Handout 1: Turnover Orders

What Needs to be Shown for a Turnover Order?

- The court that the application is filed in is a court of jurisdiction, which means either:
    - The court that issued the judgment; or
    - A court where a foreign judgment has been domesticated (hardly ever happens).

  AND

- The judgment debtor owns property that is non-exempt and therefore may be used to satisfy the judgment.

- Because the statute only authorizes a turnover order upon proof of the necessary facts, the court must have "some evidence" before it that establishes the facts the judgment creditor must show (listed on the previous slide).
    - Usually this is done in an affidavit.
    - But the court could hear live testimony at a hearing.

- How much evidence is sufficient is up to the court.

Must the Court Hold a Hearing?

- No!
- It is up to the court whether to hold a hearing or notify the judgment debtor of the application.
- The court may grant the order ex parte.
- Question:
    - Why might you notify them?
    - Why might you not notify them?

Does the Order Have to Say What Property to Turn Over?

- No!
- The order does not have to identify specific property to be turned over.
    - But the property must be non-exempt.
- The court may therefore not order the judgment debtor to turn over current wages.

What Happens if a Judgment Debtor Fails to Comply with a Turnover Order?

- Contempt proceeding!
- But a big issue here is whether the turnover order is specific enough that the judgment debtor can comply with it?
    - If the order doesn't identify any specific property, how does the debtor know what he has to turn over?
    - You can't hold someone in contempt for failure to comply with a vague order!