-2027

Telephone: 866-445-4566
Fax: 888-272-5122

****Special Number for Motor Vehicle Registration Denials**
Telephone: 866-646-5611

SAMPLE LETTER OF REPRESENTATION

Office of the Attorney General
Special Collections Unit
P.O. Box 12027
Austin, TX 78711-2027
VIA FAX 888-272-5122 (page 1 of 1)

RE: Cause No. 2014-CI-11111; In the Interest of Ima Boy, A Child; In the 37th
Judicial District Court of Bexar County, Texas
NCP Oscar Obligor SSN 999-99-9999; CP Olive Obligee
OAG Case No. 015555555

Dear Sir or Madam:

I have been hired by Oscar Obligor in this case and this letter serves as
my notice of representation. Please add me to your case file as attorney of record
so that I can call your office and discuss this case with you today.
Thank you for your prompt assistance in this matter.

Sincerely yours,

LILLIAN LAWYER
State Bar No. 007
Email lilly@lillianlawyer.com

LL/me
cc: Oscar Obligor

MC: ME
Bar Code Area
FS#:
Central File Maintenance
P.O. BOX 12048
AUSTIN, TX 78711-2048



CHILD SUPPORT DIVISION

Date:

OAG Case Number:

Vea Español al Otro Lado**Important**

Dear

Please read this page. It describes your responsibilities if you choose to authorize another party to receive case information on your behalf or obtain assistance from a private collection agency or private attorney. Below are some of the conditions that must be met for us to properly work the child support case. Failure to follow these guidelines may result in our taking appropriate action as permitted by federal regulations.

- All case information provided to a third party must be used for child support purposes only.
- All requests for information must be answered within the time frame specified.
- All payments must go through the Texas Child Support Disbursement Unit before being distributed to a private collection agency or private attorney.
- Any changes in arrears must be approved by our office.
- Non-cash child support must be approved by our office.
- We must be provided with timely notice of each order, writ or lien entered in the case by your representative.

To authorize the release of information and/or child support payments to another party, complete the enclosed form.

Please return the completed form to:

Office of the Attorney General
Central File Maintenance
P.O. BOX 12048
Austin, TX 78711-2048

If you have any questions, please call 1-800-252-8014.

MC:

Attorney General Case #:

AUTHORIZATION FOR RELEASE OF INFORMATION OR PAYMENTS

Print your current name: _____

Other names you have used: _____

Name of the other party in the case: _____

Names of all children on this case: _____

OAG Case Number (10 digit number included in OAG correspondence about this case): _____

Phone number where you can be contacted: (____) _____

☐ home ☐ work ☐ cell ☐ relative or friend

You do not have to redirect your payments in order to release information or records. The two choices provided below are independent of each other.

By submitting this completed, signed, and dated form, I authorize and request the Office of the Attorney General (OAG) to do the following: (You must place your **initials** next to each item that applies.)

Release information or records on my case

(OAG number given above)

This person is (check one)

- ☐ my attorney
☐ a private collection agency
☐ a representative that I am designating.

Initials: _____

Name : _____

Phone Number: _____

Address : _____

City, State: _____

Zip Code: _____

OR

Send any payments on my case (OAG number given above) to the person I am naming below. I understand that this may delay my receiving my payment. I also understand that this revokes any direct deposit authorization that I have already given to the Office of the Attorney General.

Initials: _____

This person is (check one)

- ☐ my attorney
☐ a private collection agency
☐ a representative that I am designating.

Name: _____

Phone Number: _____

Address: _____

City, State: _____

Zip Code: _____

I understand that this authorization automatically expires if the case is closed. I may choose to revoke this authorization at any time by submitting a completed, signed, and dated Revocation of Authorization for Release of Information or Payments.

I understand that the Office of the Attorney General of Texas is not responsible for disputes between the listed party and me as a result of this arrangement. (Please note the date of your signature is required.)

Signature_____
Date (required)_____
Address_____
City, State, ZIP