



JOSEPH ABRUZZO
CLERK OF THE CIRCUIT COURT & COMPTROLLER
PALM BEACH COUNTY

COLLECTING MONEY JUDGMENTS *DIY Workshop*

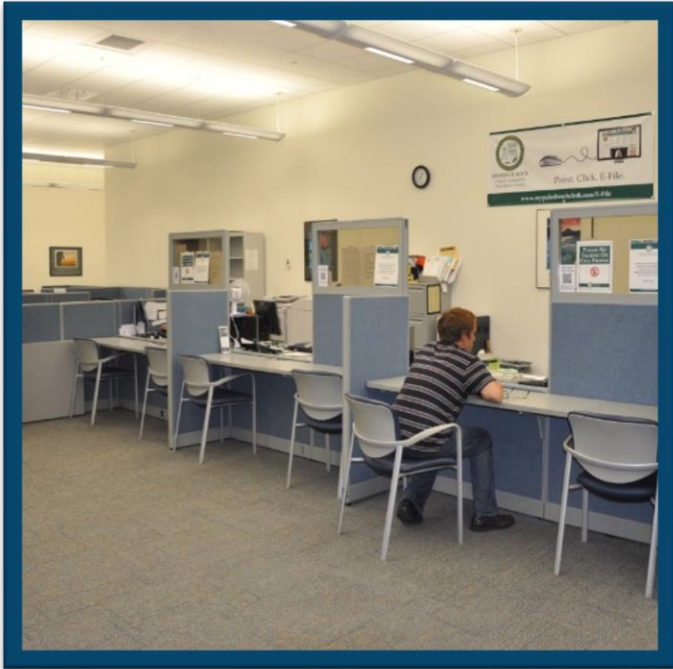


WORKSHOP OVERVIEW

- About the Clerk of The Circuit Court & Comptroller's Office
- Introduction to Collecting Money Judgments
- Judgment Liens
- Writ of Execution/Levy
- Garnishment
- Q & A



Clerk of The Circuit Court & Comptroller Self Service Center



- Clerk of The Circuit Court & Comptroller's Office is the trustee of the county's public records and public funds.
- The Self-Service Center provides:
 - User-friendly forms/packets
 - Public access computers
 - Free document preparation assistance
 - Notary services and more
- Clerk of The Circuit Court & Comptroller's Office can only provide ministerial assistance and cannot give legal advice.

Collecting Money Judgments

- Statute of Limitations: Under Florida law, a judgment holder has 20 years to collect a judgment.
- Two main ways to collect a judgment if the debtor does not voluntarily pay you:
 - Have the debtor's personal or real property seized and sold by the sheriff via a **“Writ of Execution”** and **“Request for a Levy”**, or
 - Garnish money from the debtor's bank account(s) or paycheck.



Judgment Liens

- Regardless of how you intend to collect a judgment, it is usually a good idea to obtain a judgment lien if the debtor has any real or personal property.
- Real property includes houses, buildings or land.
- Personal property can include cars, boats, other vehicles, and jewelry.

Judgment Liens

- A judgment lien is like a placeholder. It lets others know that you have an interest in collecting money from the debtor should their property ever be sold and it saves your spot in line.
- Any creditor who has filed a judgment lien before you will be paid out before you and you will have priority over any creditor who filed a judgment lien after you.

How Do You File A Judgment Lien?

- For personal property, file a Judgment Lien Certificate form with the Department of State:
 - Submit online at www.Sunbiz.org or
 - Print the form out and mail it to FL Dept. of State, Division of Corporation, P.O. Box 6250, Tallahassee, FL 32314, along with your payment.
- The Dept. of State's fee for a judgment lien on personal property is \$20 for one debtor and \$5 for each additional debtor.
- A judgment lien on personal property is good for five years and can be renewed for an additional five years.

JUDGMENT LIEN CERTIFICATE

FOR PURPOSES OF FILING A JUDGMENT LIEN, THE FOLLOWING INFORMATION IS SUBMITTED IN ACCORDANCE WITH s. 55.203, FLORIDA STATUTES.

1. JUDGMENT DEBTOR (DEFENDANT) NAME AS SHOWN ON JUDGMENT, IF AN INDIVIDUAL, IS:

LAST NAME FIRST NAME M I

MAILING ADDRESS

CITY ST ZIP

2. ADDITIONAL JUDGMENT DEBTOR, IF AN INDIVIDUAL, IS:

LAST NAME FIRST NAME M I

MAILING ADDRESS

CITY ST ZIP

3. JUDGMENT DEBTOR (DEFENDANT) NAME AS SHOWN ON JUDGMENT, IF A BUSINESS ENTITY, IS:

BUSINESS ENTITY NAME

MAILING ADDRESS

CITY ST ZIP

4. FEDERAL EMPLOYER IDENTIFICATION NUMBER: _____

5. DEPARTMENT OF STATE DOCUMENT FILE NUMBER: _____

PLEASE CHECK BOX IF DOCUMENT NUMBER IS NOT APPLICABLE

6. JUDGMENT CREDITOR (PLAINTIFF) NAME AS SHOWN ON JUDGMENT OR CURRENT OWNER OF JUDGMENT, IF ASSIGNED:

CREDITOR NAME (S)

MAILING ADDRESS

CITY ST ZIP

7. DEPARTMENT OF STATE DOCUMENT FILE NUMBER: _____

PLEASE CHECK BOX IF DOCUMENT NUMBER IS NOT APPLICABLE

8. OWNER'S ATTORNEY OR AUTHORIZED REPRESENTATIVE: (ACKNOWLEDGMENT OF FILING WILL BE SENT TO THIS ADDRESS)

NAME

MAILING ADDRESS

DO NOT PHOTOCOPY THIS FORM PRIOR TO USE.
BAR CODE MUST BE LEGIBLE.



THIS SPACE FOR USE BY FILING OFFICE

11. NAME OF COURT:

12. CASE NUMBER:

How To File A Judgment Lien

- To obtain a judgment lien against real property you must record a certified copy of your court judgment with the clerk in the county where the debtor's real property is located.
- The fee to record a judgment lien against real property is \$10 for the first page of your judgment and \$8.50 for each additional page.
- A judgment lien against real property is valid for 10 years and can be renewed for an additional 10 years.

Seizing and Selling the Debtor's Property



The sheriff may be able to seize (levy) and sell the debtor's property and pay the money owed to you with the proceeds.

➤ STEP ONE: *Locate Property*

- Locate the property to be seized. The sheriff will not do this for you.



➤ STEP TWO: *Request Writ of Execution*

- Take your judgment to the clerk of the court that issued the judgment and ask for a Writ of Execution, which orders the sheriff to seize the debtor's property.

Seizing and Selling the Debtor's Property

➤ STEP THREE: *Seizing Property through Sheriff*



- Deliver the “Writ of Execution” to the sheriff in the county where the property is located along with written instructions called “Instructions for Levy.”
- Pay a deposit to cover the sheriff’s costs and fees. The deposit amount and fees vary from county to county and depending on the item to be seized. (e.g. \$500 – 3,500).
- If the sale of the property is successful you will get your deposit back.

INSTRUCTIONS FOR LEVY

THIS FORM MUST BE TYPED – HAND WRITTEN FORMS WILL NOT BE ACCEPTED

CASE NUMBER: _____ DATE: _____
PLAINTIFF: _____ COURT: _____
DEFENDANT: _____ COUNTY: _____

THE SHERIFF OF PALM BEACH COUNTY, WEST PALM BEACH, FLORIDA

DEAR SIR: In the matter of a Writ of Execution for money judgment, issued out of the _____ Court, in and for _____ County, Florida, in the above styled case, you are hereby instructed to levy upon the following described property of the Defendant(s): _____.

SPECIFIC DESCRIPTION OF PROPERTY: *If Vehicle=VIN, Make, Model, Year, Color*

SPECIFIC LOCATION OF PROPERTY:

ALL MAILINGS TO THE DEFENDANT OR DEFENDANT'S ATTORNEY WILL BE SENT TO:

NAME: _____
MAILING ADDRESS: _____

Disclosure of the balance due on the Writ of Execution: \$ _____ (F.S. § 30.30)
Interest Due on Writ: _____ % from _____ (Date of Final Judgment) (The Sheriff will calculate the post judgment interest)
Any Payments Made Toward Balance: \$ _____

It is understood and agreed that you as Sheriff of Palm Beach County, Florida, and your agents, shall be held blameless and further to be held harmless in anyway whatsoever, in executing this Writ and in making a wrongful levy, when acting upon these instructions. It is understood and agreed that THE MOVING PARTY shall give Sheriff reasonable written advance notice of ANY AND ALL hearings to Sheriff and/or his agents for Civil Process and advance copies of all proposed Orders.

It is further understood and agreed that ON BEHALF OF MY CLIENT, THE MOVING PARTY, I MYSELF, MY LAW FIRM and MY CLIENT SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE TO PAY ALL COSTS INCIDENT TO THIS LEVY [even in the event of defendant filing bankruptcy], including but not limited to, the cost of advertisement, sale, and reasonable attorney's fees, should the property levied upon not be sold for any reason, including but not limited to the debtor filing for bankruptcy, or if upon sale it does not produce sufficient money to pay said costs.

PURSUANT TO F.S. §30.231, I SHALL DEPOSIT IN ADVANCE A REASONABLE COST DEPOSIT TO BE DETERMINED BY THE SHERIFF

NOTE: F.S. §30.30 provides that the Sheriff must levy upon property specifically described in the Writ. It further provides that if the Sheriff attempts to levy upon any property other than that specifically described in the Writ he may require that Plaintiff to furnish a bond for his protection. The bond is conditioned to hold the Sheriff harmless against liability for any loss or damage that might be sustained by anyone by reason of the levy and indemnifying him for any expense incurred.

Pursuant to F.S. §30.30(3), If the sheriff, in attempting to execute any Writ describing specific property, shall find it in the possession of anyone, other than the defendant, who is claiming the ownership or the right to the possession thereof, the Sheriff, in his or her discretion, may require the plaintiff suing out the Writ to furnish a bond, payable to such sheriff, in a sum not exceeding the reasonable value of the described property, as fixed by such Sheriff.

_____ (Initial)

Seizing and Selling the Debtor's Property

➤ STEP FOUR: *Check on Other Liens*

- You must also check with the Dept. of State for personal property or the clerk for the county where the property is located for real property, and with the Florida UCC (www.floridaucc.com), to make sure there are no other judgment liens on the debtor's property.
 - You must provide the sheriff with a signed notarized affidavit that lists any other judgment liens against the debtor, including the name and address of the creditors who hold the liens.



Seizing and Selling the Debtor's Property

➤ STEP FIVE: *Public Auction*

- If the sheriff is able to seize the property, they will set a date and time for sale of the property by public auction. The sheriff will notify you, as well as any other judgment lien holders of the sale.

➤ STEP SIX: *Advertise the Sale*

- The sale must be advertised in a local newspaper once a week for four consecutive weeks. In Palm Beach County, the sheriff handles the publication and includes the cost in your fee, however, some counties require you to arrange for the publication and show them proof.

Seizing and Selling the Debtor's Property



➤ STEP SEVEN: *Public Auction*

- You can bid on the property if you would like.
Once the property is sold the proceeds are distributed as follows:
 - Sheriff's costs (if covered completely, you get your deposit back)
 - \$500 is paid to you for your costs and efforts.

Seizing and Selling the Debtor's Property



- Creditors are paid in order of the filing of judgment liens, if any.
- If you are the only creditor then the remaining proceeds (minus the costs mentioned above), up to the total of your judgment, are paid to you. If there is not enough to cover your entire judgment you will be paid whatever is leftover.
- If your judgment is paid in full, there are no other creditors, and there is money leftover it is returned to the debtor.

Exempt Property

- Under Florida law, some property can not be levied and sold by the sheriff.
- Property that is exempt includes:
 - The debtor's homestead. This is the home that is their primary residence.
 - Individual debtors can choose to exempt one vehicle worth \$1,000 or less and one item of personal property worth \$1,000 or less.
- Corporations or business cannot claim any exemptions.
- If an individual owns the property jointly with their spouse, it cannot be levied unless you have a judgment against both parties.

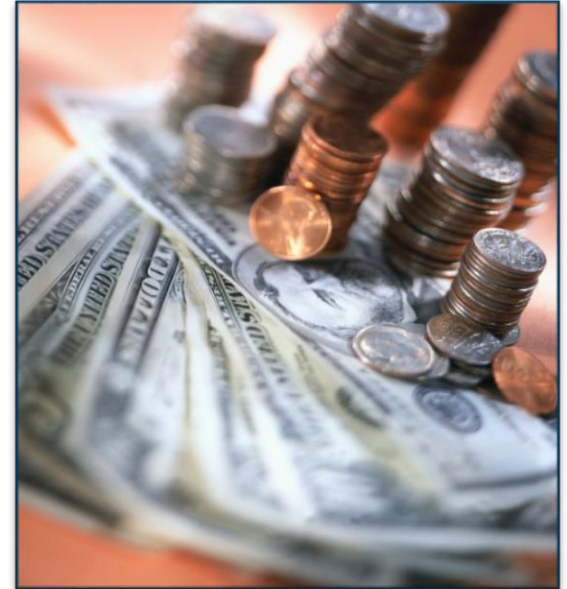
Writ of Garnishment

- If you know where the debtor works or where they have a money account, you may be able to garnish their wages or bank account. *You may want to consult with an attorney before deciding if it is the right option in your case.*
- Florida law places several limits on garnishment for purposes of collecting on a judgment.
 - You can garnish no more than 25% of the debtor's income if their weekly disposable income exceeds 30 x the federal minimum wage.
 - If their weekly disposable income is less than 30 x the federal minimum wage their income cannot be garnished at all.



Writ of Garnishment

- Federal Minimum Wage is \$7.25/hour.
 $\$7.25 \times 30 = \217.50
- If the debtor's take home pay (after taxes and deductions) is less than \$217.50 a week (\$1,256.67/mo. | \$15,080/year), you cannot garnish their wages.
- If it is more than this, you can garnish up to 25%.



Head of Family Exemption

- Head of family is defined as a person providing more than $\frac{1}{2}$ of the support for a child or other dependent.
- If the debtor is a head of family and they earn less than \$750 in disposable income per week they are exempt from garnishment. (e.g. \$39,000 per year; \$3,250 per month).
- The head of family who earns more than \$750 in disposable income per week is only subject to garnishment if they agree to it in writing.



How to Obtain a Writ of Garnishment

- STEP ONE: *File Motion for a “Writ of Garnishment” or “Continuing Writ of Garnishment” with the Clerk for the Court who Ordered the Judgment*
 - “Writ of Garnishment” requests to garnish a bank account or other account on one occasion.
 - “Continuing Writ of Garnishment” requests that the debtor’s wages be garnished continuously until the judgment is paid in full.
 - The clerk can issue a “Writ of Garnishment” immediately, but a “Continuing Writ of Garnishment” must be reviewed and signed by a judge so there will be a waiting period.
 - The filing fee is \$85.

The proposed writ must mirror the judgment.

How to Obtain a Writ of Garnishment

➤ STEP TWO:

The clerk will issue the writ and you must arrange service on the garnishee (employer, bank rep, or other person who will be garnishing the debtor's account or wages) with the sheriff or private process server.

➤ STEP THREE:

Once the garnishee has been served, they have 20 days to file an answer and serve it on you. If you disagree with their answer, you can file a reply and request a hearing with the judge. You must do so within 20 days of being served the answer.

How to Obtain a Writ of Garnishment

➤ STEP FOUR: *Service on the Debtor*

- The writ issued by the Clerk will have a “Notice to Defendant of Right Against Garnishment of Wages, Money, and Other Property” attached to it.
- This notice explains to the debtor that, if applicable, they have a right to claim an exemption and ask the judge to dissolve the writ.

How to Obtain a Writ of Garnishment

- You must serve the debtor with a copy of the writ, the notice of rights and, if any, the garnishee's answer. Service may be by mail.
- If the garnishee files an answer, you must serve the debtor within 5 days of receiving that answer.
- If the garnishee does not file an answer within the 20 days allotted, you must still serve the debtor with the writ and the notice of rights.
- You must file a certificate of service with the clerk showing you served the debtor.

County Civil
P.O Box 3406
West Palm Beach, Fl 33402

**NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT WAGES,
MONEY, AND OTHER PROPERTY**

The Writ of Garnishment delivered to you with this Notice means that wages, money, and other property belonging to you have been garnished to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES, MONEY, OR PROPERTY. READ THIS NOTICE CAREFULLY.

State and federal laws provide that certain wages, money, and property, even if deposited in a bank, savings and loan, or credit union, may not be taken to pay certain types of court judgments. Such wages, money, and property are exempt from garnishment. The major exemptions are listed below on the form for Claim of Exemption and Request for Hearing. This list does not include all possible exemptions. You should consult a lawyer for specific advice. TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY FROM BEING GARNISHED, OR TO GET BACK ANYTHING ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS SET FORTH BELOW AND HAVE THE FORM NOTARIZED. YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM TO THE PLAINTIFF AND THE GARNISHEE AT THE ADDRESSES LISTED ON THE WRIT OF GARNISHMENT.

If you request a hearing, it will be held as soon as possible after your request is received by the court. The plaintiff must file any objection within 8 business days if you hand delivered to the plaintiff a copy of the form for Claim of Exemption and Request for Hearing or, alternatively, 14 business days if you mailed a copy of the form for claim and request to the plaintiff. If the plaintiff files an objection to your Claim of Exemption and Request for Hearing, the clerk will notify you and the other parties of the time and date of the hearing. You may attend the hearing with or without an attorney. If the plaintiff fails to file an objection, no hearing is required, the writ of garnishment will be dissolved and your wages, money, or property will be released.

YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR PROPERTY FROM BEING APPLIED TO THE COURT JUDGMENT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED LEGAL ASSISTANCE YOU SHOULD SEE A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, LEGAL SERVICES MAY BE AVAILABLE. CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE CLERK'S OFFICE ABOUT ANY LEGAL SERVICES PROGRAM IN YOUR AREA.

- This is the notice provided to the debtor about their rights.
- You may obtain and review this form online at www.mypalmbeachclerk.com

How to Obtain a Writ of Garnishment

➤ STEP FIVE: *Claim of Exemption & Request for Hearing*

- The debtor has 20 days from the day they were served to file a “Claim of Exemption and Request for Hearing.” If the debtor files a claim of exemption and request for hearing to dissolve the writ, they must serve it on the creditor. Service may be by mail.
- You then have 8 business days, if served by hand delivery, or 14 business days, if served by mail, to file an objection to the claim/motion and set the matter for hearing.

IMPORTANT NOTE: If you do not object to the claim of exemption and request for hearing within the above time frame, the debtor can ask the clerk to dissolve the writ without a hearing. Do not assume a hearing will be set even if you do not file an objection.

How to Obtain a Writ of Garnishment

- STEP SIX: *At this point, your motion can go 1 of 2 ways . . .*
 1. If the garnishee does not file an answer within 20 days of service, or files an answer that does not contest the garnishment, and the debtor does not file a claim of exemption, you may request a final judgment of garnishment which orders the garnishee to garnish the debtor's wages or account.
 2. If the garnishee filed an answer and you filed a reply or if the debtor filed a claim of exemption and you filed an objection, you will have to request a hearing to obtain a final judgment of garnishment.

NOTE: *You may have to pay the garnishee, upon demand, \$100 in costs.*

You may be able to recover these costs if the value of the account to be garnished is more than the judgment due. You cannot put this cost in your proposed writ because it is not included in your judgment, but the judge may order that this cost, as well as your filing fee of \$85, be reimbursed to you from the garnishment by listing the costs in your final judgment of garnishment



Helpful Links

Department of State, Division of Corporations:

- *How to collect a money judgment in Florida in general:*
<http://dos.myflorida.com/sunbiz/forms/judgment-lien/collect-judgment/>
- *Instructions for filing a judgment lien on personal property:*
<http://dos.myflorida.com/sunbiz/forms/judgment-lien/>
- *Fillable judgment lien form:*
<http://form.sunbiz.org/pdf/cr2e091.pdf>

Palm Beach Sheriff's Office:

- *PBSO general instructions for levy:*
<https://www.pbso.org/wp-content/uploads/2016/09/General-Instructions-for-Levy.pdf>



JOSEPH ABRUZZO
CLERK OF THE CIRCUIT COURT & COMPTROLLER
PALM BEACH COUNTY

Q & A



QUESTIONS?





JOSEPH ABRUZZO
CLERK OF THE CIRCUIT COURT & COMPTROLLER
PALM BEACH COUNTY

Thank You!

