

INSTRUCTIONS FOR COLLECTING A JUDGMENT AND COMPLETING A WRIT OF GARNISHMENT

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ The Court must have awarded a money judgment in your favor.
- ◆ The money judgment is good for six years in County Court and for 20 years in District Court.
- ◆ The Court cannot collect your money judgment for you.
- ◆ For additional information, please review Colorado Rules of County Court Civil Procedure - Rule 369 and Rule 403.
- ◆ For additional information, please review Colorado Rules of Civil Procedure - Rule 69 and Rule 103.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

COMMON TERMS

- ☒ Plaintiff(s): The person(s), company or other entity filing a Complaint against another person(s), company or other entity.
- ☒ Defendant(s): The person(s), company or other entity that the case is filed against.
- ☒ Garnishee(s): The person(s) or company the Writ is being served upon.
- ☒ Judgment Debtor(s): The person(s), company or other entity who owes the money as ordered by the Court.
- ☒ Judgment Creditor(s): The person(s), company or other entity who should receive the money as ordered.
- ☒ Service of Process: The official means by which a Defendant is notified that a lawsuit has been filed against him/her and provided a copy of the complaint and a description of the person's rights and obligations as a party to the case.
- ☒ Interrogatories: Written set of questions prepared by the Judgment Creditor and served to the Judgment Debtor.
- ☒ Return Date: The date that the Defendant must file his/her answer by and/or appear in Court that is listed on the Summons.
- ☒ Continuing Garnishment: The exclusive procedure for withholding the earnings of a Judgment Debtor for successive pay periods for payment of a judgment debt.
- ☒ Transcript of Judgment: A one-page document that states the name of the Judgment Debtor, Judgment Creditor and the date and amount of the judgment.
- ☒ Satisfaction of Judgment: The document stating the Judgment Debtor has satisfied the judgment. This must be filed by the Judgment Creditor with the Clerk of Court in order to remove the judgment from credit reports as being unpaid. The satisfaction can be "Full" or "Partial".
- ☒ May: In legal terms, "may" is defined as "optional" or "can."
- ☒ Shall: In legal terms, "shall" is defined as "required."

If you do not understand this information, please contact an attorney.

Select either the Sheriff's Department, a private process server, or someone you know who is 18 years or older and not a party to the action and who knows the rules of service to serve the Judgment Debtor. The process server must follow the Service of Process requirements stated in Rule 4 or 304. Be sure to direct the sheriff, private process server, or person serving the Interrogatories to return the Affidavit of Service to the Court as soon as possible after service has been completed. **OR**

Ask the court clerk to mail the interrogatories to the Judgment Debtor. You will be responsible for the cost of mailing.

Step 4: Await return of the interrogatories.

The answers must be filed with the Court and a copy mailed to the sender no later than 14 days after the Judgment Debtor received them.

Step 5: Upon receipt of the interrogatories, you are ready to file a Writ of Garnishment **OR** you may request to place a lien against real estate owned by the Judgment Debtor. If the Judgment Debtor does not comply with the order in answering the interrogatories, you will need to file a request for an Order to Issue a Contempt Citation to the Judgment Debtor, with return of service of interrogatories on debtor.

STEPS TO FILING A WRIT

Step 1: Determine Appropriate Forms to Complete.

Determine the appropriate writ of garnishment that you wish the Court to issue based on the types listed below (**A – C**) and the information you obtained from the interrogatories. Below each type of garnishment is a listing of the forms that you will need:

A. Garnishment of an Individual's Wages

- Form 26 - Writ of Continuing Garnishment
Required Paperwork - 1 original and 3 copies
- Form 27 - Calculation of the Amount of Exempt Earnings
Required Paperwork - 1 original and 2 copies
- Form 28 - Objection to Calculation of the Amount of Exempt Earnings
Required Paperwork - 1 original

B. Garnishment of an individual's bank / savings institution, or assets other than earnings

- Form 29 - Writ of Garnishment with Notice of Exemption and Pending Levy
Required Paperwork - 1 original and 4 copies (5 if two debtors)
- Form 30 - Claim of Exemption to Writ of Garnishment with Notice
Required Paperwork - 1 original

C. Garnishment of debtor which is a business entity

- Form 32 - Writ of Garnishment - Judgment Debtor other than Natural Person
Required Paperwork - 1 original and 2 copies.

Step 2: Complete Forms.

You must complete Lines 1 – 5 on the Writ in the upper portion of the form.

- Line 1.** Original Amount of Judgment Entered or the revived amount, if applicable.
 - ◆ Original amount refers to the actual judgment amount entered by the magistrate or judge. If court costs, interest, and/or attorney fees were granted on the judgment date, include them as part of the original judgment.
 - ◆ Revived amount refers to the judgment amount that remains unsatisfied, plus any costs and interest granted. The revived amount will be per the Order for Revival of Judgment – JDF 125.

- Line 2.** Plus any Interest Due on Judgment
This is the amount of interest accrued from the date of judgment. Unless there was a different interest rate granted on the judgment date, interest is 8% per annum for all cases except child support arrearages, which is 12% per annum.
- Line 3.** Taxable Costs (including estimated cost of service of this Writ)
This refers to post-judgment costs only. Cost of issuance of the Writ, service costs, etc.
- Line 4.** Less any Amount Paid
Enter all amounts you have received as payment on the judgment here.
- Line 5.** Principal Balance/Total Amount Due and owing

Complete the remaining two sections on the bottom portion of the form.

- Fill in the name of the employer, bank, etc. on whom the Writ is to be served. You will need to provide the process server with complete address(es) to serve the documents. This can be included on the Return of Service or on separate documentation.
- Section "c" requires that you choose how checks are payable. **Make Checks Payable to:**
 - If you are pro-se (representing yourself), your checks must be made payable to the Clerk of the Court.
 - If you are a judgment creditor with an attorney entered on your case or a licensed collection agency, checks may be made payable to either to you or your attorney.

Step 3: File Writ and appropriate documents with the Court.

The Clerk will issue the Writ upon your payment. \$45.00. If you do not have an attorney and are requesting a garnishment of the Judgment Debtor'(s) wages please provide self-addressed stamped envelopes so that the Court can forward money received from the garnishee/employer.

Step 4: Serve the Writ and appropriate documents.

Select either the Sheriff's Department, a private process server, or someone you know who is 18 years or older and not a party to the action and who knows the rules of service to serve the Garnishee. There is a service fee that is payable to the Sheriff's Department or Private Process Server.

- You can locate private process servers in the yellow pages under Process Servers.
- Make sure you provide the process server with complete address information to serve the Writ.
- If you need to have the Writ served to a bank, employer, etc. outside of Colorado, you will need to follow the rules of service in that state.
- When service is complete, proof of service (Return of Service) must be filed with the Court.
- Make sure you have the appropriate copies and any other forms as described below to provide to the process server.**

A. Writ of Continuing Garnishment (Wages) Form 26:

- Two copies of the Writ are served on the Garnishee together with a blank copy of Form 28.

B. Writ of Garnishment with Notice of Exemption and Pending Levy (Bank Account, Tenants, Etc.) Form 29:

- A copy of the Writ is served on the Garnishee together with a blank copy of Form 30.
- A copy of the Writ is served on the Judgment Debtor.
- Provide a self-addressed stamped envelope to receive the completed Writ.

C. Writ of Garnishment Judgment Debtor other than Natural person (Judgment Debtor is Business) Form 32:

- A copy of the Writ is served on the Garnishee.

Step 5: Responsibilities of the Garnishee and Judgment Creditor after Service.

Go to Section A, B, C as appropriate.

A. Writ of Continuing Garnishment (Wages) Form 26

- The Garnishee shall complete the Writ by answering the questions on page 2.

- The Garnishee shall deliver a copy of the completed Writ, together with the Calculation of the Amount of Exempt Earnings (Form 27) and a blank copy of the Objection to the Calculation of the Amount of Exempt Earnings (Form 28) to the Judgment Debtor at the time the Judgment Debtor receives earnings for the first pay period affected by such writ. For all subsequent pay periods within the effective garnishment period, the Garnishee shall provide a copy of the Calculation of the Amount of Exempt Earnings (Form 27) to the Judgment Debtor for that pay period.
- The Garnishee shall file the answer to the Writ with the Clerk of Court and send a copy to the Judgment Creditor no less than 7 and no more than 14 days following the time the Judgment Debtor receives earnings for the first pay period affected by the Writ or 42 days following the date such Writ was served upon the Garnishee, whichever is less.
- If the Judgment Debtor does not file an objection with the Court within 14 days of receiving a copy of the Writ, the Garnishee shall send the nonexempt earnings to the individual designated on page 2 section "e" of the Writ. If you are pro se (representing yourself), the Court will send you the money in the self-addressed stamped envelope that you provided when you filed the Writ.
- If the Judgment Debtor does object, you will receive a copy of the objection and a hearing will be set within 14 days.

**B. Writ of Garnishment with Notice of Exemption and Pending Levy (Bank Account, Tenants, Etc.)
Form 29:**

- The Garnishee shall complete the Writ by answering the questions on page 2.
- The Garnishee shall file a completed copy with the Court and mail a copy to the Judgment Creditor.
- If the Garnishee is a Bank and is holding money or if the Garnishee has possession of the identified property, the Judgment Creditor shall serve a copy of the completed Writ along with a blank copy of the Claim of Exemption to Writ of Garnishment with Notice (Form 30) to the Judgment Debtor.
- If the Judgment Debtor does not file a written Claim of Exemption with the Court within 14 days of receiving a copy of the Writ, complete the Notice to Garnishee, Application of Funds to Judgment, and Release of Funds to Judgment Creditor (JDF 89). This form must be filed and approved by the Court before the Garnishee who is holding money can release such funds.
- If the Garnishee is holding money of the Judgment Debtor, such as a bank, the Garnishee shall pay the amount not to exceed the total amount due and owing on the judgment to the Court.
- Once the Court has signed the Notice to Garnishee, Application of Funds to Judgment, and Release of Funds to Judgment Creditor (JDF 89), it is the responsibility of the Judgment Creditor to get the Notice (JDF 89) to the Garnishee who is holding the funds.
- If the Judgment Debtor does object, you will receive a copy of the objection and a hearing will be set within 14 days after the filing of such objection.

**C. Writ of Garnishment Judgment Debtor other than Natural Person (Judgment Debtor is Business)
Form 32:**

- The Garnishee shall complete the Writ by answering the questions on page 2.
- The Garnishee shall file a completed copy with the Court and mail a copy to the Judgment Creditor.
- If the answers to the writ of garnishment show that the Garnishee has property or holds money owed to the Judgment Debtor, the Court shall enter judgment in favor of the Judgment Debtor and against the Garnishee for the use of the Judgment Creditor.
- This order shall direct the Garnishee to deliver personal property to the sheriff or if the Garnishee holds money of the Judgment Debtor bank to pay the amount not to exceed the total amount due and owing on the judgment to the Registry of the Court.

A Writ of Continuing Garnishment is good for 182 days for any judgment ordered on or after August 8, 2001 and for 91 days for any judgment ordered prior to August 8, 2001. When the Effective Garnishment Period expires, you will need to complete a new Writ, file it with the Court and Serve the Garnishee.

STEPS TO REQUESTING A LIEN AGAINST REAL ESTATE

- Step 1:** Ask the Court for a Transcript of Judgment. The cost is \$25.00.
- Step 2:** Take the Transcript of Judgment to the County Clerk and Recorder where the Judgment Debtor owns the real estate. The lien continues for 6 years if the judgment was awarded in County Court and for 20 years if the judgment was awarded in District Court.
- Step 3:** Advise the Judgment Debtor that he or she will not be able to sell or mortgage the real estate until the Judgment amount has been paid and you release the judgment lien.

WHAT TO DO AFTER YOU COLLECT YOUR JUDGMENT

- Step 1:** Complete a Satisfaction of Judgment (JDF 111) and file with the Court.
- Step 2:** Mail a copy of the Satisfaction of Judgment to the Judgment Debtor, and Garnishee if any.
- Step 3:** If you placed a lien on the real estate owned by the Judgment Debtor, notify the Clerk and Recorder to release the lien.