

Rule 69. Post-judgment Collection

(a) Method of collection. The methods for collecting a money judgment are (1) execution, by which money or assets in the possession of the judgment debtor are seized; (2) attachment, by which money or other assets belonging to the judgment creditor, but in the possession of a third party are frozen and eventually subjected to a condemnation order; and (3) garnishment, which is a form of attachment relating to wages.

(1) Execution. The judgment creditor shall file and have issued by the Clerk a Writ of Execution. The judgment creditor shall serve the writ pursuant to SCR-Dom Rel 5 on the judgment debtor. A Writ of Execution may be issued within three years after (i) the expiration of any stay of execution, or (ii) it could have been issued pursuant to the law and the Rules of this Court. A Writ of Execution is returnable on or before the sixtieth day after its issuance. If a writ is issued and returned unsatisfied in whole or in part within the three year period, or any period of extension of the judgment, an alias writ may be issued during the life of the judgment.

(2) Attachment after judgment. The judgment creditor must file and have issued by the Clerk a Writ of Attachment. The judgment creditor shall serve the Writ of Attachment pursuant to SCR-Dom Rel 5. The Writ of Attachment includes interrogatories to be answered by the person to be served with the writ. Within ten days after service of the writ, the recipient shall file the answer to interrogatories with the Clerk and serve a copy of the answers to the interrogatories upon the parties. Within (i) four weeks after the answers to the interrogatories were due but not filed or (ii) within four weeks after the recipient has filed the answers to the interrogatories or (iii) within such later time as may be authorized by the Court upon a motion made within the applicable period, the judgment creditor shall file an application for judgment of condemnation or recovery against the third party. If the judgment creditor fails to make a timely application, the attachment shall be dismissed.

(3) Garnishment of wages after judgment.

(A) Writ of attachment for wages. The judgment creditor must file and have issued by the Clerk a Writ of Attachment (Garnishment of wages, etc.). The judgment creditor shall serve the writ pursuant to SCR-Dom Rel 5 upon the employer-garnishee. The writ includes interrogatories to be served with the writ. Within (i) four weeks after the answers to the interrogatories were due but not filed or (ii) within 15 weeks of the date on which a garnishee fails to make payment due under the writ or (iii) within such later time as may be authorized by the Court upon a motion made within the applicable period, the judgment creditor shall file an application for judgment against the third party. If no timely judgment of condemnation or of recovery has been applied for or entered, the garnishment shall be dismissed.

(B) Reporting credits against judgment. It shall be the duty of a judgment creditor who is receiving payments on account of the judgment from an employer-garnishee and who shall receive credits upon said judgment from a source other than said employer-garnishee to notify said employer-garnishee and the Clerk in writing of such receipt within 10 days thereafter, including the date, amount, and source thereof.

(C) Schedule and receipt for payments. Every judgment creditor receiving payments from an employer-garnishee pursuant to the issuance of a wage attachment shall be obligated to credit the payments first against the accrued interest on the unpaid balance of the judgment, if any, second upon the principal amount of the judgment, and third upon those attorney's fees and costs actually assessed in the cause, and shall send a receipt to

the garnishee within five days after such payment, which receipt shall set forth the application of such payment pursuant to the aforesaid schedule.

(D) Noncompliance. If a judgment creditor fails to comply with this Rule or with the applicable statutory provisions, the Court may in its discretion, on motion of any interested party, enter an order vacating and setting aside the attachment and continuing levy of said judgment creditor then in force and effect, but without prejudice to the refiling and serving of another attachment, which shall follow prior attachments of wages of the judgment debtor in the hands of the employer-garnishee, and may enter a judgment of a reasonable attorney's fee and tax costs in favor of the party filing the motion to vacate and set aside the attachment.

(E) Garnishment docket card. Each Writ of Attachment for wages shall be accompanied by a garnishment docket card prepared by the judgment creditor or the judgment creditor's attorney. The judgment creditor or the judgment creditor's attorney shall supply the Social Security number of the judgment-debtor, if known. The Clerk shall furnish the garnishment docket card on a form approved by the Court.

(b) Discovery in aid of collection. All discovery procedures authorized by SCR-Dom Rel 26-37 are available to the judgment creditor in the manner prescribed by these Rules, except that a subpoena ad testificandum addressed to a person other than the judgment debtor and a subpoena duces tecum shall issue only upon order of the Court. The first subpoena ad testificandum or notice of deposition addressed to the judgment debtor may issue without Court order, but any subsequent subpoena or notice so addressed shall issue only upon order of the Court. Nothing contained herein shall be construed to require that a party to the action be paid a witness fee for attendance.

(c) Oral examination in Court. The judgment creditor may summon the judgment debtor and, upon leave of court, any other person to appear in court on a date certain and submit to oral examination respecting execution of any judgment rendered. Any person so summoned may, upon leave of court, be required to produce papers, records, or other documents at the examination. If the person summoned was personally served but fails to appear, the Court may, upon request, issue a bench warrant for the person's arrest.

(d) Other claims to property. Before the final disposition of the property attached or its proceeds (except where it is real property), any person may file a motion and affidavit setting forth a claim thereto or an interest in or lien upon the same. Without other pleadings, the Court shall try the issues raised by such claim and may make all orders necessary to protect any right of the claimant. Any party to such proceeding may demand trial by jury by filing such demand within five days of the filing of such motion and affidavit.