

Post Judgment Collections

Post-Judgment Collection Basics

Some basic and general information about collecting judgments in the Worth County Magistrate Court. There may be other collection procedures available to you. If you are not sure how to proceed, you should seek advice from a licensed attorney to assist you with the process.

When to Begin the Post-Judgment Collection Process: A person or business (such as a corporation) that obtains a money judgment against another person or business is called the “judgment creditor.” The person or business against whom the judgment is issued is called the “judgment debtor.”

The judgment debtor has up to 30 days to appeal the judgment. A timely-filed appeal stops any efforts to collect on the judgment. This is because an appeal from Magistrate Court will result in a new trial and an entirely new judgment being entered in either the State or Superior Court.

Ways to Collect

1. Writs of Fieri Facias

A writ of fieri facias, or “Fi.Fa.,” is issued by the Clerk of Magistrate Court for the purpose of recording a lien in the Superior Court on the judgment debtor's property. It is also the legal instrument by which the Sheriff may seize assets of the judgment debtor to satisfy the judgment. A Fi.Fa. may be issued on a default judgment case immediately. However, if the case was contested (meaning the judgment was not the result of default), then a Fi.Fa. may not be issued until 10 days after the date of judgment. There is a small cost for a Fi.Fa.; all fees are listed on the Court’s website. Fi.Fa.s are recorded on the Superior Court’s “General Execution Docket,” which creates the lien on the property. Fi.Fa.s may be filed in any county in which the judgment debtor owns real property or where other assets are located.

A Fi.Fa. may also be used to establish a lien upon any motor vehicles owned by the judgment debtor. There is a special process through the Georgia Department of Revenue, Department of Motor Vehicles, to perfect a judgment lien on a motor vehicle. These forms and more information about this process can be found at www.dor.georgia.gov (and search “recording a lien”).

When the judgment has been paid in full, the judgment creditor has the duty to cancel the Fi.Fa. by filing a cancellation notice with the Clerk of Superior Court in each county where the Fi.Fa. was recorded on the General Execution Docket. There is small additional fee for this service. The Clerk of Superior Court in the county where each Fi.Fa. was filed.

2. Garnishments

A garnishment is a separate legal action that is filed against a person or business (called the “garnishee”) that either owes money to the judgment debtor (usually the judgment debtor’s employer) or is holding money on behalf of the judgment debtor (usually the judgment debtor’s bank). Garnishment actions must be filed in the county where the garnishee is located, not where the judgment debtor lives. Once a garnishment action is properly filed and served, the garnishee is required to pay any money owed to or held for the judgment debtor into the Court’s Registry to be turned over to the judgment creditor. Garnishments can be complicated; please review the additional information we have available about garnishments.

3. Post-Judgment Interrogatories

A judgment creditor may use “Post-Judgment Interrogatories” to locate any money and/or assets of the judgment debtor that could be used to satisfy the judgment debt. Post-Judgment Interrogatories are a specific set of questions set forth in O.C.G.A. § 15-10-50(d). If the judgment creditor serves these questions on the judgment debtor, the judgment debtor is required to answer. The process can take up to 5 steps.

Here are the steps for Post-Judgment Interrogatories:

1. Forms: Post-Judgment Interrogatory Forms are available in the Magistrate Court Clerk’s Office or on the Magistrate Court’s website. The cost to file varies depending on whether they are filed in the original case or the judgment is from a different court. All Post-Judgment collection procedures can only be initiated against a named defendant. If the defendant is a business/corporation, post-judgment interrogatories must be directed to a corporate officer who is likely to have the information set forth in the interrogatories; this is typically the president, managing partner, treasurer, or chief financial officer. The corporation’s “registered agent” is not considered a corporate officer for purposes of post-judgment collection.

2. Service: If Post-Judgment interrogatories are filed in the original case, the Clerk of Court will serve a copy on the judgment debtor by certified mail. However, if the judgment was issued by a different Magistrate Court, the judgment creditor must have the judgment debtor personally served either by the Sheriff or a court approved special process served because service of post-judgment interrogatories in this circumstance are considered a new civil action.

3. Responses: All interrogatories (questions) must be answered by the judgment debtor within 30 days from the date of service. The judgment debtor must file the answers and send a copy of the answers to the judgment creditor.

4. Motions to Compel: If the judgment debtor does not respond to the interrogatories, or if the answers are insufficient, the judgment creditor can file a “Motion to Compel Answers to Post-Judgment Interrogatories.” The Court will then schedule a hearing on the Motion to

Compel, with notice to both sides.

5. Hearings on Motion to Compel: If the judgment creditor fails to appear at the hearing, the Court will dismiss the Motion. If the judgment debtor fails to appear at the hearing (or appears but has not provided sufficient responses), the Court may issue an “Order on Motion to Compel” requiring the judgment debtor to provide full and complete answers to the interrogatories within 10 days.

6. Motions to Incarcerate: If the judgment debtor fails to comply with the Court’s Order, the judgment creditor may file a “Motion to Incarcerate Judgment Debtor/Corporate Officer.” This Motion asks the Court to hold the judgment debtor in contempt for failing to comply with the Order on Motion to Compel and, as a sanction, order the judgment debtor jailed until such time as the interrogatory responses are provided. Because sanctions for non-compliance are being sought, due process requires that the judgment creditor have the judgment debtor personally served with a copy of this Motion by the Sheriff’s Office or a court approved special process server. The Court will then schedule a hearing on the Motion to Incarcerate.

7. Hearings on Motions to Incarcerate: If the judgment creditor fails to appear at the hearing on the Motion to Incarcerate, the Court will dismiss the Motion. If the judgment debtor fails to appear at the hearing (or appears but has not provided sufficient responses), the Court may issue an “Order to Incarcerate” the judgment debtor until full and complete responses are provided. *If an Order to Incarcerate is issued and the judgment debtor provides interrogatory responses before being taken into custody, the judgment creditor must IMMEDIATELY notify the Court so that the Order to Incarcerate can be vacated. Failure to do so immediately could expose the judgment creditor to liability.*

4. Other Options

Unpaid judgments negatively impact credit ratings and cause stress to all parties. In addition, post-judgment collection processes can result in liens being placed on homes and other property, as well as result in the seizure of wages and bank accounts through garnishment. Therefore, the parties have other options to resolve outstanding judgment debt.

1. Negotiated Payment Plans: One option is for the parties to negotiate a payment plan (where the parties agree to a periodic payment schedule) to satisfy the judgment. The benefit of a negotiated payment plan to judgment creditors is that they do not have to file any collections proceedings, which take time and effort (sometimes multiple efforts). Conversely, the benefit to judgment debtors is that they can avoid having their wages and bank accounts garnished and/or any liens placed on property.

2. Collection Agencies: Another option is to consult with a private debt collection agency or debt collection attorneys. However, these agencies usually charge a portion of any sum collected.

5. Satisfaction of Judgment

As soon as the judgment is paid in full, it is the duty of the judgment creditor to immediately file a “Satisfaction of Judgment” with the Court in which the judgment was entered.

Again, this information is very basic and general. Every case is different. Therefore, any questions specific to your case or situation should be directed to a licensed attorney.