

BASIC OUTLINE OF POST-JUDGMENT COLLECTION PROCEDURES

WRIT OF FI FA:

A writ of Fi Fa is a document that is issued by our clerk's office for the purpose of recording a lien on the judgment debtor's property. It is also the legal instrument by which the sheriff of a county may seize the assets of a judgment debtor. A writ of Fi Fa may be issued on a default judgment case immediately. If the case was contested, then a writ of Fi Fa may not be issued until 10 days after the date of judgment. The cost for a writ of Fi Fa is the sum of \$9.00.

A writ of Fi Fa may also be used to perfect a lien upon any motor vehicles that the judgment debtor owns. There is a special process to go through in perfecting that judgment lien. Appropriate forms are available to you through the Georgia Department of Revenue, Division of Motor Vehicles. You must send a self-addressed envelope, a check for \$1.00 for each vehicle and a copy of the Fi Fa to: Dept. of Revenue, Motor Vehicle Div., Trinity-Washington Bldg., Atlanta, Ga., 30334.

A writ of Fi Fa is recorded by our court for you upon the General Execution Docket, which is maintained by the Clerk of Superior Court. If you know of any other real property or seizable assets the judgment debtor owns in other counties, you should apply to the clerks of such counties to have the writ of Fi Fa recorded upon the General Execution Dockets of those counties, as well.

When the judgment is paid in full, you as the judgment creditor have the duty to see that the writ of Fi Fa is canceled on the appropriate General Execution Docket(s). There is an additional fee for this service and that matter is handled through the Clerk of Superior Court in the respective counties where the writ of Fi Fa is filed.

GARNISHMENTS:

A garnishment is a separate legal action that is filed against the garnishee. The garnishee is a person or business entity that either owes funds to the judgment debtor, or is holding funds on behalf of the judgment debtor. A garnishment could be used against a bank, credit union, employer, general contractor, etc. A garnishment is filed in the county where the garnishee is located. Cost for filing is \$.00. Sheriff's service of 2nd or subsequent summons is \$.00.

CONTINUING GARNISHMENT:

A continuing garnishment is used when the judgment debtor is a wage-earner. It lasts for a period of 180 days and the appropriate sums will be deducted from the judgment debtor's wages on a 30-day recurring basis until the entire judgment amount is collected, or until the expiration of 180 days from the date of service, whichever event shall first occur. A continuing garnishment is filed in the county where the garnishee is located. Cost for filing is \$.00.

POST-JUDGMENT INTERROGATORIES:

The purpose of Post-Judgment Interrogatories is to ascertain what assets, if any, the judgment debtor has to satisfy this judgment debt. It can be as much as a five step process. Those steps are as follows: (See also, Post Judgment Interrogatories, Directions, MAG 14-03.)

(1) Plaintiff files the Post Judgment Interrogatories (Mag 14-05). They are available on the internet at (<https://georgiamagistratecouncil.com/forms>) and in the Clerk's Office of the Magistrate Court. The cost varies. If filed on a _____ County Magistrate Court case, they are filed under the original case number and the cost is \$16.50. The Clerk's office will serve the judgment debtor by certified mail with return receipt requested. If filed on a judgment from another court, the interrogatories are assigned a new case number and the cost of filing is \$____.00. The judgment debtor will be served by the sheriff's department.

(2) If the Interrogatories are not answered within 30 days from the date of service, then the judgment creditor files a Motion to Compel Answers to Post Judgment Interrogatories together with a notice of hearing. This is served upon the judgment debtor by the clerk's office by certified mail, return receipt requested.

(3) If the judgment debtor fails to appear at the hearing, the court may, in appropriate circumstances, issue an Order requiring the judgment debtor to answer the Interrogatories within 10 days. This is served upon the judgment debtor by certified mail, return receipt requested.

(4) If there is no response to the Court Order requiring answers to the Interrogatories, then the judgment creditor must file a Motion to Incarcerate Judgment Debtor / Corporate Officer for Failing to Comply with Order Compelling Answers to Post Judgment Interrogatories. (MAG 14-11), plus the appropriate notice (MAG 14-12). These documents must be personally served upon the debtor /corporate officer by the sheriff. Also, a copy of the previous order is served upon the judgment debtor, as well.

(5) If the judgment debtor / corporate officer fails to appear at the hearing, or in the event he/she does appear and does not have a bona fide reason for not answering the Interrogatories, then the Court may enter an Order for Incarceration for Contempt of Court. The judgment debtor is then arrested by the sheriff and held in the Gwinnett County Jail until the Interrogatories are answered and approved by the Magistrate.

Please note that this is only an overview of the various procedures available to you. You may wish to consult legal counsel if you have difficulties in collecting the judgment lawfully due you. Our office can assist you in filling out the forms herein above set forth.

CHIEF MAGISTRATE