

COLLECTING A SMALL CLAIMS JUDGMENT

The following general statements are provided in an effort to answer some common questions about collecting a judgment obtained in Small Claims Court. If you desire further general information you may review a copy of the Small Claims Manual which is located in the Self Help Office on the first floor. Please remember that the winning party in Small Claims Court has the burden of collecting the judgment and the following points should be considered.

1. It is unfortunately true that some parties obtain a judgment and are unable to collect any money. Collection of a Judgment remains the obligation of the party receiving the judgment as the Court is not a collection agency.
2. After receiving a judgment the winning party should contact the debtor and make a good faith effort to informally arrange collection.
3. If the party is unable to informally collect a judgment, Proceedings Supplemental may be filed against the debtor. The Proceedings Supplemental will be set for hearing and the debtor will be ordered to appear.
4. If the Sheriff can locate the debtor to serve him with the Order to Appear, the debtor is required to appear to answer questions about his assets that may be used to pay the judgment. The winning party must also appear at the hearing to inform the Court of the attempts to collect the judgment. Also, the Court will ask the winning party if he or she knows of any assets the debtor may have to pay the judgment.
5. Installment payments or garnishment of the debtor's wages are two common types of relief ordered by the Court. The Court will be unable to order payment if the debtor has no regular income or assets.
6. If the Sheriff is unable to locate the debtor and the debtor is not served a copy of the Order to Appear, the Court will be unable to proceed until the winning party is able to provide a new address for the debtor.
7. A winning party is allowed to collect interest on a judgment but the winning party must make the calculation and inform the Clerk as to the amount of interest claimed. The interest rate is established by statute and is subject to change (present rate 8%).
8. All payments on a judgment should be made through the Clerk's Office for record keeping purposes and the protection of both parties but a winning party is permitted to accept payments on the judgment if proper records are maintained.

9. If it is determined at the hearing on the proceedings supplemental that the debtor does not have assets which can be used to pay the amount owed, the winning party will have to periodically re-file for an additional hearing if it is learned that the debtor has accumulated assets or has started working. This can be done through the life of the judgment which is 20 years.
10. If the debtor is personally served with notice of the hearing on Proceedings Supplemental but fails to appear for that hearing, the debtor may be ordered to appear in Court to answer why he should not be found to be in Contempt of Court for failing to abide by the Court Order to Appear. If the debtor fails to appear after receiving notice of the hearing on Contempt of Court, a Body Attachment may be issued to have the debtor arrested and brought to Court. The Body Attachment will normally be issued only if the Debtor has been personally served with the Order to Appear.
11. If you have any questions about the procedure for collecting a small claims judgment you may ask the Clerk's Office personnel for assistance. However, Court personnel cannot give you legal advice and you should contact an attorney for any questions you may have regarding your claim.
12. **MAKE CERTAIN THAT YOU KNOW THE COURT CASE NUMBER WHENEVER YOU APPEAR IN COURT OR CONTACT COURT STAFF ABOUT YOUR CASE.**