THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA
ALACHUA.BAKER.BRADFORD GILCHRIST.LEVY.UNION

HOW TO COLLECT A JUDGMENT

A judgment is a court order stating that the Defendant(s) owes you money, making you the "judgment creditor." The Defendant(s) is the "judgment debtor." A judgment is automatically recorded in the official records of the county where the Defendant(s) was sued or where the judgment was entered. It is the responsibility of the Plaintiff, the "judgment creditor" to collect the money awarded to them.

The court cannot collect money damages for you. Please understand that Judges, Judicial Assistants, Clerks of Court, and Sheriff's Office employees cannot practice law or give you legal advice. You may wish to consult with an attorney for advice on how to collect a judgment.

Fact Information Sheet:

Before you can take steps to collect your judgment, you must determine what assets the Defendant(s) has. When the court enters a judgment, it will include a copy of the Fact Information Sheet with the judgment and order the Defendant to provide the completed Fact Information Sheet to the Plaintiff within 45 days. If the Defendant(s) fails to complete the Fact Information Sheet, the Plaintiff can file a motion to compel with the court and contact the Judge's Judicial Assistant to notify the court of the Motion; the Court will issue an order on the motion to compel. Once the Fact Information Sheet is received, the Plaintiff can take steps to collect in the following ways, depending on what assets the Defendant(s) has.

Ways to Collect a Judgment:

I. Garnishment of Non-Exempt Funds in a Bank Account

If the fact information sheet includes bank accounts or other accounts belonging to the Defendant that are not exempt from garnishment, follow the steps below:

Step 1: Fill out **PLAINTIFF'S MOTION FOR WRIT OF GARNISHMENT** and **WRIT OF GARNISHMENT** and file with the Clerk of Court**.** The Clerk will assess a fee of $85.00.

Step 2: If the Clerk determines that the motion meets the requirements of Fla. Stat. 77.03 and 77.04, the Clerk will execute the **WRIT OF GARNISHMENT**.

Step 3: Have the executed **WRIT OF GARNISHMENT** served on the Garnishee (holder of the bank account or other account) by Sheriff. *See* Fla. Stat. 77.041(2). The **WRIT OF GARNISHMENT** requires the Garnishee to file an answer within twenty (20) days of service. The executed **WRIT OF GARNISHMENT** must have attached the **NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT OF WAGES, MONEY, AND OTHER PROPERTY**. This Notice can be obtained from the Clerk of Court.

https://www.alachuaclerk.org/forms/NoticeToDefendantAndClaimOfExemption.pdf. If the Garnishee fails to answer within twenty (20) days of service, apply to the Clerk for a Clerk's Default.

i. If a Clerk's Default is obtained against Garnishee, file a motion for Default Final Judgment of Garnishment Against Garnishee and contact the Judicial Assistant of the Judge who issued the judgment to schedule a hearing.
ii. If no Clerk's Default is obtained, proceed to Step 4.

Step 4: Five days after the Garnishee answers, or after the 20 days to answer have expired with no answer filed, mail, by First Class Mail, the following documents to the Defendant:

a. Completed **NOTICE TO DEFENDANT OF WRIT OF GARNISHMENT PURSUANT TO SECTION 77.055, F.S. AND CERTIFICATE OF SERVICE**.
b. Copy of the **WRIT OF GARNISHMENT.**
c. Copy of Garnishee's answer (if an answer has been filed).
d. Copy of Claim of Exemption and Request for Hearing form (leave blank). This form can be obtained from the Clerk of Court.
    i. If the Defendant(s) request a hearing, contact the Judicial Assistant of the Judge who issued the judgment to schedule a hearing.
    ii. The Defendant(s) must complete and file the Claim of Exemption and Request for Hearing form within twenty (20) days.
    iii. If the Defendant(s) does file a response and requests a hearing, the Court will set a hearing to determine if Plaintiff is entitled to a final judgment of garnishment.
    iv. If the Defendant(s) fails to complete and file the Claim of Exemption and Request for Hearing form within twenty (20) days, apply to the Clerk for a Clerk's Default.
    v. If a Clerk's Default is obtained against Defendant(s), file a motion for Default Final Judgment of Garnishment Against Defendant(s) and contact the Judicial Assistant of the Judge who issued the judgment to schedule a hearing.

II. Garnishment of Available Wages

If the fact information sheet does not include sufficient bank accounts or other accounts belonging to the Defendant(s) to garnish against, but the Defendant(s) has wages available for garnishment, follow the steps below:

Step 1: Fill out **PLAINTIFF'S MOTION FOR CONTINUING WRIT OF GARNISHMENT** and **WRIT OF CONTINUING GARNISHMENT** and file with the Clerk of Court**.** The Clerk will assess a fee of $85.00.

Step 2: If the Court enters an order granting the motion, the Clerk will execute the **WRIT OF CONTINUING GARNISHMENT.**

Step 3: Have the executed **WRIT OF GARNISHMENT** served on the Garnishee (holder of the bank account or other account) by Sheriff. *See* Fla. Stat. 77.041(2). The **WRIT OF GARNISHMENT** requires the Garnishee to file an answer within twenty (20) days of service. The executed **WRIT OF GARNISHMENT** must have attached the **NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT OF WAGES, MONEY, AND OTHER PROPERTY**. This Notice can be obtained from the Clerk of Court.
https://www.alachuaclerk.org/forms/NoticeToDefendantAndClaimOfExemption.pdf. If the Garnishee fails to answer within twenty (20) days of service, apply to the Clerk for a Clerk's Default.

i. If a Clerk's Default is obtained against Garnishee, file a motion for Default Final Judgment of Garnishment Against Garnishee and contact the Judicial Assistant of the Judge who issued the judgment to schedule a hearing.

Step 4: Five days after the Garnishee answers, or after the 20 days to answer have expired with no answer filed, mail, by First Class Mail, the following documents to the Defendant:

a. Completed **NOTICE TO DEFENDANT OF WRIT OF GARNISHMENT PURSUANT TO SECTION 77.055, F.S. AND CERTIFICATE OF SERVICE**.
b. Copy of the **WRIT OF GARNISHMENT.**
c. Copy of Garnishee's answer (if an answer has been filed).
d. Copy of Claim of Exemption and Request for Hearing form (leave blank). This form can be obtained from the Clerk of Court.
    i. If the Defendant(s) request a hearing, contact the Judicial Assistant of the Judge who issued the judgment to schedule a hearing.
    ii. The Defendant(s) must complete and file the Claim of Exemption and Request for Hearing form within twenty (20) days.
    iii. If the Defendant(s) does file a response and requests a hearing, the Court will set a hearing to determine if Plaintiff is entitled to a final judgment of garnishment.
    iv. If the Defendant(s) fails to complete and file the Claim of Exemption and Request for Hearing form within twenty (20) days, apply to the Clerk for a Clerk's Default.
    v. If a Clerk's Default is obtained against Defendant(s), file a motion for Default Final Judgment of Garnishment Against Defendant(s) and contact the Judicial Assistant of the Judge who issued the judgment to schedule a hearing.

III. Levy on Personal (Non-Exempt) Property

If the fact information sheet does not include sufficient bank accounts, other accounts, or wages belonging to the Defendant(s) available, follow the steps below:

Step 1: Locate the property. The Sheriff's Office can seize **Personal Property** (movable things owned by the debtor: cars, boats, jewelry, furniture), and **Real Property (land and buildings owned by the debtor).** The property must be located in Florida, and it is your responsibility to locate the property, the Sheriff's Office **WILL NOT** locate it for you.

a. It is important to note that corporations and partnerships do not have any exemptions, **HOWEVER**, an individual may choose to exempt one (1) motor vehicle valued at $1,000 or less; and one additional **Personal Property** item valued at $1,000 or less.
b. The Sheriff's Office **CANNOT** seize an individual's home or any property that is leased or rented by the judgment debtor.

Step 2: Return to the Clerk of Court who originally issued your judgment and ask for a **WRIT OF EXECUTION.** The Clerk will assess a fee.

Step 3: Once you have obtained the **WRIT OF EXECUTION,** deliver the **WRIT OF EXECUTION** to the Sheriff's Office for the county where the debtor's property is located.

a. Provide the Sheriff's Office with:
    1. A deposit to cover the Sheriff's fees (you will get this back if the execution is successful and if the property sale covers the Sheriff's costs).
    2. Written **INSTRUCTIONS** describing the property and where it is located.

Step 4: For the Sheriff's Office to sell the property, you must do the following steps:

a. Search the FL Department of State records by the "judgment debtor(s) name for other judgment liens filed under that name (if any).
b. Search the FL Department of State UCC records by the "judgment debtor(s) name for creditors who may have filed UCC security interests under that name (if any).
c. Notify creditors found (if any) of the date, time, and place of the sale.
d. Provide the Sheriff's Office with a signed affidavit containing the information you found in your search against the debtor.
e. Advertise the sale in a local newspaper once the notice has been sent.

Step 5: Once the **Personal property** is levied (seized), the Sheriff's Office will sell the property at a public auction. The property will be sold to the highest bidder for cash in hand. You may also bid for the property.

Step 6: Once the **Personal Property** has been sold, the Sheriff's Office will distribute the money as follows:

a. Sheriff's Office will deduct their costs (if the property sale covers the Sheriff's costs, you will get your initial deposit back)
b. The Sheriff pays you $500 for your costs, regardless of what you actually spent.
c. In the case that anyone else obtained a judgment lien against this same debtor, the Sheriff's Office will pay back all of the creditors in the order that the liens were filed. However, it is important to note that if the Sheriff's Office disburses all the money before getting it to you, you will not receive any payment.
d. If there were no other judgment liens against the debtor, you will be paid first.
e. The remaining funds after your payment will be returned to the debtor.

A judgment lien is valid for five (5) years, but Florida law allows you to file an extension to extend the lien for an additional five (5) years.

IV. Lien on Real Property

Step 1: Get a certified copy of your final judgment and record it in each county where the Defendant(s) owns real property. If the Defendant(s) later tries to sell this property, he or she will not be able to give a good title to a buyer unless the recorded judgment is satisfied or paid in full. *See* Florida Statute 55.10.

The lien is in effect for ten (10) years, but Florida law allows you to file an extension to extend the lien for an additional ten (10) years.

** For procedural assistance, please contact the Self-Help Center at (352) 548-3781. **

DEFINITIONS

What is a judgment?

An order entered by the court which states the judge's decision on the legal issue presented.

What is a lien?

A lien (pronounced "lean") gives the plaintiff the right to lawfully retain possession of the property of another until the owner of this property fulfills his/ her legal duty to pay the monies owed.

What is a garnishment?

A non-wage garnishment is a court order directing a third party that holds money or property belonging to a judgment debtor to withhold it. A wage garnishment is an order directing an employer to withhold a portion of the judgment debtor's wages to satisfy a judgment.

What is a judgment debtor?

The losing party (the party that is ordered to pay a monetary amount by the court).

What is a judgment creditor?

The winning party (the party that is awarded a monetary amount by the court).

What is a levy?

The process of seizing a judgment debtor's property to pay the judgment debt. In Florida, the sheriff's department levies the property. The sheriff's department sells the levied property in order to pay the creditor.

What is execution?

The process of selling the seized property and paying the creditor.

IN THE COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR COUNTY, FLORIDA

_____
Plaintiff

VS. Case No._____

_____
Defendant

_____
Garnishee

MOTION FOR GARNISHMENT

Plaintiff moves the Court to issue a Writ of Garnishment against the above named Garnishee and as grounds therefore alleges that the Plaintiff obtained a judgment against the above named defendant for the sum of $_____ in the above referenced case, and that there still remains due and unpaid on said judgment the sum of $_____. The Plaintiff does not believe that the defendant has in possession visible property upon which a levy can be made sufficient to satisfy the said judgment. The Plaintiff has reason to believe that the above named garnishee has in said garnishee's hands, possession or control goods, monies, chattels, or effects belonging to the defendant.

The Plaintiff further moves the Court to award to the Plaintiff the costs incurred in this garnishment action.

DATED: _____ _____
Plaintiff/Plaintiff's Attorney

_____
Address

_____
City State Zip

_____
Telephone

_____
Email

THIS SECTION MUST NOT BE LEFT BLANK OR INCOMPLETE

I HEREBY CERTIFY that a copy hereof has been furnished by ☐ mailed; ☐ faxed and mailed; ☐ hand delivered; to the persons listed below this _____ day of _____, 20___.

DATED: _____

_____
Respondent Name

_____
Address

_____
City State Zip

_____
Telephone (area code and number)

_____
Email

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM THEY MUST FILL IN THE BLANKS BELOW:

I, (name of nonlawyer) _____, a nonlawyer, located at (Street)_____(city) _____ (state) ____ (Phone)_____, helped (name) _____, who is the [Check one only] ____petitioner or ____respondent, fill out this form.

IN THE COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR COUNTY, FLORIDA

_____
Plaintiff

VS. Case No._____

_____
Defendant

_____
Garnishee

WRIT OF GARNISHMENT

TO THE STATE OF FLORIDA:
To all and Singular the Sheriffs of the State:

YOU ARE COMMANDED to summon the garnishee, _____, to serve an answer to this writ on _____, plaintiff/plaintiff's attorney, whose address is _____ _____ within 20 days after service on the garnishee, exclusive of the day of service, and to file the original with the Clerk of the Court either before service on the attorney or immediately thereafter, stating whether the garnishee is indebted to defendant, _____ at the time of the answer or was indebted at the time of service of the Writ, or at any time between such times, and in what sum and what tangible and intangible personal property of the defendant the garnishee is in possession or control of at the time of the answer or had at the time of service of this Writ, or at any time between such times, and whether the garnishee knows of any other person indebted to the defendant or who may be in possession or control of any property of the defendant. The amount set in plaintiff's motion is $_____.

FAILURE TO FILE AN ANSWER WITHIN THE TIME REQUIRED MAY RESULT IN THE ENTRY OF A JUDGMENT AGAINST THE GARNISHEE FOR THE ABOVE TOTAL AMOUNT OF $_____

WITNESS my hand and Official Seal on the _____ day of _____, 20___, in _____ County, Florida.

(SEAL) **BY** _____**, Deputy Clerk**
Clerk of the Circuit Court

IN THE COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR COUNTY, FLORIDA

_____
Plaintiff

VS. Case No._____

_____
Defendant

_____
Garnishee

NOTICE TO DEFENDANT OF WRIT OF GARNISHMENT PURSUANT TO SECTION 77.055, F.S. AND CERTIFICATE OF SERVICE

In compliance with Section 77.055, F.S., Plaintiff hereby certifies:

1. That a (check one) ☐ Writ of Garnishment ☐ Continuing Writ of Garnishment Against Salary or Wages was served on the above named Garnishee on _____, 20____.

2. That the above named Garnishee (check one)
   ☐ did not file an Answer
   ☐ filed an Answer. A copy is attached.

3. You are hereby notified that you must move to dissolve the Writ of Garnishment within 20 days after the date indicated on the Certificate of Service below if any allegation in the Plaintiff's Motion for Writ of Garnishment is untrue.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. mail this _____ day of _____, 20___ to:

_____
Defendant Name and Address

_____
Plaintiff's Signature

_____
Plaintiff's Name (print)

_____
Plaintiff's Address

_____
City State Zip

IN THE COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR COUNTY, FLORIDA

_____
Plaintiff

VS. Case No._____

_____
Defendant

_____
Garnishee

MOTION FOR CONTINUING GARNISHMENT

Plaintiff moves the Court to issue a Writ of Garnishment against the above-named Garnishee and as grounds therefore alleges that the Plaintiff obtained a judgment against the above named defendant for the sum of $_____ in the above referenced case, and that there still remains due and unpaid on said judgment the sum of $_____. The Plaintiff does not believe that the defendant has in possession visible property upon which a levy can be made sufficient to satisfy the said judgment. The Plaintiff has reason to believe that the above named garnishee has in said garnishee's hands, possession or control goods, monies, chattels, or effects belonging to the defendant.

The Plaintiff further moves the Court to award to the Plaintiff the costs incurred in this garnishment action. The Plaintiff further requests a continuing garnishment of wages as per Sec. 77.0305 F.S.

DATED: _____ _____
Plaintiff/Plaintiff's Attorney

_____
Address

_____
City State Zip

_____
Telephone

_____
Email

THIS SECTION MUST NOT BE LEFT BLANK OR INCOMPLETE

I HEREBY CERTIFY that a copy hereof has been furnished by ☐ mailed; ☐ faxed and mailed; ☐ hand delivered; to the persons listed below this _____ day of _____, 20___.

DATED: _____

_____
Respondent Name

_____
Address

_____
City State Zip

_____
Telephone (area code and number)

_____
Email

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM THEY MUST FILL IN THE BLANKS BELOW:

I, (name of nonlawyer) _____, a nonlawyer, located at (Street)_____ (city) _____ (state) ____ (Phone)_____, helped (name) _____, who is the [Check one only] ____petitioner or ____respondent, fill out this form.

IN THE COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR _____COUNTY, FLORIDA

_____
Plaintiff
VS. Case No._____

_____
Defendant

_____
Garnishee

CONTINUING WRIT OF GARNISHMENT AGAINST SALARY OR WAGES

TO THE STATE OF FLORIDA:
To all and Singular the Sheriffs of the State:

YOU ARE COMMANDED to summon the garnishee, _____, whose address is _____ _____ who is required to serve an answer to this writ on_____ _____to serve an answer to this writ on _____, plaintiff/plaintiff's attorney, whose address is _____ _____ within 20 days after service of this writ, exclusive of the day of service, and to file the original with the Clerk of the Court either before service on the attorney or immediately thereafter. The answer shall state whether the garnishee is the employer of the defendant, _____ and whether the garnishee is indebted to defendant by reason of salary or wages. The garnishee's answer shall specify the periods of payment (for example, weekly, biweekly, or monthly) and amount of salary or wages and be based on the defendant's earnings for the pay period during which this writ is served on the garnishee.

During each pay period, a portion of the defendant's salary or wages as it becomes due shall be held and not disposed of or transferred until further order of this court. The amount of salary or wages to be withheld for each pay period shall be made in accordance with the following paragraph. This writ shall continue until the plaintiff's judgment is paid in full or until otherwise provided by court order.

Federal Law (15 U.S.C. § § 1671-1673) limits the amount to be withheld for salary or wages to no more than 25% of any individual defendant's disposable earnings (the part of earnings remaining after the deduction of any amounts required by law to be deducted) for any pay period or to no more than the amount by which the individual's disposable earnings for the pay period exceed 30 times the federal minimum hourly wage, whichever is less.

For administrative costs, the garnishee may collect $_____against the salary or wages of the defendant for the first deduction and $_____for each deduction thereafter.

The total amount of the final judgment outstanding as set out in the plaintiff's motion is $_____.

FAILURE TO FILE AN ANSWER WITHIN THE TIME REQUIRED MAY RESULT IN THE ENTRY OF A JUDGMENT AGAINST THE GARNISHEE FOR THE ABOVE TOTAL AMOUNT OF $_____.

DONE AND ORDERED in chambers on the ____ day of _____, 20_____, in _____County, Florida.

_____
JUDGE