Q: What is the difference between "joint" and "several" in a guarantee?

A: When two or more persons or corporations sign a joint and several guarantee, the words "joint and several" refer to both the nature of the liability of the guarantors under the guarantee and the options available to the lender in seeking recovery of its borrower's indebtedness from the guarantors.

A joint guarantee means the signatories are jointly liable as a group for the borrower's indebtedness. If one guarantor does not pay, the others are on the hook to fulfill the group's obligation to repay the full amount of that indebtedness.

A several guarantee means the signatories have made separate or individual promises to guarantee the repayment of the borrower's indebtedness. Sometimes these individual promises are just to repay a certain percentage or proportion of the borrower's indebtedness. However, the more common individual promise is to repay all or 100% of the borrower's indebtedness, so the traditional distinction between joint and several has been eroded.

Most guarantees in today's market are drafted as "joint and several" guarantees, meaning that each guarantor is both jointly liable (as a member of the group) and individually liable (on its own separately), to the lender for the repayment in full of a borrower's indebtedness. In legalese, it's a traditional "belts and suspenders" type of coverage.

A lender seeking to make demand upon and enforce a joint and several guarantee may choose to commence proceedings against all of the guarantors in a joint action, or choose to launch a claim against any one individual guarantor, in each case for the full amount of the borrower's indebtedness. In most cases, the lender will sue all guarantors jointly and individually. However, a lender may choose not to pursue a particular guarantor who is known to be insolvent or judgment proof in order to save on costs, and instead choose to
proceed only against those guarantors known to have available assets.

Any guarantor who makes a payment to a lender under a joint and several guarantee can always seek contribution from the other guarantors in separate proceedings.

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