

How to Collect a Judgment

You will have to collect your money yourself if you win in Court.

The court will not collect the judgment for you. Go to the Justice Court and request the forms for a Writ of Execution specifying if it is for wages or a bank account. Next contact the sheriff's office or a private levying officer to serve the writ. Judgments entered beginning October 1, 2001 are valid for 10 years. You are entitled to interest at 10% per annum beginning with the date of the entry of judgment and to payment for some of your costs incurred in collecting the judgment. After you collect your judgment, you **must** file a Satisfaction of Judgment with the clerk of the justice court.

You can not serve the writ of execution. It must be served by the sheriff's office or a private levying officer. The defendant's social security number is required for an execution. The writ is in effect 120 days from the date of issuance and may be served multiple times by the officer during that period. After 120 days a new writ will need to be issued if the judgment is not satisfied.

Some things you can do to try and collect the money owed you.

If the person who owes you money, called the judgment debtor, refuses to pay you the following are procedures you can do to try and collect your judgment:

1. Garnish the Debtor's Wages.

A wage garnishment orders the debtor's employer to give you part of the debtor's wages until the debt is paid. Federal and state law places limits upon the amount of earnings subject to garnishment.

To garnish wages, bring your judgment to the clerk of court and ask for a writ of execution and take it to the sheriff or levying officer. You will have to provide the server with the debtor's SS#, employer's name and address. If the debtor is self employed you do not request a writ of execution to garnish wages, but you may levy upon moneys owed by another person to the judgment debtor.

2. Levy upon the Debtor's Bank Account.

Get a writ of execution from the clerk specifying that it is for a bank account. Once completed, take it to the sheriff or levying officer. This means that money will be taken from the debtor's bank account to pay the judgment. You will need to provide the server with the debtor's SS#, the name, address, and branch of the bank.

3. File a Transcript of Judgment with the District Court.

Filing a Transcript of Judgment with the district court puts a judgment lien on any land, house, or other building the debtor owns in the county where the transcript is filed. File the transcript in all counties where the debtor may own property. If the property is sold, the debt will be paid out of the proceeds of the sale. The judgment lien is valid for 6 years. The judgment lien will also put a lien on property the debtor may buy in the future and prevent the debtor from refinancing any property until the debt is paid. Bring your judgment to the clerk and ask for a Transcript of Judgment Take it to the clerk of district court to file it. There is a fee to file the transcript.

4. Levy upon the Debtor's Personal Property.

To levy upon the personal property of the judgment debtor get a writ of execution from the court and take it to the sheriff or levying officer. You will need to describe the personal property to be levied upon.

Some personal property is exempt from execution, i.e. one motor vehicle not to exceed \$2500.00. Personal property (clothing, furnishings, animals, crops) not to exceed \$4500.00 in aggregate value (Each item must be worth less than \$600). There are other exemptions. If the judgment debtor used the property to secure a loan or to purchase the property, the security lien of the bank or finance company must be paid before any moneys from the execution will be applied to your judgment.

There are some other ways to try and collect judgments:

1. Have the Sheriff or Levying Officer do a Till Tap.

If the debtor is a business with a cash register, the sheriff or levying officer can go to the business and take enough money out of the register to pay the judgment and their fees. Get a writ of execution from the clerk and complete it. If there is not enough money in the register to pay the judgment, you will have to pay another fee each time the server goes back.

2. Hold a Judgment Debtor Hearing.

A judgment debtor hearing requires the debtor to come to court and answer your questions about his/her salary, bank accounts, property, and anything else that could be used to pay the judgment. If you wish, you can subpoena bank books, paycheck stubs, records, etc, before the hearing. You will need a subpoena duces tecum to obtain the records.

A judgment debtor hearing is not automatically set by the court. You must petition the court for a supplemental hearing to examine the judgment debtor. Your petition **must** be accompanied by an affidavit showing that a writ of execution was issued **and** returned to the court and that the debtor is withholding property from execution. No supplemental hearing will be set prior to the issuance of a writ of execution. If you want specific information or items to be brought to the hearing by the debtor issue a subpoena duces tecum listing the items. Have a server serve the subpoena on the defendant.

3. Suspend Debtor's Driver's License.

If you received a judgment for damages in a motor vehicle accident case and the judgment is not paid within 60 days, you can have the debtor's driver's license suspended until the judgment is paid. The license can not be suspended for more than 6 years from the date the judgment was entered.

To get the license suspended go to the court and request in writing that a certified copy of the judgment be sent to the MT Department of Motor Vehicles. Give the clerk a copy of the accident report. You will need to provide the clerk with the defendant's birth date, driver's license number, and address. The clerk will not send the judgment to Motor Vehicles without a written request from you.