

## **Enforcing Your Small Claims Judgment**

### **Introduction**

You should obtain legal counsel from an attorney to assist you in enforcing your judgment.

The good news is that you won your case and the court entered a judgment against the opposing party. The bad news is that collecting your judgment may not be easy. It is up to the judgment creditor – not the court – to collect from the judgment debtor.

If a judgment debtor does not voluntarily pay the judgment, the judgment creditor can try to collect the money from the judgment debtor involuntarily. To do so, a judgment creditor can execute upon a judgment debtor's wages, bank account, or other assets. There are a series of forms that the judgment creditor must prepare, file with the court clerk, and give to the constable or sheriff in order to execute a judgment.

### **Terms**

Garnishee Defendant means a third party who is holding property belonging to the Judgment Debtor

Judgment Creditor means the person who won and is entitled to collect the money awarded to him/her by the court.

Judgment Debtor means the party who lost and owes money to the Judgment Creditor

Executing the Judgment means the Judgment Creditor's involuntary collection of money from the Judgment Debtor

### **The Fees**

You may be responsible for paying the following fees. Each fee may require a separate payment (e.g. a check payable to each entity). The Court may, as a courtesy, accept and forward Sheriff/Constable and/or bank or employer fees to the appropriate payee. Please be advised, however, because the Court is merely forwarding payment, the Court will not accept cash

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payments for Sheriff/Constable or employer or bank fees. If you wish to pay cash for such fees, you must make payment directly to the employer or bank or Sheriff/Constable.

1. \$25.00 filing fee to the Court to file your writ of execution. *See* NRS 4.060
2. \$5.00 to the employer/bank to process your paperwork. *See* NRS 31.270.
3. \$3 per pay period, up to \$12 per month, if you are garnishing wages. *See* NRS 31.296(2).
4. A fee to the Sheriff/Constable who serves your paperwork. This amount can be determined by contacting the appropriate Sheriff/Constable.

### **The Process**

Only certain types of a Judgment Debtor's funds or income are subject to execution or garnishment. In addition, only a certain portion of such funds are subject to execution or garnishment.

To execute your judgment you will need to prepare certain documents: (1) the Writ of Execution, (2) the Notice of Execution, (3) the Writ of Garnishment, and (4) the Instructions to the Constable or Sheriff.

1. *Writ of Execution:* the Writ of Execution is a court order that authorizes the constable or sheriff to take certain property belonging to the judgment debtor. After completing the Writ of Execution, you must file it with the Court. The Court must charge you a \$25.00 filing fee. *See* NRS 4.060. A sample a writ of execution can be found at: <http://www.civillawselfhelpcenter.org/images/justice-court/writ-of-execution-fillable.pdf>
2. *Notice of Execution:* the Notice of Execution is a document provided to the Judgment Debtor notifying him/her that his/her property is being attached or his/her wages are being garnished. A sample notice may be found at: <http://www.civillawselfhelpcenter.org/images/notice-of-execution-after-judgment.pdf>
3. *Writ of Garnishment:* the Writ of Garnishment is needed to collect the Judgment Debtor's money held by a third party (e.g. wages, bank account, et al.). A sample a

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writ of garnishment can be found at:

<http://www.civillawselfhelpcenter.org/images/justice-court/writ-of-garnishment-fillable.doc>

4. *Instructions to the Sheriff:* you will prepare instructions to the constable or sheriff, depending on which office you intend to use to serve your execution forms. Please be advised you must use the Sheriff/Constable of the county in which the garnishee defendant is found. *See* NRS 31.270. The Sheriff/Constable may charge you a fee for this service. The instructions to the Sheriff are not filed with the Court.

Once the necessary forms are filed with the Court and provided to the appropriate Sheriff/Constable, the documents will be served. The employer/bank will then process the paperwork. If there are funds subject to garnishment or execution, those funds will be provided to the Sheriff/Constable. The Sheriff/Constable is permitted to retain a portion of those funds as compensation for its efforts. The remaining funds will be forwarded either to you directly or to the Court, which will forward the funds to you.

A garnishment/execution is only valid for 180 days or until the debt is satisfied. *See* NRS 31.296(1). A Judgment Debtor can be subject only to one garnishment proceeding at any one time. Thus, if the Judgment Debtor is already subject to garnishment, your garnishment may be delayed. The Court is generally unable to tell you if there is a garnishment ahead of you.

You are required to prepare an accounting and provide reports to the Judgment Debtor, Sheriff and each Garnishee Defendant every 180 days. *See* NRS 31.296(4).

Once the judgment is completely paid off, you must file a Satisfaction of Judgment with the court so that the payoff is reflected in the court's records. *See* NRS 17.200.

### **Timing**

Your judgment will expire within six years from the date it is entered in your case unless it is renewed. NRS 17.214 sets forth the requirements to renew a judgment.

You must wait, at least, 5 days after entry of judgment to engage in efforts to enforce a judgment. Please be advised, the filing of an appeal, by either party, may delay your ability to collect on your judgment.

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## **Miscellaneous Matters**

In order to serve the necessary paperwork on any entity other than an individual (e.g. a business, an employer, a bank, a corporation, a company, et al.) you must serve the person authorized to accept service on behalf of the entity. You may wish to contact the entity to identify the proper person. You may also be able to determine who that person is via the Nevada Secretary of State's website at: <https://www.nvsos.gov/sosentitysearch/>

Enforcement of a judgment is process that requires involvement of a Court and a Sheriff/Constable. The appropriate Court is generally the Court that enter the judgment on your behalf. The appropriate Sheriff/Constable is the Sheriff/Constable who has jurisdiction over the location where the Garnishee Defendant is found (e.g. if you are trying to garnish wages from an employer who is headquartered or will accept service only in Las Vegas, you must use the Clark County Sheriff/Constable).

If you are trying to enforce your judgment against out of state wages or an out of state bank, you may wish to contact an attorney. The Court is unable to provide forms or instruction or advice on how to proceed in such a case.

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