

WORTH COUNTY MAGISTRATE COURT
DIRECTIONS FOR POST-JUDGMENT INTERROGATORIES

(The forms required for each "step" can be obtained in the Magistrate Clerk's office or on the county's website at www.worthcountyboc.com.)

If you have received a judgment and do not know what assets the debtor may have, you may file "Post-Judgment Interrogatories." These are legal questions to help you locate assets of the person or business that owes the judgment.

1. "STEP ONE," FILING POST-JUDGMENT INTERROGATORIES

Who to Serve?

If the judgment debtor is a person, you should list this person in the judgment debtor section of the post-judgment interrogatory form.

If the judgment debtor is a business or corporate entity, you must send post-judgment interrogatories to a corporate officer who is reasonably likely to be able to answer the interrogatories. This is typically the president or treasurer. The position of "registered agent" is NOT a corporate officer.

The Court cost for filing post-judgment interrogatories on a Worth County Magistrate Court case is \$10.00. The clerk serves the judgment debtor by certified mail.

For judgments from other courts, the cost is \$103.50 dollars, and you must complete the Sheriff's Entry of Service Form because it creates a new case in this Court. You must file all new cases in the county where the judgment debtor resides. For a corporation, this would be in the county where the corporation has its principal place of business or registered agent. (For corporate information, you can check the Secretary of State's website at: www.sos.ga.gov.) The Clerk cannot refund your filing fee because you failed to obtain service on the judgment debtor or because you filed the post judgment interrogatories in the wrong court. Therefore, to avoid wasting your time and money, you should make reasonably certain that the address for the judgment debtor is still current and correct before filing post-judgment interrogatories.

The judgment debtor has 30 days from the date they are served to answer the interrogatories. This process is complete when you receive complete and truthful written answers to these interrogatories from the debtor.

However, if the debtor fails to answer the questions, or if you have reasonable evidence to prove that the debtor has failed to answer these interrogatories completely and truthfully, then go to Step #2.

2. "STEP TWO," MOTION TO COMPEL ANSWERS

If the debtor fails to answer the questions or provides incomplete or evasive answers, you can file a Motion to Compel Answers to Post-judgment Interrogatories.

The clerk will schedule a hearing date for this motion. You will be given or mailed notice of this hearing date. A copy of your motion and a notice of the hearing date are served upon the debtor by first class mail by the clerk.

Answers received: If the debtor or corporate representative of the debtor sends you complete and truthful written answers, then Step Two is complete. You must advise our clerk's office **in writing** that you have received your answers. (Either in person, or mail to Clerk of Court, Worth County Magistrate Court, 201 N. Main St. Room 21, Sylvester, Ga. 31791.) Once you have notified the clerk in writing, you do not need to attend the hearing as the Motion will be considered withdrawn.

No answers or incomplete answers: You must attend the hearing if the debtor has failed to answer all the questions or if you have reasonable evidence to believe that the debtor has failed to completely or truthfully answer the interrogatories. If the judge finds in your favor, the judge will issue a "Ten Day Order" directing the debtor to file answers (or file more complete answers) within ten days. (The ten-day period begins from the date of mailing by the clerk + 3 days for mail service.)

The clerk will send a copy of this order and a blank interrogatory form to the debtor by first class mail.

Failing to attend the hearing: The Court will dismiss your Motion to Compel Answers if you fail to attend the hearing.

If the judgment debtor does not respond to the Order Compelling Answers to Post-Judgment Interrogatories, then you will proceed to Step #3.

3. "STEP THREE," MOTION TO INCARCERATE THE JUDGMENT DEBTOR/CORPORATE OFFICER FOR FAILING TO COMPLY WITH ORDER COMPELLING ANSWERS TO POST-JUDGMENT INTERROGATORIES

If the debtor does not comply with the Order to Compel, your next step is to file a **Motion to Incarcerate Judgment Debtor/Corporate Officer for Failing to Comply with Order Compelling Answers to Post-Judgment Interrogatories.**

This Motion requests that the Court hold the judgment debtor/corporate officer in contempt of court for failing to comply with the Order to Compel.

Because incarceration is a big sanction, notice and due process is required. Therefore, you must prepare a Sheriff's Entry of Service Form and have the judgment debtor/corporate officer personally served with the Motion to Incarcerate. No hearing can be held until personal service is completed. You must provide the Sheriff's Department with the correct address for the debtor.

The clerk will set a hearing date and you will be given notice of the hearing date or the Clerk will mail notice to you. Therefore, it is important that you keep the Clerk advised of any changes in your address.

Answers received: If the debtor sends you complete and truthful written answers, this process is complete. You must advise our clerk's office **in writing** that you have received your answers. (Either in person, or mail to Clerk of Court, Worth County Magistrate Court, 201 N. Main St. Room 21, Sylvester, Ga. 31791.) Once you have notified the clerk in writing, you do not need to attend the hearing as the Motion will be considered withdrawn.

No answers or incomplete answers: You must attend the hearing if the debtor has failed to answer all the questions or if you have reasonable evidence to believe that the debtor has failed to completely or truthfully answer the interrogatories. If the judge finds in your favor, the judge may issue an order to incarcerate the judgment debtor/corporate officer in the Worth County Jail until such time as they answer the interrogatories. The law requires that the judgment debtor/corporate officer be brought before a judge swiftly; therefore, the Sheriff will bring the judgment debtor/corporate officer immediately before the on-duty judge to provide answers to the post-judgment interrogatories.

Failing to attend: The Court will dismiss your Motion to Incarcerate if you fail to attend the hearing.

VERY IMPORTANT INSTRUCTION: If the court enters an order incarcerating the judgment debtor/corporate representative, then you have an affirmative duty to IMMEDIATELY advise the court, in writing and filed with the clerk, if:

- (1) The debtor sends you written answers to interrogatories; and/or
- (2) The judgment is settled or the debt on the judgment is paid.

***The order directing that the judgment debtor be incarcerated remains active until it is canceled by order of this court. Time is of the essence and is critical. Therefore, you could be personally liable if the judgment debtor/corporate representative is arrested on your Motion to Incarcerate because you did not immediately inform the court in writing that the matter of the post-judgment interrogatories or judgment itself has been resolved.**

These instructions apply to the interrogatory process only. Post-judgment Interrogatories serve as one tool to use in the judgment collection process. Some debtors are temporarily "judgment proof," they have no assets, or all the assets are in a family member's name. There may be very little you can do until those

circumstances change. Under these circumstances, you should consult with a licensed attorney about your rights.

Bankruptcy Notice: Finally, if you have knowledge that the judgment debtor is in active bankruptcy proceedings, you cannot pursue post-judgment interrogatories because all debt collection matters are stayed by federal bankruptcy law.

RESOURCES-HELPFUL TOOLS

The Judges and staff of the Magistrate Court cannot provide legal advice.

Instead, try these:

Law Library, located on the 1st Floor of the Courthouse in the Probate Court Office, offers a place to conduct legal research and find information to assist with your case.

The Uniform Magistrate Court Rules accessed through the Georgia Judicial Gateway's website www.georgiacourts.gov.

Georgia Legal Aid (www.GeorgiaLegalAid.org)

DISCLAIMER: The information in this pamphlet is not legal advice. It is intended to give a general overview of the procedures and forms used in the Worth County Magistrate Court. We always suggest that litigants consult with an attorney if they have any questions about what they should do or questions specific to their case.