

What You Can Do to Try to Collect Your Money

Once you have a judgment, you should be aware that it does not necessarily follow that the defendant(s) will hand you the money. In the event the judgment is not paid within 30 days and no appeal is pending, the plaintiff is thereafter known as the "Judgment Creditor".

There are four methods of collecting your money. You should be aware, however, that these steps can be complicated and do not always result in getting you your money. All actions requested after judgment require payment of the filing fee of \$50.00, except the Judgment Lien. Checks or money orders should be made payable to the "Superior Court of Vermont."

Financial Disclosure

If a payment pursuant to a judgment is overdue for 30 days or longer, you can request the court to hold a financial disclosure hearing. This means that the defendant would be ordered to testify concerning his or her ability to pay the small claims judgment. The request for such a hearing is made on a form provided by the court clerk.

As mentioned previously, there is a filing fee of \$50.00. (Please see Small Claims Procedure Rule 7.)

Civil Contempt: If a defendant fails to comply with a payment order of the court issued as a result of a financial disclosure hearing, the plaintiff has the option of filing a Motion for Contempt. The motion will be set for hearing, and the defendant has the right to attend the hearing. The plaintiff may recover his or her costs from the defendant. Costs do not include attorney's fees, if any. As mentioned previously, there is a filing fee of \$50.00 (Please see Rule of Small Claims Procedure No. 8).

Trustee Process Against Earnings

If the defendant receives earnings, you may want to ask the court clerk for a form which you can fill out and file called a "Motion for Trustee Process Against Earnings". This procedure authorizes the court to order the defendant's employer to withhold a reasonable amount of money from the defendant's wages and pay that money directly to you. As previously noted, there is a filing fee of \$50.00.

The employer is known as the "trustee". You will need to provide the name and address of the defendant's employer on the form provided by the clerk. Once the motion has been filed and the fee paid, the clerk will schedule a hearing. You will then be provided with the original trustee summons and two copies for service on the defendant and the trustee. **IT IS YOUR OBLIGATION TO SEE THAT THE TRUSTEE IS SERVED WITH THE HEARING NOTICE. IN ADDITION, IF THE JUDGMENT IS A DEFAULT JUDGMENT (see Page 6), YOU MUST ALSO SERVE THE DEFENDANT WITH THE HEARING NOTICE.** This can be done by sheriff. You must make arrangements directly with the sheriff's department located in the county in which the trustee/employer is located. The trustee must be served no less than 14 days prior to the hearing date.

YOU MUST PROVIDE PROOF OF SERVICE TO THE COURT.

Costs of service by sheriff may be added to the amount of your claim.

At the hearing, the Court will determine whether the defendant has neglected or refused to pay or make reasonable arrangements to pay the money. The Court's decision will be based on the information provided by you, the defendant and the employer (trustee).

The Court will also determine the amount of the judgment that remains unpaid and the amount of the defendant's weekly disposable earnings. After the hearing, the court may order the employer to withhold a certain amount of the judgment debtor's wages and to send that amount directly to you. Please be advised, however, that there are certain monetary limitations called "exemptions" established by law and this may limit the amount of money that may be subject to withholding.

Writ of Execution

"Execution" is a process to carry the judgment into effect. A "Writ of Execution" is a document that makes evident the debt of the defendant and commands an officer to take the property of the defendant to satisfy the debt. To request a Writ of Execution, you must file a written request with the clerk. If one is issued, you must then deliver the writ to a sheriff or other person authorized to serve civil papers. Attached to the writ there must be a list of exemptions. Again, you must also pay the filing fee of \$50.00.

The writ is good for only 60 days, so you should give it to the sheriff well before that time expires. Give the sheriff as much information about the defendant as you can to make sure that the sheriff can find the defendant. Leave the original writ and a copy of the writ with the sheriff. You must pay the sheriff in advance the minimum fees required. Please see Small Claims Procedure Rule 9(b).

The sheriff will go to the defendant and demand payment. If the defendant refuses, the sheriff will probably leave empty handed unless the sheriff finds any property that you have identified as property that could be sold at an auction. If you wish, you can ask the sheriff to try again, but you will have to pay the service fees a second time.

Judgment Lien

If the defendant owns real estate, you may want to record a judgment lien against the property. In most cases, a person is entitled to a \$75,000.00 homestead exemption to protect the debtor from losing his/her home.

You have a right to record a judgment lien in the town clerk's office of any town where real property of the debtor is located at any time within eight years from the date the judgment became final. Recording shall consist of filing a copy of the judgment with the date when it became final, certified by the clerk of the court issuing the judgment. There is a fee of \$5.00 for the certification and an additional fee of \$.25 per page. The certified copy will then be recorded by the town clerk in the land records. The town clerk will also charge a fee set by statute for recording the judgment in the land records.

Satisfaction of judgments

When a judgment has been fully paid, the judgment creditor (plaintiff) **MUST notify the court clerk within twenty (20) days** after receipt of the payment. The court clerk will then enter satisfaction of the judgment on the docket.

If the judgment creditor (plaintiff) fails to notify the court (in writing) of the payment within twenty (20) days, the defendant, as the judgment debtor, may ask the court that the judgment be deemed satisfied (please see Rule of Small Claims Procedure 12). There is no filing fee for this request. The clerk will notify the judgment creditor of the defendant's request, and unless the judgment creditor notifies the court in writing within twenty (20) days of receipt of the notice, the court will enter satisfaction of the judgment on the docket. If the Plaintiff objects, a hearing will be set.