

## BASIC OUTLINE OF POST – JUDGMENT COLLECTION PROCEDURES

### WRIT OF FI FA:

A Writ of Fi Fa is a document that is issued by our clerk's office for the purpose of recording a lien on the judgment debtor's property. It is also the legal instrument by which the sheriff of a county may seize the assets of a judgment debtor. A writ of Fi Fa may be issued on a default judgment case immediately. If the case was contested, then a writ of Fi Fa may not be issued until 10 days after the date of judgment. The cost for a writ of Fi Fa is the sum of \$7.00.

A writ of Fi Fa may also be used to perfect a lien upon any motor vehicles that the judgment debtor owns. There is a special process to go through in perfecting that judgment lien. Appropriate forms are available to you through the Georgia Department of Revenue, Division of Motor Vehicles. You must send a self addressed envelope, a check for \$1.00 for each vehicle and a copy of the Fi Fa to: Dept. of Revenue, Motor Vehicle Div., Trinity-Washington Bldg., Atlanta, GA., 30334.

A writ of Fi Fa is recorded by our court for you upon the General Execution Docket, which is maintained by the Clerk of Superior Court. If you know of any other real property or sizeable assets the judgment debtor owns in other counties, you should apply to the clerks of such counties to have the writ of Fi Fa recorded upon the General Execution Dockets of those counties, as well.

When the judgment is paid in full, you as the judgment creditor have the duty to see that the writ of Fi Fa is cancelled on the appropriate General Execution Docket(s). There is an additional fee for this service and that matter is handled through the Clerk of Superior Court in the respective counties wherein the writ of Fi Fa is filled.

### GARNISHMENTS:

A garnishment is a separate legal action that is filed against the garnishee. The garnishee is a person or a business entity that either owes funds to the judgment debtor, or is holding funds on behalf of the judgment debtor. A garnishment could be used against a bank, credit union, employer, general contractor, etc. A garnishment is filed in the county where the garnishee is located. Cost for filing is \$59.50.

### CONTINUING GARNISHMENT:

A continuing Garnishment is used when the judgment debtor is a wage earner. It lasts for a period of 180 days and the appropriate sums will be deducted from the judgment debtor's wages on a 30-day recurring basis until the entire judgment amount is collected, or until the expiration of 180 days from the date of service, whichever event shall first occur. A continuing garnishment is filed in the county where the garnishee is located. Cost for filing is \$59.50.

## POST – JUDGMENT INTERROGATORIES:

The purpose of the Post – Judgment Interrogatories is to ascertain what the assets, if any, the judgment debtor has to satisfy this judgment debt. It can be as much as a five-step process. Those steps are as follows:

- 1) Plaintiff filed his affidavit and the Interrogatories. They are available in the Clerk's Office of Magistrate Court. The cost varies according to what time they are filed. If filed within 30 days of the date of judgment, they are filed under the original case number and the cost is \$10.00. The Clerk's office will service the judgment debtor by certified mail with return receipt requested. IF filed after 30 days of the judgment date, the interrogatories are assigned a new case number and the cost of filing is \$59.50. Service upon the judgment debtor would be by our sheriff's office.
- 2) If the Interrogatories are not answered within 30 days, then the judgment creditor must file an Affidavit and Motion to Require Answers to the Interrogatories and the appropriate notice. This is served upon the judgment debtor by certified mail return receipt requested.
- 3) If the judgment debtor fails to appear at the hearing, the court may, in appropriate circumstances, issue an Order requiring the judgment debtor to answer the Interrogatories within 10 days. This is served upon the judgment debtor by certified mail, return receipt requested.
- 4) If there is no response to the Court Order requiring answers to the Interrogatories, then the judgment creditor must file an Affidavit and Motion to Invoke Sanction of Contempt for Defendant's Failure to Answer Interrogatories, plus the appropriate notice. This must be personally served upon the Defendant by the sheriff's office. Also, a copy of the previous order is served upon the judgment debtor, as well.
- 5) If the defendant fails to appear at the hearing, or in the event he does appear and does not have a bona fide reason for not answering the Interrogatories, then the Court may enter an Order for Incarceration. The judgment debtor is then arrested by the sheriff's office and held in the Forsyth County Jail until the Interrogatories are answered and approved by the Magistrate.

Please note that this is only an overview of the various procedures available to you. You may wish to consult legal counsel if you have difficulties in collecting the judgment lawfully due you. Our office can assist you in filing the forms hereinabove set forth.

BARBARA COLE  
CHIEF MAGISTRATE