

# **ENFORCING CIVIL JUDGMENTS**

## **Prepared by the Prescott Justice Court**

A civil judgment has been awarded by the court in your favor! How do you collect? We suggest you make a written or verbal demand for payment and allow a ten-day period before you proceed to enforce the judgment. You are required to make a demand if you opt for a Writ of Garnishment of Earnings. This sheet is intended for information purposes for those persons desiring to enforce a civil judgment when the judgment debtor refuses to pay an outstanding civil judgment on demand. Restoring possession of the premise following a forcible detainer action is also covered. Please contact your attorney if you need legal advice. The Arizona Revised Statutes outline the statutory requirements and are available for your review in the law library on the second floor of the courthouse. **DEFINITIONS:** Judgment Creditor means a party who has been awarded a money judgment that is due and unpaid. Judgment Debtor means a party against whom a money judgment has been awarded. Writ means an order in writing issued by the court, sealed with its seal, addressed to a sheriff or constable or directly to the person whose action the court desires to command, requiring the performance of a specified act or giving authority to have it done. Exempt Property means personal property specifically set out in the statutes as necessary to the basic earning of the living and supporting of the family. Examples: Tools of the trade, food and fuel, adequate furniture, and vehicles of a certain number and value. The Prescott Constable is a separate elected official whose job is to serve process in the Prescott Justice Court. His phone number is (928) 771-3164.

## **POST JUDGMENT WRITS AND ORDERS**

### **WRIT OF SPECIAL EXECUTION**

This Writ directs the Sheriff or Constable to seize and sell SPECIFIC non-exempt personal property of the judgment debtor to satisfy the judgment.

- Be specific about the property to be seized and its location.
- Request the court issue the Writ. Fee is \$24.00.
- Deposit of \$150.00 is required for service of the Writ
- Return of the Writ will be made from 9-60 days. A copy showing the levy, if any, will be mailed to you by the Constable.

### **WRIT OF GENERAL EXECUTION**

This Writ directs the Sheriff or Constable to seize and sell ANY non-exempt personal property of the judgment debtor to satisfy the judgment.

- Request the court issue the Writ. Fee is \$24.00.
- Be specific about the location of the property of which you are aware.
- Deposit of \$150.00 is required for service of the Writ
- Return of the Writ will be made from 9-60 days. A copy showing the levy, if any, will be mailed to you by the Constable..

## **WRIT OF RESTITUTION**

This Writ directs the Sheriff or Constable to restore rental property to the owner.

- Request the court issue the Writ after the time to vacate ordered by the court has expired. Fee is \$24.00.
- Deposit of \$150.00 is required for service of the Writ
- You will need to contact the officer prior to serving regarding changing of locks, providing storage for property, etc.

## **WRIT OF GARNISHMENT - EARNINGS**

This Writ directs the employer to determine by formula if wages/compensation are subject to garnishment and withhold same for later transfer to the judgment creditor.

- Request forms and complete.
- Request the court issue the Writ. Fee is \$24.00.
- Deposit of \$150.00 is required for service of the Writ.
- Additional \$150.00 is required for service of judgment debtor, if desired.

## **WRIT OF GARNISHMENT - NON-EARNINGS**

(Bank accounts, money owed the debtor or property of the judgment debtor in possession of a third party.) This Writ directs a holder of assets to transfer those assets to the judgment creditor or to hold property for service of a Writ of Special Execution.

- Request forms and complete.
- Request the court issue the Writ. Fee is \$24.00.
- Search fee of \$25.00 to a financial institution may also be required.
- Deposit of \$150.00 is required for service of the Writ.
- Additional \$150.00 is required for service on judgment debtor, if desired.

## **YOU SHOULD KNOW THAT....**

- A judgment is due and payable immediately, as noted on the judgment. Copies of the judgment are mailed to all parties.
- Interest accrues at the rate stated on the judgment from the date of judgment until paid. Prejudgment interest may accrue at the contract rate.
- Costs incurred in collecting the judgment, such as service of process, are accruing costs and can be recovered.
- Writs of Execution and Writs of Restitution must be served by the Sheriff or Constable.
- You must know the physical address of the judgment debtor to effect a Writ of Execution and employer or holder of assets to effect a Writ of Garnishment.
- The Sheriff or Constable has no right of entry into a person's home and cannot search the individual when serving a Writ of Execution. If you can provide information on nonexempt personal property owned and its location, the results will be more effective.
- A judgment is good for five years. You may, within ninety days preceding the expiration of five years from the date of entry of such judgment, apply for renewal to the Court. You will need a certified copy of the Justice Court judgment. Cost is \$24.00 for the certification and \$.50 per page.
- Only non-exempt personal property may be executed on with a Justice Court judgment.
- You may use a certified copy of a Justice Court judgment to secure a Superior Court number for placing a lien on real property at the recorder's office, filing a foreign judgment in a state other than Arizona, or for filing for levy on real property. Be clear with the recorder's office that your lien is recorded on a specific piece of property.
- If a judgment debtor fails to satisfy a judgment under motor vehicle financial responsibility statutes within 60 days, the judgment creditor or his/her attorney may request in writing that the court notify the Arizona Department of Transportation. For identification purposes, please provide a copy of the police report for the court to transmit with the notification.
- There is no appeal from a Small Claims Judgment. There is a ten-day appeal period for Justice Court Judgments exceeding \$20.00, exclusive of costs. This does not apply to Forcible Detainer Judgments. The clerk can provide this information.
- You are required to file a Satisfaction of Judgment form with the court when you have been paid in full. You must also mail a copy to the judgment debtor.