



POST-JUDGMENT



COLLECTION

HOW TO COLLECT YOUR JUDGMENT IN
THE DISTRICT COURT OF MARYLAND

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This booklet was developed by the District Court of Maryland, in cooperation with Eliot M. Wagonheim, Esquire. Mr. Wagonheim is the author of *The Art of Getting Paid: The Business Owner’s Guide to Collecting Debts and Managing Receivables in Maryland*.

INTRODUCTION

This guide is designed to help you collect a judgment, or the money you have won in a lawsuit. This collection process can be time consuming and there is no guarantee that the defendant will pay you the amount owed.

The court will not act on its own to collect the money you are owed. It is up to the individual who has been awarded a judgment to take the steps necessary to enforce it.

If the defendant in your case is not willing to pay the debt or work out a payment plan, you will have to complete and file more forms with the court, pay the required filing fees and appear in court for additional hearings. These fees are automatically added to the amount of your judgment.

Because collecting a judgment can be a complicated procedure, you may want to consult with an attorney or hire an attorney to help you.

Throughout this guide, the person who won the judgment or the judgment creditor is referred to as *you*; the person ordered to pay, or the judgment debtor is referred to as the *defendant*.

FIRST STEPS

Once you have won your case, your judgment is automatically recorded in the court in which you won. Regardless of how you choose to collect your money, there is an automatic 10-day stay before you can begin proceedings to collect. Throughout collection efforts, you must provide the defendant with copies of motions or correspondence that you file with the court.

There are three options available to you to collect your judgment:

- garnishing the defendant's wages;
- garnishing the defendant's bank account; or
- seizing the defendant's personal property or real estate.

To pursue any of these methods, you need some information about the defendant. Do you know where the defendant banks? Do you know where he or she works? Do you know what property the defendant owns?

THERE ARE THREE OPTIONS AVAILABLE TO YOU TO COLLECT YOUR JUDGMENT:

- 1. GARNISHING THE DEFENDANT'S WAGES;**
- 2. GARNISHING THE DEFENDANT'S BANK ACCOUNT; OR**
- 3. SEIZING THE DEFENDANT'S PERSONAL PROPERTY OR REAL ESTATE.**

FINDING THE DEFENDANT'S ASSETS

If you do not have information on the defendant's assets, you may require the defendant to answer written questions or bring the defendant into court to answer questions in writing under oath.

Written Interrogatories in Aid of Execution

Once 30 days have passed since your judgment was entered, you can submit 15 written questions to the defendant about his or her finances and property. The questions are known as *Interrogatories in Aid of Execution*, and the defendant is required to answer these questions under oath.

Interrogatories can be served on the defendant through first-class mail. Once you have served the defendant with the questions, you must provide written notice to the court that you have done so. There is no form for this process; a letter that includes your case number and your name and address as well as that of the defendant's will meet this requirement.

The purpose of these questions is to help you find assets that the defendant owns that can be used to satisfy your judgment. Your questions should cover the defendant's bank accounts, employment, personal property, and real estate. Unless the court orders otherwise, you may serve only one set of no more than 15 interrogatories to be answered by the same party, so think carefully before you submit questions.

The defendant has 15 days to answer. If you do not receive an answer and more than 15 days have elapsed since you submitted the questions, you can file a *Motion Compelling Answers to Interrogatories in Aid of Execution (form DC/CV 30)*. The motion asks the judge to order the defendant

to answer your questions, and the defendant is given time to respond to the motion.

After the defendant is served with the order, he or she has another 15 days to answer your interrogatories.

Oral Examination in Aid of Enforcement of Judgment

Your second option is bringing the defendant into a courtroom to ask him or her under oath about their finances and property. The answers to the oral questions may help you determine the assets you may seek to garnish in your collection efforts.

If you choose this option, you must complete the *Request*

for Order Directing Defendant to Appear for Examination in Aid of Enforcement of Judgment (form DC/CV 32). The form cannot be filed until 30 days have passed since your judgment was entered.

**AT THE ORAL EXAMINATION,
YOU MAY ASK THE DEFENDANT
ABOUT REAL ESTATE, CARS AND
OTHER ASSETS OWNED, BANK
ACCOUNTS MAINTAINED,
SOURCES OF INCOME
RECEIVED AND WAGES EARNED**

The order must be served on the defendant within 30 days of its issuance. The order will let the defendant know when he or she is required to appear.

HANDLING AN UNCOOPERATIVE DEFENDANT

If the defendant has been properly served and will not cooperate with your attempts to discover his or her assets, you can file a request for a *Show Cause Order (form DC/CV 33)*. The order will summon the defendant to court to explain why he or she should not be held in contempt for ignoring your discovery efforts. You can only file the request for a *Show Cause Order* after the defendant has either:

- ignored written interrogatories, as well as an order from the judge compelling his or her answers; or
- failed to appear for an oral examination ordered by the court.

If the defendant fails to appear for the Show Cause hearing, you are permitted to file an *Attachment for Contempt (form DC 5)*. If the judge chooses to issue the attachment, the defendant in your case will be taken into custody by the sheriff's office and will be brought before the court to explain the failure to appear. The defendant may be required to post a bond for his or her release, which the defendant will forfeit to the state if he or she does not appear at the next hearing.

Both parties will be notified of a new hearing date.

COLLECTING YOUR MONEY

Once you have the information you need to garnish the defendant's wages or bank account or seize the defendant's property, you can begin collection proceedings.

REQUEST FOR SERVICE

The collection process requires the filing of many forms, especially if you choose to pursue more than one method. Some of the forms will require you to select the method of service—whether you want the defendant to be notified about your collection proceedings by mail, through the sheriff's office, by the constable, or by private process server.

If you are required on a particular form to choose a method of service, when filing that form you should also complete a *Request for Service (form DC/CV 2)*. The post office, sheriff, constable, or private process service should return the *Request for Service* to the court after service has been made to certify that service has been made properly.

When completing the form, fill out the case caption information—the address of the court in which you are filing the form, your case number, and the names of the parties. You must also fill in the addresses for both parties, required in the bottom left-hand corner of the form.

GARNISHING THE DEFENDANT’S WAGES

Garnishing the defendant’s wages means that a portion of his or her pay will be diverted to you each month until the judgment has been paid.

The first step in garnishing someone’s wages is filing a *Request for Garnishment on Wages (form DC/CV 65)*. To complete the form you need to know the name and address of the defendant’s employer, as well as the amount of your judgment and any additional money owed to you (such as court costs and post-judgment interest).

If you have submitted the proper information, the clerk will issue a *Writ of Garnishment*. If the writ is issued, the defendant’s employer (known as the *garnishee*) will be served with the writ, which instructs the garnishee to withhold a portion of the defendant’s wages to satisfy your judgment. The defendant/garnishee then has 30 days to file an answer to the *Writ of Garnishment*. You will receive a copy of the garnishee’s answer, which will list any other attachments, or garnishments, against the defendant’s wages. Attachments are satisfied in the order in which they are served on the garnishee.

The Maryland Rules require garnishees to provide the withheld wages to the judgment creditor within 15 days of the close of the defendant’s last pay period each month. In other words, if the defendant’s pay period ends March 26, you should receive the funds withheld during March no later than April 10.

Although your garnishment may not take effect immediately, it is valid as long as the defendant remains with the same employer and your judgment has gone unpaid. So even if your garnishment is delayed because the defendant has to satisfy another judgment, you are not required to refile.

GARNISHING THE DEFENDANT’S BANK ACCOUNT

In this instance, money in the defendant’s bank account will be given to you to help satisfy your judgment. Except in certain limited circumstances, you cannot garnish funds from a jointly held account unless your judgment was against both owners. You also cannot garnish retirement or escrow accounts. Financial Institutions must comply with the requirements, prohibitions and limitations of Federal Regulation 31 C.F.R. Part 212 and Maryland Rule 3-645.1, which prohibit a financial institution from holding a “protected amount” under 31 C.F.R. Part 212. Protected amounts may consist of the following Federal benefit payments: Social Security, Veteran’s Administration, Railroad Retirement Board, and Office of Personnel Management.

The first step in garnishing a bank account is completing the *Request for Garnishment of Property Other Than Wages (form DC/CV 60)*. To complete the form you need to know the name and address of the defendant’s financial institution, as well as the amount of your judgment and any additional money owed to you (such as court costs and post-judgment interest).

If you provide the proper information, the clerk will issue a *Writ of Garnishment*. The defendant’s financial institution (known as the “garnishee”) will be served with the writ, as well as a *Garnishee’s Confession of Assets of Property Other Than Wages (form DC/CV 61)*. The garnishee has 30 days from the date of service to file the *Confession of Assets* with the court. You will receive a copy of the completed form, which will list any assets belonging to the defendant that the bank holds.

Once 30 days have passed since the original *Request for Garnishment of Property Other Than Wages* is served and the garnishee has filed an answer to the request, you can file the *Request for Judgment—Garnishment (form DC/CV 62)*. Before filing the form, you must mail a copy of the request to the garnishee and the defendant.

If the judge chooses to enter a judgment in your favor, the garnishee will be ordered to turn over to you the money withheld from the defendant’s bank account.

SEIZING THE DEFENDANT’S PERSONAL PROPERTY OR REAL ESTATE

Property or real estate can be sold to help satisfy your judgment. Of the collection methods available to you, seizing personal property or real estate are the most complicated and time-consuming. If you choose to take this step, you may want to consider hiring an attorney to assist you with the process.

There are costs to seizing real estate or property. You will be responsible for any costs associated with the sale, so be sure that the proceeds from the sale, minus your costs, make this procedure worth your time and effort.

There are also exceptions to what can be sold. If the defendant in your case owns his or her property jointly, you cannot sell the property itself unless you have a judgment against both owners.

You can, however, sell the defendant’s interest in a property. For example, if the defendant owns a home jointly with a sibling, the home cannot be sold. However, you will be able to sell the defendant’s interest in the home. Whoever buys the interest will become a joint owner with the defendant’s sibling.

YOU WILL BE RESPONSIBLE FOR THE COSTS OF SEIZING REAL ESTATE OR PROPERTY. BE SURE THE PROCEEDS FROM THE SALE, MINUS YOUR COSTS, MAKE THIS PROCEDURE WORTH YOUR TIME AND EFFORT.

The defendant is also permitted to request certain exemptions. Read the *Notice to the Defendant* on the reverse side of the *Request for Writ of Execution* for an explanation of the possible exemptions.

If you choose to seize the defendant's personal property or real estate, you should file a *Request for Writ of Execution (form DC/CV 40)*. There are steps you may be required to take, however, before filing your request for a writ.

REAL ESTATE

If you would like to sell the defendant's real estate, prior to filing the *Writ of Execution* you must record your judgment in the circuit court for the county in which the property is located, with the exception of Baltimore City. *If you win a judgment in Baltimore City, the judgment is automatically recorded in the District Court as a lien on property in Baltimore City. If your judgment was entered in any other county, you must file the Request to File Notice of Lien (form DC/CV 35).*

For example, if you win your case in Prince George's County and know that the defendant owns real estate there, you should complete the *Notice of Lien* and indicate that the property you would like to sell is in Prince George's County. Fill out the case caption information, including your case number and the names and addresses of both parties. Under the second section of the form, enter the date your judgment was entered and the amount that you were awarded, along with any attorney's fees or court costs. Because the real estate you would like to sell is located in the same county in which your judgment was entered, you should check the first box. File the completed *Notice of Lien* in the Prince George's County District Court, which will forward the information to the circuit court.

However, if you win your case in Prince George's County and find that the defendant owns real estate in Anne Arundel County, you should complete the *Notice of Lien* and indicate that the property you are interested in selling is in Anne Arundel County. Because the real estate is located in a county other than the one in which your judgment was entered, check the second box and enter the name of the county where the property is located. File the completed *Notice of Lien* in the Prince George's County District Court, which will forward the information to the correct circuit court.

When you are attempting to seize real estate in a county other than the one in which your judgment was entered, you are also required to complete the *Request for Transmittal of Judgment (form DC/CV 34)*. When completing the form, put the name of the county in which you would like your judgment recorded (Anne Arundel in the example above).

PERSONAL PROPERTY

If you intend to seize personal property, such as a car or a boat, in a county other than the one in

which you won your judgment, you should complete the *Request for Transmittal of Judgment (form DC/CV 34)*. When filling out the form, put the name of the county in which you would like your judgment recorded

WRIT OF EXECUTION

You will receive notice from the court once your judgment has been recorded properly. At this point, you may file the *Request for Writ of Execution (form DC/CV 40)*. You should file the *Writ of Execution* in the county in which the property you intend to seize is located.

When you file this request, you are asking the court to have property belonging to the defendant levied or seized to satisfy your judgment. In most counties, the sheriff's office is responsible for levying or seizing property. In Baltimore County, constables perform these duties.

If you would like to seize the defendant's car, you are required to file a copy of the title with the *Request for Writ of Execution*. The title must have been obtained within 90 days of the date that you file your request. Contact the Motor Vehicle Administration to find out how to obtain a copy of the title and for information about the fees involved.

If you would like to seize the defendant's real estate, you must have a copy of the deed. Deeds are public record that can be found at the circuit court for the county in which the real estate is located. When completing the *Request for Writ of Execution*, the description that you provide of the property must be the legal description found on the deed.

In the top half of the *Request for Writ of Execution*, you should enter the amount of money that is owed to you. After entering the defendant's last known address and the location of the property to be levied, you should write a detailed description of the property. Be as specific as possible.

The next question deals with what you would like the sheriff to do with the property. If you select the first box, "leave the property where found," the sheriff will post a notice alerting the defendant that the property has been levied. If you would like to sell the property, you must have it seized.

If you choose to "exclude others from access to it or use of it," the sheriff will still leave the property but render it inaccessible. For instance, the defendant can be barred from using his or her car. You may be required to post a bond with the sheriff if you choose this option.

If you choose the last box, "remove it from the premises," the sheriff will remove the property. This option requires you to post a bond, in an amount to be determined by the sheriff. The sheriff's office will use the bond to meet its costs; any unused portion will be returned to you.

There is a 30-day waiting period before property can be sold. The waiting period allows the defendant the opportunity to file a motion to request that the property be exempted.

After 30 days have passed, the sheriff can sell the property to pay you. The sheriff will not automatically sell the property; however, after the 30 days have elapsed, you must contact the sheriff to request the sale. If you do not do so, the property may be released to the defendant after 120 days.

JUDGMENT CREDITOR'S MONTHLY REPORT

When you receive a payment from the defendant, you are required to document the payment with both the defendant and any garnishees. A Judgment Creditor's Monthly Report must be provided to the defendant and any garnishees within 15 days after the end of each calendar month in which you receive a payment. You are not required to file a report with the District Court.

RENEWING YOUR JUDGMENT

A JUDGMENT IS ONLY VALID FOR 12 YEARS, BUT CAN BE RENEWED BY FILING A FORM WITH THE COURT.

In Maryland, a judgment is only valid for 12 years. If you have not been able to collect your judgment within that time, you will have to renew the judgment to continue your collection efforts. Complete the *Notice to Renew Judgment (form DC/CV 23)* and file it with the court. The renewal form must be completed while your judgment is still valid. For

example, if your judgment was entered on February 1, 1988, your judgment is valid until February 1, 2000. If you file a renewal of judgment on February 2, 2000, your judgment has expired and will no longer be honored.

ORDER OF SATISFACTION

Once your judgment has been paid in full, you must file with the court an *Order of Satisfaction (form DC/CV 31)*. After the clerk processes the order, each of the courts in which the judgment was recorded will be notified that the judgment has been paid in full.

Failing to file this form can cost you money. If you fail to file the order and the debtor files a *Motion for Order Declaring the Judgment Satisfied*, the court can order that you reimburse the defendant for any costs incurred.

CHECKLIST

The following checklist is provided for your convenience. Entering the date when each action is taken will help you track the progress in your collection efforts. The page numbers indicated contain more information about the specific aspects of post-judgment collection.

Defendant's name	_____	Case number	_____
Address	_____	Amount of Judgment	_____
	_____	Date awarded	_____

Finding the Defendant's Assets

Written questions/ interrogatories sent (p. 2): _____

Motion Compelling Answers filed (if necessary, see p. 2): _____

Request for Order for Oral Examination filed (p. 2): _____

Handling an Uncooperative Defendant

Request for Show Cause Order filed (p. 3): _____

Attachment for Contempt filed (p. 3): _____

Collecting Your Money

Request for **Garnishment on Wages** filed (p. 4): _____

Writ of Garnishment issued (p. 4): _____

Garnishee's answer filed (p. 4): _____

Request for **Garnishment of Property Other Than Wages** filed (p. 5): _____

Writ of Garnishment issued (p. 5): _____

Garnishee's Confession of Assets filed (p. 5): _____

Request for Judgment—Garnishment filed (p. 5): _____

Real Estate or Personal Property

Request to File Notice of Lien filed (if necessary, see p. 6): _____

Request for Transmittal of Judgment (if necessary, see p. 6): _____

Notice that judgment is properly recorded received (p. 6): _____

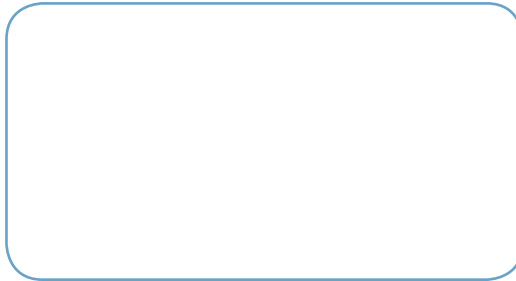
Request for Writ of Execution filed (p. 7): _____

For more information on the District Court or its procedures, please contact a clerk at the District Court of Maryland location nearest you.

For more information about the Maryland Judiciary and the District Court visit the website, at:



www.mdcourts.gov



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