

HOW TO COLLECT A SMALL CLAIMS JUDGMENT

These Instructions are written as though the plaintiff was granted judgment against the defendant. They also apply to a defendant who was granted judgment against the plaintiff on a **Counter Affidavit**. There are generally fees associated with each of the procedures described below. Keep track of the fees you pay.

If the defendant fails to pay the judgment after receiving notice, you should first consider contacting the defendant to find out why it has not been paid. You should remind the defendant that additional court procedures will add costs to the judgment. If you are unable to work out satisfactory arrangements for payment, the following collection procedures are available through the court:

- 1. SUPPLEMENTAL ORDER - To find out the defendant's income and assets.** After judgment, you may have the defendant ordered into court to answer questions about the defendant's property, income and assets. Begin this procedure by obtaining a **Supplemental Order** form from the clerk, completing it, and returning it to the clerk to be issued. The clerk will set a date for the defendant's appearance. Defendant must be served with the Order by a Process Server, Sheriff or Constable at least 5 days business days in advance. You are responsible for the costs. You must also appear on the designated date to handle the questioning. You may ask the defendant about employment, assets and other funds owed. You may ask names, addresses and telephone numbers of those who owe the defendant money. You should take detailed notes, so that you may later use the information. When you have information about the defendant's income and assets, you may proceed with the following additional actions.
- 2. ABSTRACT OF JUDGMENT - To put a lien on the defendant's real estate.** If the defendant owns any real estate in Utah, you can place a lien on it by filing an **Abstract of Judgment**. Begin this procedure by obtaining an **Abstract of Judgment** form from the clerk no sooner than 10 business days after the judgment is granted. Complete the form and have it issued by the clerk. Then file the form in the **District Court** in the county where the defendant's real estate is located. There will be a filing fee. From the time it is filed, the **Abstract of Judgment** constitutes a lien on all real estate in the county listed in the defendant's name. To establish the lien's priority, a separate information statement with certain information about the defendant must be filed with the **District Court**. A form for providing this information is available from the **District Court**. The defendant will usually be unaware of the lien until the defendant tries to sell or borrow against the property, or until a title search is performed. The lien remains against the property until the judgment is paid or expires. The defendant will usually not be able to transfer the property until resolving the lien.
- 3. EXECUTION - To seize the defendant's property and sell it at public auction.** Once you have identified real estate or personal property owned by the defendant, you may have the sheriff or constable seize it and sell it. The defendant may be entitled to claim that certain property is exempt from execution. The full list of exempt property is found in Utah Code Title 78, Chapter 23. All seized property is subject to prior liens in favor of other persons, if any. The proceeds from a sale of the property shall be used first to satisfy the costs of the sale and then to satisfy your judgment. The balance, if any, must be returned to the defendant. Begin this procedure by obtaining a **Writ of Execution** form from the clerk, completing it and having the clerk issue and original and one copy. There will be a filing fee. You should then take to the Sheriff or Constable, (1) the issued original copy, (2) a "request for hearing" packet (provided by the Court Clerk), and (3) a typewritten list of the property to be seized (including description and location). The Sheriff or Constable will serve these documents and then contact you to make arrangements for sale date. You will be responsible for the Sheriff or Constable's fees.
- 4. GARNISHMENT - To intercept money owed to the defendant by someone else.** You may garnish defendant's wages, bank accounts, or debts owed to the defendant. State and federal exemptions on wage garnishments will limit your recovery to about 25% of the wages due the defendant when the **Writ of Garnishment** is served. Begin this procedure by obtaining a packet of garnishment forms from the clerk, completing the required information and returning them to the clerk to be issued. You should then give the entire packet to a Process Server, the Sheriff or Constable for service. The packet will include will include a list of questions for the person holding the defendant's money (e.g., the defendant's employer, the defendant's bank), who is called the "garnishee." You will be required to pay a filing fee, as well as a fee to the garnishee. The garnishee should answer within 5 business days. Ten business days after you receive the answers, if defendant has not claimed an exemption, ask the court clerk for a Garnishee Order to obtain defendant's money.

OTHER INFORMATION REGARDING SMALL CLAIMS JUDGMENTS

- 1. APPEAL.** Either party may appeal a Small Claims judgment within 30 calendar days of the entry of judgment. A **Notice of Appeal** must be filed with the court that issued the judgment and the appropriate fee paid.
- 2. DEFAULT JUDGMENTS/DISMISSALS.** If you did not appear for trial and judgment was entered against you, you may ask that the judgment be "set aside." The court must receive the **Request to Set Aside Judgment** within 15 calendar days of the entry of judgment. For more information, see the **Request to Set Aside Judgment** form which is available from the clerks office.
- 3. SATISFACTION OF JUDGMENT.** If and when the judgment is paid, you must obtain and file a **Satisfaction of Judgment** form with the clerk. A **Satisfaction of Judgment** must also be filed in each county in which an **Abstract of Judgment** was filed. There is no cost for the **Satisfaction of Judgment**.
- 4. DURATION OF JUDGMENT.** A Small Claims judgment must be collected within **8 years** of the date it was granted. It may be renewed by filing a new affidavit **before** the original judgment expires.

***NOTICE: Due to periodic changes in the law, please be advised that the above information is subject to change and are only given as general guidelines. Please refer to WWW.UTCOURTS.GOV for the current rules and laws.*