



# I Won, I Have a Judgment! Now What? Collecting Judgments in Washington State.

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PRESENTED BY:

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# Judgment Summary

- ▶ This presentation only pertains to Superior Court judgments.
- ▶ The clerk cannot enter a judgment without a judgment summary.
- ▶ The judgment summary must contain:
  - ▶ Judgment creditor and name of his/her/its attorney;
  - ▶ Judgment debtor;
  - ▶ Amount of judgment;
  - ▶ Interest owed to the date of the judgment;
  - ▶ Total of taxable costs and attorney's fees, if known at time of judgment; and if a foreign judgment -
  - ▶ The filing and expiration dates of the judgment under the laws of the original jurisdiction.

# Entry of Judgment

- ▶ A Superior Court judgment is entered upon delivery to the clerk's office for filing.
- ▶ Entry of the judgment commences an automatic judgment lien on the non-homestead real estate owned by the judgment debtor in the county where judgment is rendered.
- ▶ In order to create a judgment lien on non-homestead real property located in a different county, a certified abstract of the judgment must be filed with the county clerk in the county where that property is located.
- ▶ Entry of a judgment does not create a judgment lien on personal property. This requires execution on personal property.

# How long does my Judgment last?

- ▶ Under RCW 6.17.020: “(1) Except as provided in subsections (2), (3), and (4) of this section, the party in whose favor a judgment of a court has been or may be filed or rendered, or the assignee or the current holder thereof, may have an execution, garnishment, or other legal process issued for the collection or enforcement of the judgment at any time within ten years from entry of the judgment or the filing of the judgment in this state.”
- ▶ Exceptions:
  - ▶ Child support
  - ▶ Application for Extension
  - ▶ Criminal Restitution

# What can I do with my judgment?

- ▶ Execution on Personal Property
- ▶ Execution on Real Property
- ▶ Bank Garnishment
- ▶ Wage Garnishment
- ▶ Supplemental Proceedings

# Execution on Personal Property

- ▶ Governed by Chapter 6.17 RCW.
- ▶ Necessary Documents: Praecipe, Writ of Execution on Personal Property, Motion and Order to Break and Enter (some counties), Sheriff's Indemnity Bond, Instruction Letter to Sheriff, and Affidavit of Mailing.
- ▶ Process
  - ▶ Deliver Praecipe and Writ to Clerk;
  - ▶ Some counties require obtaining an Order to Break and Enter from the Court;
  - ▶ Deliver Writ of Execution to the Sheriff, along with copies, a copy of the Judgment, and a Sheriff's Indemnity Bond.
    - ▶ Bond is typically double value of property to be levied.
    - ▶ Different Sheriff's offices have differing requirements.
- ▶ Exemptions: Judgment debtor must assert any exemption claims prior to the execution sale. Creditor has seven days to object.
- ▶ Sale:
  - ▶ Notice required under RCW 6.21.020.
  - ▶ No less than 30 days prior to sale date, judgment creditor must send notice of sale to judgment debtor at last known address by regular and certified mail, return receipt requested.
  - ▶ No less than 4 weeks prior to sale date, Sheriff must post sale notice at three public places in the County where sale will take place.
  - ▶ Sale to take place between 9:00am and 4:00pm.

# Execution on Real Property

- ▶ Governed by Chapter 6.17 RCW and Chapter 6.21 RCW.
- ▶ Affidavit as to exhausting non-exempt personal property first.
- ▶ Homestead Exemption: Greater of \$125,000 or “county median sale price of a single-family home in the preceding calendar year.” Enacted on May 12, 2021.
  - ▶ Exceptions: Mechanic’s liens, acknowledged deeds of trust, and more.
- ▶ Process:
  - ▶ File Praecipe and Affidavit;
  - ▶ Obtain issued Writ of Execution and deliver to Sheriff;
  - ▶ Sheriff’s Sale scheduled in accordance with Chapter 6.17 RCW and Chapter 6.21 RCW. Scheduled on Fridays.
  - ▶ Confirm Sale
- ▶ There may be a redemption period under the statute.

# Bank Garnishment

- ▶ Detailed process that requires strict adherence with statutory requirements of RCW 6.27.
- ▶ Important documents:
  - ▶ Application for Writ of Garnishment
  - ▶ Writ of Garnishment
  - ▶ Answer
  - ▶ Notice of Garnishment
  - ▶ Exemption Claim
  - ▶ Creditor's Affidavit
- ▶ General Procedure
  - ▶ Present the Writ and Application to the Court
  - ▶ Serve the Writ and Answer (and Answer fee) on garnishee personally or by certified mail, return receipt.
  - ▶ Serve the conformed copy of Writ, Creditor's Affidavit, Notice of Garnishment, Exemption Claim form on the judgment debtor.
- ▶ Debtor may respond to Exemption Claim, and if there is an objection, a hearing is scheduled.
  - ▶ Debtor bears burden of proving claimed exemptions.
- ▶ Can obtain a judgment against garnishee for failure to answer.



# Wage Garnishment

- ▶ Involves similar documentation and process as a bank garnishment, though there are some differences.
  - ▶ Example: No answer fee is enclosed in service to garnishee.
- ▶ Exempt Amounts
  - ▶ Judgment for Private Student Loan Debt: Greater of 50 times the State Minimum Wage or 85% of the judgment debtor's disposable wages.
  - ▶ Judgment for Consumer / Medical Debt: Greater of 35 times the State Minimum Wage or 80% of the judgment debtor's disposable wages.
  - ▶ Judgment for Child Support: 50% of the judgment debtor's disposable wages.
  - ▶ General Judgments: Greater of a minimum amount determined by reference to the employee's pay period, to be calculated as provided in the answer or 75% of the judgment debtor's disposable wages.

# Supplemental Proceedings

- ▶ What if you do not know enough about the debtor's assets?
- ▶ Supplemental proceedings are proceedings to examine the defendant for purposes of determining assets in collection efforts.
- ▶ Motion and Order for Supplemental Proceedings.
- ▶ Order must be served in the same manner as a summons. Only personal or substitute service is permitted, unless a Court permits alternative service for good cause.
- ▶ May require a judgment debtor to attend, or certain third parties, such as those who have personal property of the judgment debtor.
- ▶ Plaintiff is entitled to costs of service, notary fees, and an appearance fee. Plaintiff can also recover reasonable attorney's fees if judgment debtor fails to appear at proceedings and may even obtain a bench warrant.

# Questions?

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