

COLLECTION PROCEDURES FOR SMALL CLAIMS COURT

The filing party in a Small Claims action is known as the plaintiff. After judgment, that party is known as the judgment creditor. The defendant becomes the judgment debtor.

It is the responsibility of the creditor, not the Court, to collect the judgment owing. After the filing of a Magistrate's Decision, where no settlement has been made between the parties, the judgment creditor cannot take any action to collect until the fourteen-day appeal period has elapsed. Below are several courses of collection, and although the Small Claims Division will assist you by providing and in the preparation of completing forms, we cannot give you legal advice in your collection procedures.

FINANCIAL STATEMENT

You may file a request for a Financial Statement if, thirty days after judgment, the judgment remains unpaid and the parties have not otherwise agreed. The Court will order the judgment debtor to answer questions as to his or her financial status (assets, liabilities and personal earnings). The judgment debtor will have seven days from the date of receipt to respond. Court costs are \$55.00 per judgment debtor. If the judgment debtor resides or is to be served outside of Fairfield County, there will be an additional \$50.00 charge for a total of \$105.00 per judgment debtor.

GARNISHMENT OF PERSONAL EARNINGS

Fill out in duplicate, "NOTICE OF COURT PROCEEDING TO COLLECT DEBT". Send one copy of the "NOTICE" to the defendant by regular mail with certificate of mailing or by certified mail with return receipt.

If, after 15 days from the date of service, or the date of mailing, you have not received a satisfactory reply, you may then proceed to file the garnishment papers with the Clerk.

The following items are needed to file:

- An Affidavit of Garnishment
- A copy of the Notice of Court Proceeding to Collect Debt, with proof of service
- \$155.00 in cash, check or money order made payable to Fairfield County Municipal Court if the Judgment amount is \$500.00 or more.
- \$80.00 in cash, check or money order if the Judgment amount is under \$500.00.

NOTE: The garnishment may be filed no sooner than 15 days from the date of mailing or date of service of the “NOTICE”, and not more than 45 days, after the demand is made.

Once your garnishment of personal earnings is successful, it is your responsibility to file annually, an Affidavit of Current Balance Due with the court, employer and defendant. Additionally, you are required to send the Notice and Request for Hearing, along with a self addressed, stamped envelope, addressed to the court, with the defendant’s copy of the Affidavit of Current Balance Due. There will be a processing fee deducted in the amount of two percent (2%) of money received and disbursed on the first \$10,000.00 of a Garnishment, and one percent (1%) of all money received and disbursed after the first \$10,000.00.

BANK ATTACHMENT

A Court order requiring the debtor’s bank to take money from the debtor’s checking and/or savings account, not exempted by law. You must have knowledge of where the judgment debtor conducts his or her banking and additional information (i.e., bank account number or social security number) is helpful. Court costs are \$105.00 and a separate \$1.00 check or money order made payable to the bank. There will be a processing fee deducted in the amount of two percent (2%) of money received and disbursed on the first \$10,000.00 of a Garnishment, and one percent (1%) of all money received and disbursed after the first \$10,000.00.

LIEN

Filing a request for a Certificate of Judgment will place a claim on the property of another, as security for the payment of the judgment. It is your responsibility to file the Certificate of Judgment with the Court of

Common Pleas in the county where the judgment debtor's property is located. Court costs are \$55.00 and does not include the Common Pleas filing fee.