

Frequently Asked Questions about Garnishments/Judgments

The Court entered a judgment ordering the other party to pay me money. When/how will I get paid?

- It is your responsibility to collect a money judgment awarded in your favor. The Court will not collect the money for you. There are several options that you can use to collect your judgment. For more information regarding your options, you can download Form JDF 82 from the Forms page of the Courts' website.
- How soon and whether you will get paid depends on what kinds of assets the judgment debtor (the person who the Court ordered to pay you) has. A judgment in your favor gives you the right to payment, but it cannot guarantee that you will actually receive any money. If the judgment debtor does not have a job, bank accounts, property, or other assets, it may be difficult to collect your judgment. If the judgment debtor has several other creditors (people he/she owes money to), it may be difficult and/or take time to collect your judgment, especially if the other creditors have claims that came earlier than yours or are collecting back child support or maintenance (alimony) from the judgment debtor.
- However, you do have time to collect your judgment. A judgment from a County Court is good for 6 years and a judgment from District Court is good for 20 years. You can even extend the time the judgment is good for by filing a Motion to Revive Judgment before the end of the 6 years for County Court or 20 years for District Court. You can continue to try to collect on your judgment for as long as it is effective (good) and unpaid.

Will the Court collect my judgment for me?

- No. It is your responsibility to collect your judgment from the judgment debtor (person who the Court ordered to pay you). There are some court processes that you can use to help you collect your judgment, but it is your responsibility to start those processes and to follow them through. Some of the court processes that you can use to help collect your judgment include:
 - Sending written interrogatories (questions) to the judgment debtor in order to find out whether the judgment debtor has a job, where his/her bank accounts are, and where he/she has any other assets. If the judgment debtor refuses to answer these interrogatories, you can ask the Court to hold him/her in contempt of court.
 - Requesting a transcript of judgment that you can record with the Clerk and Recorder of any county where the judgment debtor owns real property (e.g. a house or land) to put a lien on that property.
 - Garnishing the judgment debtor's wages, bank accounts, and/or other assets until your judgment is paid in full.
 - You can get a general overview and instructions for all of these collection procedures by downloading Form **JDF 82** from the Forms page of the Courts' website.

When can I start collecting my judgment?

- If you received your judgment in County Court, you can start collecting your judgment immediately after the Court enters the judgment, unless the judgment debtor files an appeal or a post-trial motion and asks the Court for a stay of execution of judgment.

- If you received your judgment in District Court, you have to wait 14 days from when the judgment was entered to start collecting your judgment. After the 14 days have passed, you can begin collection unless the judgment debtor has filed an appeal or post-trial motion and asked the Court for a stay of execution of judgment.
- If the Court grants a stay of execution of judgment, you will have to wait until the appeal or post-trial motion is decided to begin collection. However, during that time, the judgment will continue to accrue interest and the judgment debtor may be required to post a bond to help ensure that you will get paid if he/she loses on appeal.

How long do I have to collect my judgment?

- A judgment received in County Court is good for 6 years from the date it was entered. A judgment received in District Court is good for 20 years from the date it was entered. You may collect your judgment for as long as it is effective (good) and has not been paid in full.
- If your judgment is still unpaid at the end of the 6 years (County Court) or 20 years (District Court), you can extend the time it will be effective by filing a Motion to Revive Judgment before the 6 or 20 years ends.

What is a Garnishment?

- A Garnishment is a way of collecting a debt where the judgment creditor takes (garnishes) money or property that belongs to the judgment debtor but is in the possession or control of another person.
 - For example: a judgment creditor may garnish rent payments that are owed to the judgment debtor, but are still in possession of his/her tenant, or funds held by a bank in the judgment debtor's bank account. A judgment creditor may also garnish earnings (wages, salary, etc.) owed to a judgment debtor by the judgment debtor's employer.

What are Interrogatories?

- Interrogatories are written questions that must be answered under oath. A judgment creditor **(the person who should be paid money under the Court's order) may send interrogatories** to the judgment debtor (the person who has to pay money under the Court's order) asking about where the judgment debtor has property, banks, works, or has any other assets. The judgment debtor must provide complete and sworn answers to the interrogatories before the deadline given on the interrogatories or risk the Court issuing a Contempt Citation. If the judgment debtor fails to appear at a hearing on a Contempt Citation, the judge may issue a bench warrant for his/her arrest.

What is Contempt of Court?

- Contempt of Court refers to behavior that is disruptive or disrespectful to the dignity of the Court. Such behavior can include disruptive or disrespectful actions in Court, but can also include actions outside of Court, such as failure to follow a Court order, failure to answer interrogatories, or failure to obey a subpoena.
- If the judge finds that you are in Contempt of Court, he/she may order sanctions against you. Sanctions can include an order that you pay the other party's attorney's fees, or can include fines and/or jail time.

What is a lien?

- A lien is a claim on property for the payment of a debt. Typically, if the property is sold, the owner cannot receive any profit until the lien has been paid.
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I have a Writ of Garnishment from the Court, why am I not getting paid?

- You must have someone (like the sheriff or a private process server) serve a copy of the Writ of Garnishment on the person you believe is holding property or money that belongs to the judgment debtor (the Garnishee). If you have served the Garnishee with a copy of the Writ and are still not receiving anything, the Garnishee may not actually have any property or money that belongs to the judgment debtor. The Garnishee will have a certain amount of time to respond to your Writ of Garnishment and let you know whether he/she/it is actually holding property or money that belongs to the judgment debtor (how much time depends on the kind of Writ you served on the Garnishee).
- After the Garnishee responds to your Writ, the judgment debtor will have a certain amount of time to object or claim that the money/property is exempt from Garnishment. If the judgment debtor objects or claims an exemption, you will have to wait until the Court holds a hearing to decide whether the judgment debtor's objection or claim of exemption is valid before you receive any payment.
- If you have served a Writ of Continuing Garnishment on the judgment debtor's employer, and all the time for the Garnishee and judgment debtor to respond has passed, and you are still not receiving anything, there may be other Writs of Garnishment ahead of yours. When the judgment debtor owes money to more than one person, his/her employer may have received more than one Writ of Garnishment. There can be only one Writ of Garnishment in effect at one time and, generally, whichever Writ was served first has priority. The exception is Writs of Garnishment for Support (if the judgment debtor owes back child support or maintenance/alimony). Writs of Garnishment for Support have priority over all other Writs, regardless of when they are served. A Writ of Garnishment is effective for 182 days (or 91 days, for a judgment that was entered before 8/8/2001). Once the effective period for a Writ ends, payment will begin on the next Writ in line.

Can I go to jail if I don't pay a judgment entered against me?

- No. You cannot go to jail simply because you are unable to pay or have not paid a judgment against you.
- However, you should pay attention to everything you receive from the Court and/or judgment creditor. If you receive a subpoena or interrogatories and fail to appear or respond, the judgment creditor may ask the Court to hold you in Contempt of Court. If you fail to show up at the hearing on Contempt of Court, the judge may issue a bench warrant for your arrest. If the judge finds that you are in Contempt of Court, the judge can order jail time as a punishment for the Contempt of Court. You cannot be held in Contempt of Court simply because you are unable to pay or have not paid the judgment against you.

What happens if the judgment gets paid in full?

- When a judgment is paid in full, it is the responsibility of the judgment creditor (the person who should be paid under the Court's order) to complete a Satisfaction of Judgment and file it with the court in order to let the court know that the judgment has been paid. If the judgment creditor placed a judgment lien on real property (such as a house or land) belonging to the judgment debtor, the judgment debtor will want to make sure to get a Certificate of Satisfaction

of Judgment from the court clerk to file with the Clerk and Recorder of the county (or counties) where the property is located in order to release the lien. Once the judgment has been paid in full, collection activities, such as garnishment, must end.

Can all of my earnings (wages) be taken by Garnishment?

- No. Only part of your earnings can be taken by garnishment. "Earnings" includes wages, salary, commissions, and bonuses. The percentage or amount of your earnings that can be garnished will be calculated from your "disposable earnings," which means your earnings after deductions that are required by law (e.g. state and federal tax withholdings). The percentage or amount of your earnings that can be garnished may depend on how much you make, the federal and state minimum wage, and what type of debt is owed (for example, a larger percentage of your earnings can be garnished to pay a child support or maintenance/alimony debt than for other types of debt).
- Certain types of income, such as child support or alimony/maintenance you receive from someone else, SSI, social security, Veterans' benefits, public assistance, and unemployment, may be completely exempt from garnishment or exempt from certain types of garnishment. You may want to contact an attorney or other legal service provider if you have more questions regarding whether your income is exempt from garnishment.

How do I respond to a Writ of Garnishment I received regarding one of my employees?

- The first thing you should do is carefully read all of the instructions on all of the documents served on you. Then answer the questions directed to the Garnishee (you) on page 2-3 of the Writ of Continuing Garnishment. You may want to make copies of the Writ of Garnishment with your Answers.
- **If you answered that you have already been served with a Writ of Continuing Garnishment or Writ of Garnishment for Support regarding this same employee,** you do not need to do the calculation of non-exempt earnings or withhold any wages for the new Writ until the Writ that is already in place expires. You do have to answer the other questions on the Writ, indicating that there is already a Writ in place and giving the expected termination date for that Writ, and then send a copy of that Answer to the Court and to the judgment creditor.
- **If there are no Writs of Garnishment already in place with respect to this employee,** complete the calculation of exempt earnings. You may want to consult an attorney regarding which exemptions may apply.
- Once you complete the calculation of exempt earnings, you must send a copy of the completed Writ, a copy of the calculation 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 (employee) at the same time he/she receives the first earnings/wages affected by the Writ (the first earnings paid after you receive the Writ, from which you will withhold the non-exempt amount that you calculated using the Form 27). You must send a copy of the completed Writ to the Court and the judgment creditor or judgment creditor's attorney (indicated on the Writ) at some time between 7 and 14 days from when the judgment debtor received the first earnings affected by this Writ. Unless the judgment debtor files a written objection within 14 days of receiving the copy of the completed Writ from you, send the non-exempt earnings you withheld to the person designated on the Writ. If the judgment debtor files a written objection, send the withheld earnings to the Court until the objection is resolved.

- Continue sending a copy of the Calculation of Exempt Earnings (Form 27) to the judgment debtor (employee) for all subsequent pay periods while the Writ is in effect. Send the withheld earnings to the person/entity designated on the Writ.

Can I collect a judgment against someone who lives in Colorado even if the judgment was entered by a Court in another state?

- Yes, but in order to use Court collection procedures (e.g. garnishment) or enforcement procedures (e.g. contempt of court) you must first file your judgment issued by a state other than Colorado (known as a “foreign judgment”) with the Colorado court in the county that would have had jurisdiction if your case was originally filed in Colorado. (This may be the county where the defendant lives or where the property is located or a different county. Please see Colorado Rule of Civil Procedure 98). There is a filing fee for filing a foreign judgment in Colorado. Please go to Form JDF 137 on the Forms page of the Courts’ website for instructions on how to file a foreign judgment in Colorado.