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COLLECTING YOUR CIVIL JUDGMENT

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Collection forms and fees may be filed online at www.stowmunicourt.com or in person with the Clerk of Courts, Civil Division. All forms are available at www.stowmunicourt.com/forms/.

Please Note: Effective February 01, 2017, all attorney filings must be submitted using our eFiling portal. Exceptions to this rule are:

- *New Bank Attachments.*
- *New Wage Garnishments.*
- *Writs of Restitution.*

Information provided by Clerk of Courts staff or by this informational guide is not legal advice. If you need legal advice, please contact an attorney. If you do not have an attorney, you may want to contact one of the following:

Ohio Legal Help
(866) 791-8362
www.ohiolegalhelp.org

Community Legal Aid
(330) 535-4191
www.communitylegalaid.org

Akron Bar Association Lawyer Referral Service
(330) 253-5038
www.akronbar.org (click on "For the Public," then click "Lawyer Referral Service")

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About Collecting a Judgment

Even though the Court awarded you a judgment, the judgment debtor (“Debtor”) may not voluntarily pay you. You can use the methods explained here to help you get paid. You will need the case number and the names and addresses of the parties in your case. There are fees and court costs for each collection option.

This guide contains a few options for collecting money if you won a small claims judgment:

1. Bank account attachment.
2. Wage garnishment.
3. Judgment lien on real estate.

You can collect the following amounts (the “total probable amount due”):

- Your judgment amount (this is the amount indicated on your Judgment Entry).
- Filing fees and court costs (including the filing fee for a collection method).
- Interest on the judgment, if any awarded (if too much time passes and your judgment becomes “dormant,” interest may cease to accrue).
- The interest rate, if designated “statutory,” depends on the date of your judgment.

*You must calculate the amount of interest due each time you receive a payment from the Debtor or pay a court fee.

Your judgment will remain active for at least five years. Even if it is impossible to collect your money now, you may be able to collect it later. If your judgment becomes inactive (“dormant”), you may “revive” your judgment by filing a “Motion to Revive Judgment” at any time within the ten years following the time the judgment went dormant.

Collection Method 1: Bank Account Attachment ("Bank Attachment")

This method takes money from the debtor's bank account. You will need the debtor's:

1. Bank name.
2. Bank address.

File the following bank attachment forms with the Clerk of Court:

- (One original plus four copies) "Affidavit & Order & Notice of Garnishment of Property Other Than Personal Earnings & Answer of Garnishee," Sections A and B ("Bank Attachment") *You must sign the "Garnishment Affidavit" in front of a notary public.
- (Two copies) "Bank Attachment" - Notice to Defendant and Request for Hearing."
- For each bank, a check or money order for \$1.00 payable to the debtor's bank (the garnishee).
- Filing fee of \$55.00 per bank payable to "Stow Municipal Court." The Clerk accepts cash, money order, check, Visa, and MasterCard. A 3.75% convenience fee, charged by the credit card companies, will be added to all credit card payments. *The Clerk does not accept American Express.*

Once the paperwork is approved and signed by a magistrate, it will be sent to the designated bank(s). All monies received from the bank, less a 2% poundage, will be forwarded to you by the Clerk's Office. You may view the online docket or call the Clerk's Civil Division at (330) 564-4148 to check the status of your attachment. You may file a bank attachment again if you do not receive the entire judgment amount.

Please Note: A bank may only extract money if the balance in the account exceeds \$500.00 in unprotected funds/

Collection Method 2: Wage Garnishment

This method takes money from the debtor's paycheck. You will need the debtor's:

1. Employer name
2. Employer address (ask the employer for the address where they accept garnishment requests)

Begin the Wage Garnishment Process:

- Complete two copies of the "Fifteen Day Notice of Pending Garnishment Letter."
- Mail the debtor a copy of the 15 day demand by ordinary US mail and obtain a "Certificate of Mailing" receipt from the post office (ask for Form 3817).
- Wait at least 15 days but not more than 45 days before completing the wage garnishment forms.
- If the debtor does not pay you, file the following wage garnishment forms with the Clerk of Court:
 - (One copy) "Fifteen Day Notice of Pending Garnishment Letter."
 - Certificate of mailing receipt from the post office.
 - (One original plus four copies) "Affidavit & Order & Notice of Garnishment of Personal Earnings & Answer of Employer," Sections A and B ("Wage Garnishment"). *You must sign the "Garnishment Affidavit" in front of a notary public.
 - (Two copies) "Garnishment - Notice to Defendant and Request for Hearing."
 - (Two copies) "Garnishment – Employer Interim Report."
 - (Two copies) "Garnishment – Employer Final Report."
 - Filing fee:
 - When the Judgment amount is *under* \$3,000.00: \$85.00 per employer payable to "Stow Municipal Court."
 - When the Judgment amount is \$3,000.00 or more: \$200.00 per employer payable to "Stow Municipal Court."
 - The Clerk accepts cash, money order, check, Visa, and MasterCard. A 3.75% convenience fee, charged by the credit card companies, will be added to all credit card payments. *The Clerk does not accept American Express.*

Within 15 days, the debtor's employer must state whether the debtor works there and, if so, provide payroll information. After 30 days, you may view the online docket or call the Clerk's Civil Division at (330) 564-4148 to check the information provided by the employer.

The debtor may request a hearing to review the garnishment. If the debtor requests a hearing, you will receive notice by mail and will be required to attend. If the garnishment is successful, the Clerk will mail your money (the total submitted, less a 2% poundage) after the employer submits the first check to the Clerk's office. You may view the online docket or call the Clerk's Civil Division at (330) 564-4148 to check the status of your garnishment. Garnishment payments will continue until the judgment is paid in full, the debtor terminates employment, or the debtor files bankruptcy.

Garnishments filed first take effect first and remain in effect for at least six months ahead of all others, with a few exceptions (child support, back taxes, etc.). You may file again if you do not receive all your money.

Collection Method 3: Judgment Lien on Real Estate (“Certificate of Judgment”)

This method places a lien on the debtor’s real estate. You could collect money if the real estate enters foreclosure, is refinanced, or is sold.

You will need to do the following:

- Complete a “Civil Praecipe” for certificate of judgment.
- Submit your praecipe along with the \$30.00 filing fee and a self-addressed stamped envelope to Stow Municipal Court. If submitting by mail, please include a check payable to “Stow Municipal Court.” If you are filing in person, you may pay with cash, money order, check, Visa, or MasterCard. A 3.75% convenience fee, charged by the credit card companies, will be added to all credit card payments. *The Clerk does not accept American Express.*
- A Certificate of Judgment will be mailed to you. You will need to file it at the Clerk of the Common Pleas Court in the county in which the debtor owns real estate (if Summit County, file the Certificate of Judgment at the Summit County Court of Common Pleas, 209 S High Street, Akron, Ohio 44308).

A judgment lien on real estate remains in effect for five years. If you need to renew the lien, you will need to purchase and file a new certificate of judgment before the original certificate of judgment expires.

****Please Note:** Your lien will not attach to the property until you file it with the appropriate county clerk of courts.

Affidavit for Debtor's Disclosure (for Small Claims Use only) ("Debtor's Disclosure")

If you don't know where your judgment debtor works, banks, or owns property, the "Debtor's Disclosure" is a way to obtain information about a debtor's assets and liabilities.

At the Clerk's Office, tell the staff you are requesting a debtor's disclosure. You will be provided a Praeipe to sign.

Please provide to the Clerk:

- Praeipe for debtor's disclosure.
- Filing fee of \$25.00. You may pay with cash, money order, check, Visa, or MasterCard. A 3.75% convenience fee, charged by the credit card companies, will be added to all credit card payments. *The Clerk does not accept American Express.*
- Affidavit for debtor's disclosure, notarized or witnessed by a deputy clerk.

The affidavit, along with a form for itemizing assets and liabilities, will be sent to the defendant by FedEx.

After a reasonable amount of time passes (14 days), you can check the online docket or contact the Clerk's Office at (330) 564-4148 to find out if the debtor returned the questionnaire. If the questionnaire is returned, refer to the previous sections of this guide for the methods to collect your judgment.

How to Calculate Interest

All necessary information can be found on your judgment entry. If interest is awarded, you can calculate the monthly accrual using the following equation:

$$\text{<judgment amount> x <interest percentage> / 12}$$

Interest begins accruing one month after the judgment date.

If the Judgment Debtor Fails to Submit a Completed Debtor's Disclosure

If service was obtained on the Debtor's Disclosure and the debtor did not submit the completed form, you may file a "Motion to Show Cause." This is a hearing at which the defendant is ordered to attend to explain why the previous court request was not recognized, and to provide the information requested for collections.

Please complete a "Motion to Show Cause (for Small Claims use only)." The form is available at www.stowmunicourt.com/forms/ or can be obtained in person from the Clerk's Office. Please submit the following:

- Motion to Show Cause, including names and addresses of all parties.
- Filing fee of \$60.00. If submitting by mail, please include a check payable to "Stow Municipal Court." If you are filing in person, you may pay with cash, money order, check, Visa, or MasterCard. A 3.75% convenience fee, charged by the credit card companies, will be added to all credit card payments. *The Clerk does not accept American Express.*

The magistrate will review your request. If approved, a court date will be assigned and an order issued. Service on your defendant will be attempted by bailiff (if the defendant is to be served in Summit County) or by FedEx (if the address is outside Summit County). You will be mailed a copy of the motion and order as well, though your appearance at the Court date is optional.

At the show cause hearing, the magistrate will obtain asset and liability information from the defendant that may provide you the ability to pursue collections. This information will be mailed to you by the Clerk's Office.

Motion for Contempt

Filing fee: \$25.00

If the defendant fails to appear at the Show Cause hearing, you may file a "Motion for Contempt." **You will need the debtor's date of birth and social security number.**

The magistrate may opt to issue a bench warrant or sanctions against your defendant.

Before You File Your Forms

Reminder Checklist: Wage Garnishment

- You mailed a 15-Day Demand and waited at least 15 days before you file your wage garnishment packet.
- You have a “Certificate of Mailing” showing when you mailed the 15- day demand.
- You have the \$85.00 (Judgments under \$3,000.00) or \$200.00 (Judgments \$3,000.00 or more) filing fee.

Reminder Checklist: Bank Account Attachment

- You provide the debtor’s bank name with complete and correct address. The bank is the “Garnishee.” Call the bank if you need the address.
- You have the \$55.00 fee.
- You have a check or money order for \$1.00 payable to the debtor’s bank.

File a Satisfaction of Judgment Once You Collect All of Your Money

- Once you collect your money, file a “Satisfaction of Judgment” form with the Clerk of Court (in-person or by mail). Include your case number and your name.
- There is no fee to file the Satisfaction of Judgment.

Reminder Checklist For All Collection Methods

The Clerk will not process your collection forms unless you meet the following requirements:

- The final judgment in your case awards you money.
- Your final judgment is not dormant (a judgment becomes dormant five years after the last collections attempt).
- There is no stay, such as a bankruptcy stay, that prohibits action in the case.
- Your paperwork is complete and legible.
- Your case number is correct.
- You provide a current and correct address for yourself (the judgment creditor) including your full name, street number, street, city, state and zip code.
- You provide a current and correct address for the debtor including name, street number, street, city, state and zip code.
- You have the original forms and exact number of copies listed on the top of each collection document.
- Your forms are notarized; either signed in front of a notary or a deputy clerk in the Clerk’s office.

All forms are available at www.stowmunicourt.com/forms/.