

## **COLLECTING THE JUDGMENT**

Small Claims Judgments may be enforced/collected in certain ways. This booklet is designed to tell you a little about the procedures.

**PLEASE UNDERSTAND THAT JUDGES, JUDICIAL ASSISTANTS, DEPUTY CLERKS, and SHERIFFS DEPARTMENT EMPLOYEES** cannot practice law or give legal advice. They can only point out the existence of certain procedures, but cannot tell you how to follow them or how effective they will be.

**ONLY A LAWYER CAN GIVE YOU LEGAL ADVICE.** You should talk with an attorney if you have any questions about your rights.

**RECORDING THE JUDGMENT:** You may obtain a certified copy of the judgment from the Clerk of Court and the record the Judgment in any county or counties where the debtor owns real estate. Once recorded, the Judgment becomes a lien on the debtor's real estate in that county for 7 years from the date of recording. A judgment lien acts as an encumbrance on the title to the real estate and usually must present the Judgment for recording with the statutory service charge. Moreover, the lien may be extended for an additional period of 7 years by re-recording a certified copy of the judgment within the 90 day period preceding the expiration of the lien. In no event shall the lien upon real estate be extended beyond 20 years from original date of entry.

**LOCATING PROPERTY:** There are many ways to find out what property is owned by a debtor. The County Tax Collector or tag office, can tell you if the debtor owns a vehicle which is registered in the county. You may also write to the DEPARTMENT of Highway Safety and Motor Vehicles, Division of Motor Vehicles, 107 Gaines Street, Tallahassee, FL 32304 to see what vehicles a debtor owns in that county. These records can be complicated, and you may want an experienced person to check these for you.

Another way to locate the property of a debtor is the Deposition In Aid of Execution. A deposition is a method whereby is placed under oath and asked questions, before a court reporter or notary public, about his assets. This procedure is very effective, but somewhat complicated. A subpoena must be served on the debtor showing the time, date, and place of the deposition. The subpoena may also require the debtor to bring to the deposition financial statements, motor vehicle titles, deeds, easements, mortgages, and records of checking and savings account. A deposition can usually be taken in the county where the debtor lives, works, or normally conducts business. Because this procedure is so technical, you may wish to talk to a lawyer about this and/or review the source materials listed at the end of this pamphlet.

**OBTAINING A WRIT OF EXECUTION:** The judgment creditor may obtain a Writ of Execution any time during the 20-year life (does not have to be rerecorded to get an execution) of the Judgment, except during the 10 days immediately following the day the Judgment was issued.. During the 10 day period, a judgment debtor may file a motion for new trial, and that motion must be disposed of before a Writ of Execution may be issued by the Clerk. A Writ of Execution allows the Sheriff to take, advertise, and sell to the highest bidder enough personal property to pay off (satisfy) the Judgment and costs of seizure, advertising, and sale. The Sheriff may continue to do this from time to time until the entire Judgment is paid. You may bid on the property yourself.

**LEVYING ON THE WRIT OF EXECUTION:** Once you find the debtor has property, you may obtain your Writ of Execution, you should contact the Department of State, Division of Corporation Judgment liens section, at 850-245-6039 for instruction. You may download forms and information from their website at [www.sunbiz.org](http://www.sunbiz.org)

**WRIT OF GARNISHMENT:** Garnishment involves taking the debtor's property while it is in possession of a third party. This property may include wages, bank accounts, furnishings, vehicles, or other personal property. The garnishment of a debtor's

wages is a common means of collecting the Judgment. A continuing Writ of Garnishment against the wages of a judgment debtor enables the debtor's employer to make periodic payments to the creditor from a portion of the debtor's salary as it becomes due until the Judgment is satisfied or until otherwise provided by court order. Any person who has sued to recover a debt or has recovered Judgment in any court against any person or business has a right to a Writ of Garnishment. The Writ grants the collecting party legal rights to certain debts owed the defendant by a third party. This is a very technical and complicated procedure, and as such, you may wish to consult with an attorney. To obtain a Writ of Garnishment, you must file with the Clerk of Court at the location shown below:

**4010 Lewis Speedway  
St. Augustine, Florida 32095**

You should include in the motion the nature of the cause of action, amount of debt, and proof that the respective debt is just, due, and unpaid. At the time of filing, you must pay filing fees (\$88.00) and a \$100.00 deposit into the registry of the court. You may recover the \$100.00 deposit if the Writ is granted.

**EXEMPTIONS:** The Florida Constitution provides that certain property of a debtor may be exempted from forced sales to pay a valid Judgment. These exemptions include the real estate, which is the residence of a debtor who is the head of a household or family, as well as \$1,000.00 of personal property. The term "head of household" includes any unmarried, divorced, legally separated or widowed person who is providing more than one-half of the support for a child or other dependent. In addition, a debtor who is the head of a household may be entitled to claim an exemption on wages provided the money due is for personal labor or services of such person. A general federal exemption limits the amount of wages that may be garnished to not more than 25 percent of the total disposable earnings. The debtor must meet certain legal criteria specified in the respective statutes and case law to qualify for an exemption

**RECORD OF UNSATISFIED JUDGMENTS;**

If you had filed an action for damages resulting from an automobile accident and have received a judgment, you may effectively suspend the defendant's drivers license after 30 days from the date of judgment providing there are no appeals filed. You must obtain the form "Record of Unsatisfied Judgment" from the Drivers License Bureau, have the clerk from the County Courts issue the forms. You can then forward it to the Bureau of Financial Responsibility at PO Box 5775 Tallahassee, Fl 32314. For additional information you may call the Bureau at 852-455-2117.

**SOURCES OF INFORMATION:** More

information about collecting your Judgment may be obtained from references available in the law libraries or your public library located at:

**ON THE WEB AT  
WWW.ONLINE SUNSHINE.COM**

**ST. JOHNS COUNTY PUBLIC LIBRARY  
1960 N. PONCE DE LEON BLVD.  
ST. AUGUSTINE, FLORIDA 32092**

**IMPORTANT  
NUMBERS**

LEGAL AID  
(904) 827-9921

FLORIDA BAR LAWYER REFERRAL  
1-800-342-8011

**CLERK OF COURTS  
DIRECTORY**

ST. JOHNS COUNTY CLERKS OFFICE  
MAIN OFFICE  
(MAILING)  
4010 LEWIS SPEEDWAY  
ST. AUGUSTINE, FL. 32084

(PHYSICAL)  
4010 LEWIS SPEEDWAY  
RM. 143  
ST. AUGUSTINE, FL. 32084  
(904) 819-3650

JULINGTON CREEK ANNEX  
725 FLORA BRANCH BLVD  
JACKSONVILLE, FL. 32259  
(904) 230-0107

PONTE VEDRA ANNEX  
5430 PALM VALLEY RD.  
PONTE VEDRA, FL. 32082  
(904) 285-5945

S.E. ANNEX  
6658 US1 SOUTH  
ST. AUGUSTINE, FL 32086  
TEL: (904) 819-3698

**OFFICE HOURS**

8:00A.M. TO 5:00P.M.  
MONDAY THROUGH FRIDAY  
OR VISIT OUR WEB SITE AT  
[WWW.SJCCOC.US](http://WWW.SJCCOC.US)

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