41B DISTRICT COURT

COLLECTING YOUR MONEY FROM A SMALL CLAIMS JUDGMENT

If you receive a money judgment through a lawsuit, you have the right to collect the money by the means allowed by law.

How Much can I Collect?

You can collect the amount stated in your small claims judgment (form DC 85) plus any interest that accumulates during the time the other party pays off the judgment.

How can I Collect my Money?

There are several ways to collect your money.

1. If the party who lost the lawsuit (called a judgment debtor) has the money and is present at the trial, s/he can pay you (called a judgment creditor) right then.

2. If the judgment debtor does not have the money at that time, the judge can set up a payment schedule.

If the judgment debtor is not present at the trial, the court will send a copy of the small claims judgment to the judgment debtor. The judgment will order the judgment debtor to pay you in full within 30 days or to tell you and the court where the judgment debtor works and the location of his/her bank accounts.

3. If the judgment debtor doesn't pay the judgment as ordered, you can collect your money through proceedings to seize property or to garnish income of the judgment debtor.

What is Seizure of Property?

Seizure of property is a court procedure that allows a court officer to seize property belonging to the judgment debtor that can be sold to pay the money owed to you. To file a request to seize property, use form MC 19, *Request and Order to Seize Property*.

What is Garnishment?

Garnishment is a court procedure that allows you to collect the money owed to you by taking it from the judgment debtor's wages, bank account, or another source (such as income tax refunds). To file a garnishment, contact the court clerk for the proper forms. Instructions are provided with the forms.

How do I get an Order to Seize Property or a Garnishment?

To get an order to seize property or for garnishment, you must know where the judgment debtor lives and works, what assets s/he has and where these assets are located, and any other information that identifies the judgment debtor and his/her property.

- If you already have the information described above, you can start the process for an order to seize property or for garnishment.

- If you don't have the information described above, you can order the judgment debtor to appear in court for questioning through a process called discovery. You can start this process by filing a discovery subpoena.

How to File a Discovery Subpoena

You must wait 21 days after your small claims judgment was signed before you can file a discovery subpoena. Use form MC 11, *Subpoena (Order to Appear and/or Produce)*.

Be sure to contact the court to set an appearance date and then put that date and location on the form. Complete the front of the *Subpoena* form and the "Affidavit for Judgment Debtor Examination" on the back of the form. The judge must sign the *Subpoena* before it becomes effective. After the *Subpoena* is signed, you must serve it on the judgment debtor.

The fee for filing the *Subpoena* with the court varies. The cost of serving it also varies.

How to File a Request to Seize Property

You must wait 21 days after your small claims judgment was signed before you can get an order to seize property. Use form MC 19, *Request and Order to Seize Property*, to start the process. Complete the "Request" portion of form MC 19 and file it with the court.

The filing fee varies. The court will issue the order by signing the form, and it will be executed (property seized) by a sheriff or court officer.

When do I get my Money from Seized Property? Once property is seized and sold, the money will be given to you. The sheriff or court officer is entitled to fees, which will be deducted from the sale of the property.

How to File a Request for Garnishment

You must wait 21 days after your small claims judgment was signed before you can get a garnishment. There are **three types of garnishment**: 1) periodic, 2) nonperiodic, and 3) income tax intercept. Use the appropriate form MC 12, MC 13, or MC 52, *Request and Writ for Garnishment*, to start the garnishment process.

A **periodic** writ of garnishment (form MC 12) is used to garnish the judgment debtor's wages, rent payments, land contract payments, or other debt that is paid to the jugment debtor on a periodic basis. A periodic garnishment is valid until the expiration date on the writ or until the judgment, interest, and costs are paid off, whichever occurs first.

A **nonperiodic** writ of garnishment (form MC 13) is used to garnish the judgment debtor's bank account or other property. Once money has been garnished under the nonperiodic writ, the writ is no longer valid. If there is a remaining balance due on the judgment, you must get another writ to collect more money.

An **income tax** writ of garnishment (form MC 52) is used to intercept the judgment debtor's income tax refund. Once the tax refund has been intercepted by the Department of Treasury, the writ is no longer valid. If there is a remaining balance due on the judgment, you must get another writ to collect more money.

Write or type in the names and addresses of the defendant (judgment debtor) and the garnishee on the "Request" part of the form. The **garnishee** is the person or business who has control or possession of the judgment debtor's money. After you complete the "Request," you must file it with the district court that entered your small claims judgment. The filing fee is $15.

The court will issue the "Writ" (order) by signing the form. The *Request and Writ for Garnishment* must be served on the garnishee along with the *Garnishee Disclosure*, form MC 14. There is a $6 disclosure fee for a garnishment of periodic payments and income tax refund. The cost of serving the writ varies.

When do I get my Money from the Garnishment? The garnishee has 14 days after the writ is served to let you, the court, and the judgment debtor know if any money is available for garnishment. This information will be provided on the *Garnishee Disclosure,* form MC 14. If you are trying to garnish the judgment debtor's wages, you will only receive part of the wages, calculated by using a federal formula.

If money is available, it will be withheld from the judgment debtor right away. However, this money will be held for 28 days to allow the judgment debtor time to object. If the judgment debtor files no objections with the court, the withheld money will be automatically sent to you after 28 days. If the garnishment is for periodic payments, money will continue to be sent to you as payments become due to the judgment debtor until the writ expires.

What Else can I do?

If your case against the judgment debtor involved a traffic accident, you can ask the court for an abstract of judgment, which would suspend the judgment debtor's Michigan driver's license until s/he pays the judgment. You must wait 30 days after the date of judgment until you can get an abstract of judgment. You need to provide the judgment debtor's full name, date of birth, and Michigan driver's license number. There is no filing fee. The court clerk should have the necessary forms.

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