



# **COLLECTING UNPAID WAGES & ENFORCING JUDGMENTS IN MARYLAND**

A Guide to Judgment Enforcement,  
Asset Investigation, and Employer Accountability



Prepared by:  
Jonathan Harris & Molly Theobald  
Workplace Justice Project  
Public Justice Center  
1 North Charles Street, Suite 200  
Baltimore, MD 21201  
(410) 625-9409  
[www.publicjustice.org](http://www.publicjustice.org)

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The Public Justice Center works with people and communities to confront the laws, practices, and institutions that cause injustice, poverty, and discrimination. We advocate in the courts, legislatures, and government agencies, educate the public, and build coalitions, all to advance our mission of “pursuing systemic change to build a just society.”

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## ABOUT THE AUTHORS

Jonathan Harris is a Skadden Fellow at the Public Justice Center’s Workplace Justice Project, where he engages in systemic advocacy, direct legal assistance, and legislative reform efforts at the intersections of workers’ and consumers’ rights.

Molly Theobald is a 2012 summer legal intern at the Public Justice Center and a student at the Washington College of Law.

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*This guide is an informative overview of various strategies and tactics available to collect unpaid wages, and is not legal advice or a substitute for legal counsel.*

*This document is interactive, so if you click on a section in the Table of Contents, it will take you to that section, or if you click on a website URL, it will take you to that website.*

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# Introduction & Overview of the Document

**W**age theft—the failure to pay all wages due for work performed—is rampant in Maryland and, more than ever, workers need assistance in collecting their due wages. Oftentimes, low-wage workers win judgments against employers for unpaid wages that go unenforced for a number of reasons, including an inability by workers and their advocates to navigate the collections process.

Defendant employers use a number of tactics that preclude even a winning plaintiff employee from ever collecting the wages that have been found to be owed: corporations dissolve, file for bankruptcy, individuals move out of state or otherwise go AWOL. The result is that a worker may never see his or her pay even after protracted litigation and a judgment. For the uninitiated, unpaid wage collections, especially after entry of judgment, can seem mysterious, time consuming, frustrating, and ultimately like an exercise in futility. Unfortunately, the reluctance to engage in collections work has ripple effects: it means that many attorneys reject viable wage claim cases at the outset, leaving even egregious cases of wage theft unaddressed. Low-wage workers bear the brunt of this, as they are frequently unable to find assistance reclaiming their wages because their employers are generally more difficult to collect from. However, **successful judgment collection is far from impossible, and there are many easy-to-use tools available to workers and their representatives that can greatly improve the odds of collection.**

This guide is meant to demystify and educate advocates on the wage collection process, both to reveal that recovering money without a significant investment of time is possible and to encourage more advocates to assist workers with their wage claims. The guide includes many tools and strategies meant to assist and energize attorneys, organizers, paralegals, and other advocates—especially those that have no familiarity with collections—in collecting unpaid wages for workers. In many cases, the tools are right there and easy to use. It's just a matter of digging in. We hope this guide will help you do just that. Have fun!

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## THE REALITY OF WAGE COLLECTIONS

No two judgments are alike and there is no single formula for successful judgment collection. Instead, you must attack with a combination of hard work, persistence, and creativity. There are

**S**ome employers may be willing to do almost anything to steal wages and hide assets. Those working to collect on successful judgments need to not only be familiar with their tricks but also be willing to aggressively cut them off before they are able to implement those tricks. Here is a list of things that employers may try to do to avoid paying out on a judgment—it's your job to anticipate which ones a particular employer will try to use:

- **Use of joint accounts with a spouse:** In Maryland, an employer can make assets unavailable to an employee trying to collect on an unpaid wage judgment by putting the assets in joint accounts that are held with the employer's spouse as a tenancy by the entirety. *See the section on the Uniform Fraudulent Transfer Act to see how you might be able to halt the fraudulent transfer of assets.*
- **Use of multiple banks accounts with different banks to run a business:** Employers may try to hide money and spread it around by opening multiple accounts and using different names, making it difficult for you to get a sense of how much the employer is even worth. *See the section on pre- and post-judgment research and garnishment to learn more about finding bank accounts and enlisting banks to help you collect based on what you find.*
- **Refusal to answer discovery questions:** An uncooperative employer can stall the collection process by refusing to respond to interrogatories or court summons. *See the section on alternative methods of research to learn how you can get around uncooperative debtors and collect on a judgment even when you can't find a bank account.*
- **All-cash business:** When employers deal only in cash, their money is very difficult to trace. *See the sections on liens and asset searching to learn alternative means of finding the money and collecting.*
- **Bankruptcy:** Employers may try to avoid paying debts—including your client's wages—by declaring bankruptcy. *See the section on bankruptcy to learn how to deal with a debtor that has, or is about to, declare bankruptcy.*

many tools—and combinations of tools—for you to utilize, but none is foolproof. The most important thing is to not be discouraged. It is completely possible to obtain at least partial payment of a final judgment. Remember to stay calm, stay focused, and to lean on the tools that you have on hand. This guide is intended to provide you with a collection of tools that should all be tried, sometimes in concert, to collect on a hard-won judgment.

### HOW TO USE THIS GUIDE

This guide is divided into three main sections, largely following the three phases of collections work: research, prejudgment collections, and post-judgment collections. The post-judgment collections section focuses primarily on rules and procedures for enforcing state judgments in the Maryland state circuit and district courts. Many wage cases are brought in federal court under the Fair Labor Standards Act (FLSA) and other statutes. A separate sub-section of the post-judgment collections section addresses enforcement of federal judgments, though—even when enforcing a federal judgment—you will generally follow the Maryland Rules and can reference the state court sections for procedural

#### A Final Note:

This guide is an informative overview of various strategies and tactics available to collect unpaid wages, and is not legal advice or a substitute for legal counsel. In no way is it meant to provide exhaustive step-by-step guidance on any single legal procedure. If you choose to pursue one or more of the suggested remedies in this guide, you should consult treatises or experts in that specific area of law, to ensure you follow the correct procedures. You should also ensure that you act ethically in pursuing these remedies—there's a reason why some think that debt collectors have a bad name, and we do not want to use unscrupulous tactics even in pursuing a righteous goal.

questions unless it is indicated otherwise. Throughout the guide, the terms “employer,” “defendant,” and “debtor” are used interchangeably and generally refer to the same entity or individual. Also, the term “employer” refers to employers that are businesses (i.e. corporations, LLPs, LLCs, etc.) as well as individual employers. Under the Fair Labor Standards Act, principals of businesses may also be held personally liable for wage claims; however, you generally may not collect from the principal’s assets unless you’ve found a way to also hold him or her liable.

## OVERVIEW: THREE PHASES TO COLLECTION OF UNPAID WAGES

RESEARCH

PREJUDGMENT

POST-JUDGMENT

The Phases of Collection of Unpaid Wages — and The Tools to Help at Each Step

<b>1. Research</b>	<ul style="list-style-type: none"> <li>• The most important part of your wage collection process will be the research you do at the beginning to inform your decisions at every step</li> </ul>
<b>2. Prejudgment</b>	<ul style="list-style-type: none"> <li>• Attachment before judgment</li> <li>• Fraudulent Conveyance Act</li> <li>• Mechanics’ liens</li> </ul>
<b>3. Post-judgment</b>	<ul style="list-style-type: none"> <li>• Judgment liens</li> <li>• Written interrogatories in aid of enforcement</li> <li>• Oral examinations in aid of enforcement</li> <li>• Writ of execution for garnishment or levy</li> </ul>

### Research

The first, and most important, phase in your collection process is the research you do at the outset. The more you know about an employer and its assets, the more likely you will be able to not only eventually collect on your judgment, but also make the best decisions about which collection approaches will be most effective. For example, if upon researching an employer’s background you learn that the employer has a history of dodging judgments and hiding assets, you may want to consider using pre-judgment remedies in order to keep its assets accessible for when you receive a successful judgment for unpaid wages.

Your research may also indicate that you may be better served by bringing your collection enforcement in another court. For example, if your judgment is in federal court, you will have the option of enrolling your judgment in state court in order to collect. Most debt collectors enroll the judgment in state court

**Quick Tip:** Set up your case at the beginning for easier collections later by: (1) making sure that, if applicable, you plead fraud, and willful and malicious injury in the underlying complaint for unpaid wages, which allows your client to contest discharge of your claim in case the employer declares bankruptcy (*see the section on bankruptcy*); and (2) including all potential costs/fees/penalties in the motion for order of default judgment so that you don’t have to go back to court later to make amendments to your judgment.



and then collect on it there for a number of reasons, including that state court is generally more familiar with post-judgment collection. However, if you collect in federal court you can request that U.S. Marshals serve a writ of execution, and this can be a quick and effective way to show an employer that you are serious about collecting on the judgment.

Whatever you ultimately decide, the most important part of your judgment collection process will be the research you do at the beginning in order to inform your decisions at every step of the way. Specific research tools are described in detail in Phase One: Employer Investigation and Asset Research.

### Prejudgment

Prejudgment remedies are especially useful when you are concerned about a business liquidating its assets or changing its ownership structure, or if you know a particular employer has a history of avoiding judgments and/or taxes. There are various tools available to ensure that the employer's assets are still accessible by the time you receive a successful judgment, and these are explained in further detail in Phase Two: Prejudgment Remedies for Unpaid Wages.

Prejudgment Remedies for Unpaid Wages (In Order From Easiest to Most Difficult)	
<b>Attachment Before Judgment</b>	Allows a plaintiff, after posting a bond, to record a lien on the defendant's property or to have assets seized and held pending adjudication of the claim. Md. R. 2-115, 3-115.
<b>Fraudulent Conveyance Act</b>	Prevents the debtor from transferring its assets to avoid paying on a judgment if the transfer was made with the actual intent to hinder, delay, or defraud a creditor (an actually fraudulent transfer), or the debtor was insolvent and received less than fair consideration for the transferred item (a constructively fraudulent transfer). Md. Code Ann., Com. Law, §§ 15-204–207.
<b>Mechanic's Lien</b>	Allows a construction worker or subcontractor to place a lien directly on the property he or she improved for monies owed. Md. Code Ann., Real Prop., §§ 9-101–114.

### Post-Judgment

By winning a judgment, you automatically begin the collection process in many cases. Certain liabilities attach to the employer by operation of law, which may cause it to pay at some point—even if you don't take any steps to collect. For example, the judgment will show up on the employer's credit report, making it hard for the employer to get loans, mortgages, etc. However, upon winning a judgment, a worker may want to do more than passively wait to be paid, especially if the employer has the assets and is merely stalling payment. By identifying bank accounts, you can garnish the bank to freeze and gain access to the money in the account. You can garnish the debt that a third party owes the employer, or enlist the help of the local sheriff or US Marshals to seize the employer's property and sell it to collect the debt. Even if the employer is about to declare bankruptcy, there are still options. There are many ways to enforce a judgment, and these are explained in further detail in Phase Three: Post-Judgment Enforcement for Unpaid Wages.

By improving your research and laying out options for pre- and post-judgment collection, you can maximize the effectiveness of every tool available to you—inside the court and out—to ensure collection of the full judgment awarded.

### Post-judgment Enforcement for Unpaid Wages (In Order From Easiest to Most Difficult)

<b>Judgment Lien</b>	In Maryland, a circuit court judgment will automatically constitute a lien on real property of the judgment debtor in the county where the judgment was rendered, or in any other county where a certified copy of the docket entry is recorded. Md. R. 2-621.
<b>Written Interrogatories in Aid of Enforcement</b>	Once a judgment has been rendered, you are free to conduct discovery of any party, including garnishees added to the case post-judgment, to try to find assets of the debtor. Written interrogatories are written questions that you submit to the debtor, who is required to respond within a specific amount of time. Md. R. 2-633, 3-633.
<b>Depositions &amp; Oral Examinations in Aid of Enforcement</b>	If you do not have information on the debtor's assets, you may require the debtor to attend a deposition (Md. circuit court and federal court only) or come into court and answer questions under oath. Md. R. 2-633, 3-633.
<b>Writ of Execution for Garnishment or Levy</b>	Formal notice to your debtor, served by a sheriff or U.S. Marshal, that if the debtor fails to pay the judgment immediately, you will collect your judgment by selling off its property. Md. R. 2-641, 3-641.
• <b>Garnishment</b>	One of two enforcement remedies coming out of a writ of execution. The garnishment is designed to recover assets of the debtor in the hands of a third party, such as the debtor's bank, employer, or persons who owe the debtor money. Md. R. 2-645–646, 3-645–646.
• <b>Levy</b>	The process by which the sheriff or marshal “takes domain” over items owned by the debtor, once the writ of execution is served. Md. R. 2-642, 3-642.

**Quick Tip:** Stop and weigh the benefits against the consequences of causing pain in order to collect a judgment. Putting pressure on a debtor is an important tool but it can also push a collector into the ethical deep end. Think about what you are garnishing, for example, and who might be hurting as a result. Some debt collectors earn a bad reputation because they are willing to do anything—including breaking the law—to collect on a judgment. Though you may not be excited about playing the role of debt collector and the ethical issues that may entail, keep in mind that unpaid wages are not consumer debts, and ethical wage collection is one way to fight the wage theft epidemic.

# TOP 3 EFFECTIVE TECHNIQUES:

## Quick list of the three most effective techniques for Pre- and Post-Judgment Collection

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### #1 Prejudgment (and sometimes Post-Judgment)

Get the Employer to Pay Voluntarily—Often the best way to collect is to settle. This may mean settling before ever getting to court in the first place, or it may mean a post-judgment settlement. The advantage of settling is that an employer is much more likely to pay a lesser, agreed upon amount than a larger sum awarded by a court after litigation. The downside to settling is that there is no reason for an employer to settle unless it ends up paying less than it would have had it gone to court. And, of course, your client may not want to settle for less than what he or she is owed, and it is a decision for your client to make. Many clients, however, will opt for a bird in the hand rather than risk waiting for the outcome of litigation. *See the section on settlements.*

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### #2 Post-Judgment: Garnishment

Short of directly receiving a check from the employer, garnishing a known bank account is one good way to quickly collect money that is owed. Further, to the extent that the employer is owed money by a third party such as a tenant or another business, that third party can be garnished to recover your judgment. This is effective because it allows you to play a more active role in collecting on the judgment. You will then receive money from the garnished bank account or third party. *See the sections on garnishments.*

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### #3 Alternatives to the Court

Take Advantage of Pressure Points—If you cannot find the employer's bank account or any third party that owes the employer money, and you have been unsuccessful in getting the employer to settle, you might try forcing the employer's hand in other ways. There are means outside the courts that can help you convince the employer that it is in the employer's best interest to pay out. Sometimes the trick is to merely grab and hold the employer's attention, and there are lots of ways to do that. You can suggest the workers or their organization hold **a protest**: Direct action protests in front of a business, current construction site, or an employer's home can be a very effective method to convince an employer to pay (make sure if you are an attorney you consult the ethics rules regarding your participation in, or coordination of such a protest—it is generally better to have another organization, like a workers' center, organize the protest). You can mobilize the **press**: Just like direct action, pressure caused by bad press can lead an employer to want to pay. For example, newspaper columnists and bloggers often write about unscrupulous businesses. ■

# Phase One: Employer Investigation and Asset Research

**B**efore beginning the collections process (and ideally before filing the underlying complaint), you want to know as much as possible about the employer and its assets. If you haven't done this research yet but just received a judgment, you still have time because the judgment creditor generally controls the speed of the process.

In Maryland, there is an automatic ten day stay after a judgment is entered before you can bring proceedings to collect. Md. R. 2-632(b), 3-632(a). When assets have been identified, if possible, get the value of the assets in relation to the claim plus any costs and fees you may incur. If the assets are movable, consider the use of prejudgment remedies (attachment before judgment, mechanic's liens, etc.) in order to preserve assets during litigation. This section will discuss various methods for discovering the employer's financial information.

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## GOALS OF YOUR RESEARCH

The research you do at the front end of your judgment collection process will determine what methods you use, what forum you choose to collect in, and, ultimately, the success of your efforts. The goals of your research are as follows:

- Identify all the parties that may be liable.
- Determine the financial condition of the employer business and the individual owners/managers of the business (i.e. whether the business is currently operating, liens, tax issues, bankruptcy, etc.) and find the employer's assets so that you can identify which ones could be used to satisfy a judgment.
- Investigate to determine any danger of dissolution of the business, bankruptcy, or a sell-off of assets justifying the use of prejudgment remedies.

### Quick Tip:

It is important to strategize and investigate the employer because some next steps, such as placing a lien on the employer's property, are time sensitive. You need to reserve your rights on the property in such cases quickly before the property is transferred or sold, or before the statute of limitations runs for certain remedies (e.g. mechanic's lien). Further, the procedures for some measures will require you to provide specific information.

### IDENTIFY THE DEFENDANT EMPLOYER

It is important that you have the correct name of the defendant employer. The court will require that the employer's name be spelled exactly the same as on the judgment, and may reject documents with an improperly spelled name. You should take the following steps to identify the employer:

#### Determine all Potential Defendants:

- Remember to consider alter egos—a person or entity under whose name the employer places its assets or funds.
- A fictitious business name or DBA (short for “doing business as”) is not a separate entity or person, but just an alternative name for a business. An employer may legally do business as a particular name at a minimal cost without having to create an entirely new business entity.
- Think about whether you can bring an action against the employer's spouse as well as the individual employer.

#### Identify What Sort of Legal Entity the Defendant Operates Under

Review the judgment and make sure you know the correct legal entity of the employer. In other words, you should know which of the following legal entities you are suing:

- Natural person or individual
- Corporation
- Limited Liability Company (LLC)
- Limited Liability Partnership (LLP)
- Limited Partnership (LP)
- Partnership

#### Locate the Defendant for Service of Documents

Many of the court documents that you will be using during the judgment enforcement process require that they be served upon the defendant by mail or in person. You must have the defendant's current and correct address to ensure that the documents will be properly served.

**WARNING:** When a debtor files bankruptcy, there is an automatic stay on collections against that debtor. 11 U.S.C. § 362. This generally means you cannot demand any payment, continue litigation, or attempt to seek or enforce a judgment against that debtor. Any violation of the automatic stay can get you hit with sanctions, so always check for bankruptcy filings before taking any step to collect. *See the section on bankruptcies.*

### FINDING THE EMPLOYER'S ASSETS

#### Streams of Revenue & Other Lawsuits

You should pay special attention to the employer's ongoing streams of revenue (e.g. revenue from sales of products at a retail store) that can be seized by a sheriff or marshal to satisfy a judgment. You may also determine whether the employer has an ongoing suit against another person or if the employer has a judgment against someone else so that you can have the other person pay you instead of the employer. *See the post-judgment discovery in aid of enforcement section for ways the court can assist in finding assets.*

### Internet Research

Search the internet for the employer; conduct discovery on the banks you are garnishing to see the last 12 months of statements of the employer's accounts (you may find a recurring deposit); get an investigator to follow the employer around for a day and figure out the banks he uses; search the court dockets to find other judgments against the employer, then call the lawyers from those cases to get more information. Get creative and be persistent. The following is a list of ways you can do research on your own:

<b>Post Office</b>	Find addresses by contacting the post office for forwarding addresses.
<b>Check with the Courts</b>	You should check with the courts to see if there are any other lawsuits filed against the employer, the employer's spouse, or the employer's domestic partner and see if an address is listed on file. You can do a MD judiciary case search at: <a href="http://casesearch.courts.state.md.us/inquiry/inquiry-index.jsp">http://casesearch.courts.state.md.us/inquiry/inquiry-index.jsp</a> . Search for federal cases on PACER: <a href="http://www.pacer.gov/">http://www.pacer.gov/</a> .
<b>Credit Report</b>	You can contact a credit reporting agency and pay a fee to get a copy of the employer's credit report.
<b>Garnish the Five Closest Banks</b>	One way to find a bank account is to cast a wide net and garnish the five biggest banks in the area to see what you find.
<b>Real Property Records</b>	By checking public records, you can determine the real property and personal property owned by the employer. All property owned by the employer may be used to enforce the judgment unless it is expressly exempted, or forbidden by law. <i>See the chart on exempted property.</i> Do a Maryland Real Property search at: <a href="http://sdatcert3.resiusa.org/rp_rewrite/">http://sdatcert3.resiusa.org/rp_rewrite/</a> <i>Note: do not assume that all of the employer's property or assets are in one county even if the employer has a place of business in one county. Look for assets in nearby counties.</i>
<b>DMV Records</b>	DMV form DR-057 allows you to request motor vehicle records. This form can be filled out and brought in person to your local MVA office or mailed to the Maryland Motor Vehicle Administration, 6601 Ritchie Highway NE, Glen Burnie, MD 21062. Send requests for vehicle records to room 206. Send requests for driving records to room 145. The remittance fee must be in the form of a check or money order made payable to the Motor Vehicle Administration (MVA). Checks must have an imprinted name and address. Include your driver license number and your home or work phone number on your check. <i>See appendix L for a sample DR-057 form or call the MVA at (410) 768-7000 from 8:30am to 4:30pm Monday through Friday.</i>
<b>Maryland Business Entity Search</b>	<a href="http://sdatcert3.resiusa.org/ucc-charter/CharterSearch_f.aspx">http://sdatcert3.resiusa.org/ucc-charter/CharterSearch_f.aspx</a>
<b>Licenses and Tax Permits</b>	Local business licenses and tax permits are often issued by the city in which the employer is operating and they can usually be obtained by telephoning the city agency in charge of business licensing. You can find the agency information by using the telephone book or using an internet search. Additionally, certain types of businesses must obtain specific types of licenses, e.g. restaurants must obtain health permits, which will include the names and addresses of owners/managers of the business. This information can be found on local government websites or by calling the appropriate city/county agency.  <a href="http://www.ReferenceUSA.com">www.ReferenceUSA.com</a> ReferenceUSA allows for customized searches based on user-specified criteria to create a listing of businesses.

## Phase One: Employer Investigation and Asset Research

<b>Industry-Specific Registrations</b>	Registry of MD business licenses, including licensed home improvement contractors: <a href="http://www.dllr.state.md.us/pq">http://www.dllr.state.md.us/pq</a>
<b>Business Credit Reports</b>	Business credit reports are available from Dunn & Bradstreet ( <a href="http://www.dnb.com/us">www.dnb.com/us</a> ). These reports can have useful information about outstanding liens, judgments, and collection actions, as well as information on bank affiliations.  Useful Westlaw and Lexis Databases for asset searches:  Uniform Commercial Code Records-Maryland (UCC-MD)  Asset Locator-Maryland  Maryland Corporate Records & Business Registrar
<b>Other Online Search Tools</b>	
<b>People Locators:</b>	Google: <a href="http://www.google.com">www.google.com</a> pipl: <a href="http://pipl.com/">http://pipl.com/</a> cell revealer: <a href="http://www.cellrevealer.com/">http://www.cellrevealer.com/</a> Phone Lookup: <a href="http://www.phonelookup.com/">http://www.phonelookup.com/</a> Facebook: <a href="http://www.facebook.com">www.facebook.com</a> LinkedIn: <a href="http://www.linkedin.com">www.linkedin.com</a> Spokeo: <a href="http://www.spokeo.com">www.spokeo.com</a> Alta: <a href="http://www.alta.org">www.alta.org</a>
<b>Asset Locators:</b>	Microbilt ( <a href="http://www.microbilt.com/">http://www.microbilt.com/</a> ); Accurint ( <a href="http://www.accurint.com/">www.accurint.com/</a> ); Westlaw ( <a href="http://www.westlaw.com">www.westlaw.com</a> ); Asset Source International ( <a href="http://www.assetsource.com">www.assetsource.com</a> ); Experian ( <a href="http://www.experian.com">www.experian.com</a> ); First Data Solutions ( <a href="http://www.firstdata.com">www.firstdata.com</a> ); Focus 1 ( <a href="http://www.focus1data.com">www.focus1data.com</a> ); Interactive Data ( <a href="http://www.interactivedata.com">www.interactivedata.com</a> ); Master Files ( <a href="http://www.masterfiles.com">www.masterfiles.com</a> ); One Click Data ( <a href="http://www.oneclick-data.com">www.oneclick-data.com</a> ); Synergy Search Partners ( <a href="http://www.synergysearchpartners.com">www.synergysearchpartners.com</a> ); Verifacts ( <a href="http://www.skiptracers.com">www.skiptracers.com</a> ); The Work Number ( <a href="http://www.theworknumber.com">www.theworknumber.com</a> );
<b>Real Property Locator:</b>	trulia ( <a href="http://www.trulia.com">http://www.trulia.com</a> )



# Phase Two: Prejudgment Remedies for Unpaid Wages

**P**rejudgment remedies are especially useful when you are concerned about a business liquidating its assets or changing its ownership structure, or if you know an employer has a history of avoiding judgments and/or taxes. There are various tools available to ensure that the employer's assets are still accessible by the time you receive a successful judgment, though they all have their pros and cons. Additionally, there is an effort to legislate a "wage lien" that would allow any worker to establish a lien on the employer's property for the amount of unpaid wages.

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## **ATTACHMENT BEFORE JUDGMENT FOR STATE COURT CASES**

### **What is this?**

Attachment is a prejudgment remedy that allows a plaintiff to have a lien recorded against the defendant's property or to have assets seized and held pending adjudication of the claim. It is a powerful tool for ensuring that a worker's wages are paid, particularly when dealing with fly-by-night employers or businesses on the verge of shutting down. Generally, wage and hour claims should meet the requirements for an attachment. If the court determines that the plaintiff is entitled to the writ of attachment, based on the request, the writ must be issued, though it only goes into effect once the plaintiff files a bond for an amount that the court stipulates as security for the defendant's attached property.

### **Why would I want to do this?**

Attachment before judgment allows you to pin down property before judgment when you have reason to believe that the employer will take especially extreme measures to hide or move the property. It allows you to hold property at the beginning of an action or while the action is pending. Md. Code Ann., Cts. & Jud. Proc. §§ 3-302–305. It is a fairly quick process—the attachment is for all intents and purposes effective within a few days of the date the sheriff provides notice to the property owner. Generally, you can attach property before judgment in an action based on contract for liquidated damages (and sometimes for actions based on tort or based on



contract for unliquidated damages) if the defendant: is a nonresident debtor; is a corporation that has no resident agent in the state; has acted to evade service; has absconded or is about to abscond from the state; is about to assign, dispose of, conceal, or remove property from the state with the intent to defraud creditors; is a nonresident heir or devisee; or is required to but does not hold a home improvement license. Md. Code Ann., Cts. & Jud. Proc. §§ 3-302–305; Md. R. 2-115, 3-115.

### What are the drawbacks?

Attachment before judgment is inaccessible for many low-wage workers because the process requires that the applicant file a bond before the attachment takes effect. Md. R. 2-115(c), 3-115(c). Further, you must strictly comply with all parts of the statute, such as the requirement that the Notice of Lien of Attachment be filed only “upon the filing of the return by the sheriff.” Md. R. 2-115(e), 3-115(e); see *Butler v. Tilghman*, 350 Md. 259, 270 (1998) (holding that respondent’s failure to strictly comply with the procedural requirements of Rule 3-115 made the attachment void).

### Courts

- i. **Circuit Court:** You can request an order directing the issuance of a writ of attachment when you file your complaint to commence an action, or while an action is pending. Md. R. 2-115. The request may be made ex parte. *Id.* When you submit your request, you will need to include an affidavit verifying the facts set forth in the complaint and stating the grounds for entitlement to the writ. *Id.* The request for the writ must be filed in the same action as the complaint—the complaint and the request for the writ are all considered a single action. *Id.*
- ii. **District Court:** In state district court, you will need to use form DC/CV 5: Request for an Order for the Issuance of a Writ of Attachment Before Judgment/Order Directing Issuance (see *appendix D* for a sample DC/CV 5 form) (you’ll also use form DC/CV 39 for filing the bond). You will need to include an affidavit signed under penalty of perjury in support of the attachment that alleges facts that support the issuance of the attachment. Md. R. 3-115. Either original or acceptable copies of papers evidencing the basis for the debt must also be provided. *Id.* If you are, for whatever reason, unable to present original or acceptable copies of papers then you’ll need to explain why by affidavit. *Id.*

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## FRAUDULENT CONVEYANCE ACT

### What is this?

The Maryland Uniform Fraudulent Conveyance Act (UFCA) allows you to: prevent the defendant from transferring its assets to avoid paying on an existing or possible future obligation; have the court appoint a receiver of the assets; or set aside the conveyance if the transfer has already occurred. Md. Code Ann., Com. Law §§ 15-201–214. The Act states that a transfer is fraudulent if the transfer was made with the actual intent to hinder, delay, or defraud a creditor - (an actually fraudulent transfer) or the debtor was insolvent and received less than the fair consideration for the transferred item (a constructively fraudulent transfer). Com. Law §§ 15-204–207. Under Maryland law, you must prove your claim that the transfer is fraudulent by a preponderance of the evidence. *In re Goldschein*, 241 B.R. 370, 377–78 (Bankr. Md. 1999). In order to determine

whether a transfer was made fraudulently, Maryland courts look to “badges of fraud” for exposing fraudulent intent and establishing the knowledge necessary for a fraudulent conveyance. These badges of fraud include insolvency or indebtedness of the transferor; lack of consideration for the conveyance; a relationship between the transferor and the transferee; the pendency or threat of litigation; secrecy or concealment; departure from the usual method of business; transfer of the debtor’s entire estate; reservation of benefit to the transferor; and the retention by the debtor of actual possession of the property. *Wellcraft Marine Corp. v. Roeder*, 314 Md. 186, 189–190 (1988); *Berger v. Hi-Gear Tire & Auto*, 257 Md. 470, 511 (1970).

### **Why would I want to do this?**

You may plead a violation of this Act either after a fraudulent transfer has happened or if you anticipate one happening. It can be a good way to prevent the loss of money that the employer would otherwise successfully put out of your reach. If you act quickly enough, you can stop the transfer and keep the assets accessible by way of the other tools listed in this guide.

### **What are the drawbacks?**

If you allege a fraudulent transfer then it is up to you to prove it. *In re Goldschein*, 241 B.R. at 377–78. Additionally, the Act requires additional court filings and paperwork and will demand more of your time and energy. Note: the UFCA can also be a useful post-judgment remedy, but you would likely have to file a separate action.

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## **MECHANIC’S LIEN**

### **What is this?**

A mechanic’s lien allows a construction contractor, subcontractor, or laborer to place a lien on real property if he or she made an improvement upon that property and was not paid for it. One example would be a plumber who was never paid or a construction worker who was never paid for work on a building. Each could put a lien on the building and make the owner responsible for paying the worker, even if that worker was contracted to work on the project by someone else (like a general contractor or even a subcontractor to the general contractor). See *Judd Fire Protection, Inc. v. Davidson*, 138 Md. App. 654, 663 (2001) (recognizing that employees of subcontractors who have not been properly paid may file for a mechanic’s lien).

### **Why would I want to do this?**

A mechanic’s lien allows you to enlist the help of the property owner—whether the property owner is interested in helping or not—to put more pressure on the defendant contractor or subcontractor to pay. Since the lien is a major encumbrance on the property, the property owner will want it to go away as soon as possible. It is especially useful in situations where the defendant contractor or subcontractor isn’t taking the suit seriously and is trying to hide assets or disappear. Even if the owner has paid the general contractor in full, a laborer or subcontractor may still claim a mechanic’s lien, except if the building is a single-family dwelling on an owner’s property for his own residence. Md. Code Ann., Real Prop. § 9-104(a)(2).

### **What are the drawbacks?**

The procedure for establishing a mechanic’s lien is fairly technical and it may not be an appropriate—or even available—tool in every situation. To be eligible for a mechanic’s lien, the building must be new construction or the owner must have had an existing building improved by at least

15 percent of its value (25 percent if a tenant contracted for the improvement). Md. Code Ann., Real Prop. § 9-102(a); Md. R. 12-302. If you've met this threshold, you'll need to meet strict deadlines, though the procedure is easy to follow in the statute and much of the work is front-loaded. For example, you'll need to act quickly to ascertain the amount owed to the worker, since the notice, which must list that amount, has to be given to the property owner within 120 days of the last day of work. Real Prop. § 9-104. Also, there are no clear answers as to whether statutory damages or attorney's fees are available, so a worker would only likely establish a lien for the principal amount claimed, though other claims (violation of wage laws, *quantum meruit*, breach of contract, etc.) can accompany the mechanic's lien in the complaint. Additionally, the lien doesn't exist until the court says that it does, not from the date the worker first performed the work. *Residential Ind. Loan Co., Inc. v. Weinberg*, 279 Md. 483, 487 (1977).

### Procedure to File Mechanic's Lien

As with any lien, there are three steps to a mechanic's lien: (1) filing, (2) establishment, and (3) enforcement. Filing begins the process, establishment prevents the property owner from transferring the property without paying a bond, and enforcement pays the plaintiff from the proceeds of the sale of the property. Real Prop. §§ 9-104-106.

Mechanic's liens can be filed as soon as work is performed or materials are provided. However, if a subcontractor/laborer that lacks privity of contract with the property owner is filing the lien, it must first give written notice (via certified mail or personally)—within 120 days of the last day of work or furnishing of materials—to the property owner of the intent to file a lien. Real Prop. § 9-104(a)(1). The notice must include, *inter alia*, the amounts claimed due and owing. Then the complaint must be filed in court within 180 days of the last day of work or furnishing of materials. Real Prop. § 9-105(a). The complaint must include, *inter alia*, the amount owed, the nature of the work performed, the correct legal description of the property, and a supporting affidavit signed under penalty of perjury demonstrating facts upon which the lien is based. *Id.* A mechanic's lien should be filed in the circuit court of the county where the land subjected to the lien is located. *Id.* Once the lien complaint is filed with the court, the court sets a probable cause hearing date and sends an order to show cause to the property owner, who has 15 days from the date of service of the order to respond with an affidavit stating why the lien should not attach. Real Prop. § 9-106.

If the property owner fails to respond with the affidavit in a timely manner, the hearing is waived and the court establishes the lien, if the complaint contained sufficient evidence that the lien should attach. *Id.* If the property owner responds within the allotted timeframe, the owner may appear and present evidence at the probable cause hearing. *Id.* At the hearing, the court reviews all evidence submitted and, if there is no dispute of material fact, issues a final order either establishing or denying the lien. *Id.* If there is a dispute of material fact, and the court finds there is probable cause that the plaintiff is entitled to a lien, it will enter an interlocutory order establishing the mechanic's lien and set a bond amount that the employer must pay if it wishes to release the property from the lien. Real Prop. § 9-106(b)(3)(iv). The court may also require the claimant to file a bond in an amount that the court believes sufficient for damages, including reasonable attorney's fees, Real Prop. § 9-106(b)(3)(v), though this is unusual. A trial to determine the matter must take place within six months. Real Prop. § 9-106(b)(3)(vi). This means that the property is effectively subject to a lien prior to final judgment on the merits, though the plaintiff cannot enforce the lien (have the property sold) until the judgment is received.

### **LEGISLATIVE REFORM: WAGE LIEN**

A wage lien, available in other states though not yet in Maryland, is a valuable prejudgment remedy that encourages prompt payment and often obviates the need for litigation. It maintains the status quo on real and personal property to prevent unscrupulous employers from selling or hiding assets by allowing workers to place a hold on property until wages are properly paid. At the same time, Maryland case law ensures that a property owner would be given notice and an opportunity to be heard before having any property encumbered. A wage lien would also permit a quicker path to recovery without requiring the posting of a bond—something that puts existing prejudgment attachment procedures out of reach for most workers. Allowing liens on the property where the work was performed at the request of the property owner addresses the increasingly common practice of labor outsourcing, where the often-undercapitalized direct employer subcontractor operates largely offsite, but supplies the worker for the benefit of the property owner—e.g. hotels that outsource housekeeping staff. ■

**Contact PJC if you would like to get involved in the effort to pass a wage lien law in Maryland.**

# Phase Three: Post-Judgment Enforcement for Unpaid Wages

**S**o, your client's gotten a judgment against the employer . . . now what? This section focuses primarily on Maryland Rules for enforcing judgments, which apply to Maryland state circuit and district court judgments, and also generally apply to enforcing federal judgments in Maryland.

Many wage cases are brought in federal court under the Fair Labor Standards Act (FLSA) and other statutes. A separate sub-section of this section addresses enforcement of federal judgments, though—even when enforcing a federal judgment—you will generally follow the Maryland Rules and can reference the state court sections for procedural questions unless it is indicated otherwise.

Judgments in Maryland are active for 12 years, and you can renew the judgment by filing a Notice of Renewal before the expiration of the 12 years. Md. R. 2-625, 3-625. Post-judgment interest accrues at 10 percent annually on your state court judgment, Md. Code Ann., Cts. & Jud. Proc., § 11-107(a). You might, if you received a federal judgment, be in the position of having to decide whether to collect your judgment in federal or state court. This next section is intended to help you navigate the many ways you might go about collecting on your judgment.

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## **GETTING THE EMPLOYER TO PAY VOLUNTARILY**

In an ideal world, the employer will just pay voluntarily—even if that involves some compromise. However, a voluntary payment is not always realistic and you should discuss with your client whether it is even a good idea to entertain the following steps that are intended to lead to a voluntary payment. If, for example, you know that a difficult employer owns property and is going to try to dodge the judgment, you should probably skip ahead and try to place a lien on the property. However, working with the employer to get it to voluntarily pay can be an effective and inexpensive method to obtain judgment money. Even though you may have won a judgment for more, sometimes it might be the most beneficial outcome to compromise with the employer—for most workers, collecting some of the money owed is still better than collecting none at all.

### **Write a Post-Judgment Demand Letter** *(See appendix M for a sample demand letter)*

Writing a demand letter is a useful way to let the employer know that you are serious about following up on a judgment, and it gives the employer a chance to pay voluntarily before you are forced to go back to the courts. When you write your demand letter, you should make it clear to the employer that it is in the employer's best interest to pay the judgment as soon as possible. In the letter you can say any or all of the following:

- If the employer does not pay on a state court judgment, the worker will be entitled to 10 percent interest on the judgment per year and reimbursement of any costs associated with enforcement of the judgment.
- Judgments are enforceable in Maryland for 12 years and can be renewed for another 12 years and another after that, as necessary.
- Not paying on the judgment will negatively impact the employer's credit rating and that the employer's name will appear on the court's "Judgment Roll."
- If the employer does not pay, you can seek:
  - A garnishment on the employer's bank accounts, wages, or other sources of income;
  - A levy on the employer's assets and funds;
  - A lien on the employer's real or personal property.

### **Set Up a Payment Plan**

Be flexible about payment terms and installment payments—setting up an installment payment plan may be faster than using a sheriff or other means of judgment enforcement, since the sheriff's office and courts are usually backed up and busy with work. Using the sheriff or the court system may take months or even a year. Sometimes, the quicker and wiser method is to be flexible with the payment terms and accept installment payments from the employer. Ways to be flexible:

- Accept less than what the court ordered.
- Accept installment payments and have the employer—and perhaps a solvent co-obligee—sign an agreement to confirm the installment payments. A six to twelve month window is usually a good time frame to give to the employer for the installment plan. Other things you may want to include in the agreement include: (1) discounting the amount owed if the employer sticks to the payment plan; (2) an acceleration clause that requires the amount be paid in full if there's a late payment; or (3) interest that begins to accrue 5 days after a late payment.

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## **JUDGMENT LIEN**

### **What is it?**

In Maryland, a circuit court judgment will automatically constitute a lien on real property of the defendant in the county where the judgment was rendered, or in any other county where a certified copy of the docket entry is recorded. Md. R. 2-621. A district court judgment becomes a lien on the defendant's real property when a Notice of Lien of Judgment form is filed with the clerk for the circuit court where the property lies, except for in Baltimore City, where there is no need to file the district court judgment with the circuit court to get the automatic lien. Md. R.



2-623(b), 3-621. No such automatic judgment lien exists for a federal judgment until it is enrolled in state circuit court (*see section on federal judgments and enrolling in state court*).

### Why do I want to do this?

If you don't know where the employer's assets are located, the judgment lien puts an automatic lien on any real property it owns—you may want to record in several counties just to be sure you cover your bases.

### What are the drawbacks?

It's important to keep in mind that judgment liens only apply to real property. This isn't very helpful if your employer does not own any real property since judgment liens do not automatically apply to personal property. In district court, the lien is not automatic and can only be requested after the standard 10 day stay after the entry of judgment.

### Courts

- **Circuit Court:** A money judgment in the circuit court automatically establishes a lien in the amount of the judgment plus post-judgment interest on the debtor's real property located in that county, starting from the date of entry of the judgment. Md. R. 2-621.
- **District Court:** In district court, a plaintiff must file a notice of lien with the circuit court for the county where the property is located in order to obtain a judgment lien (except for Baltimore City where the district court judgment is an automatic judgment lien). *See* Md. R. 2-621(c), 3-621. To enroll a judgment in another county follow Md. Rule 3-622 and the directions on Form DC/CV 34. *See appendix F for a sample DC/CV 34 form.*

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## USING THE COURT TO ASSIST ASSET SEARCHING POST-JUDGMENT

### Written Interrogatories in Aid of Enforcement

#### What is this?

Once a judgment has been rendered, you are free to conduct discovery on any party, including garnishees (e.g. banks, employers, companies that contract with the defendant) added to the case post-judgment, to try to find assets of the defendant. Written interrogatories are written questions that you submit to the defendant, and the defendant is required to respond to them within a specific amount of time.

#### Why would I want to do this?

If you do not have information on the employer's assets, you may want to ask the employer directly through interrogatories. However, depending on the employer's level of sophistication, you may want to skip straight to depositions or oral examinations (*see next section on depositions & oral examinations in aid of enforcement*).

#### What are the drawbacks?

The first drawback to interrogatories is that you alert an employer to the fact that you are beginning to research into the employer's assets, giving time to hide or get rid of anything the employer doesn't want you to know about. Further, interrogatories require the employer to

cooperate, and you always run the risk of the employer not responding, or not taking the process seriously. Further, unlike in depositions and oral examinations where you are able to ask direct questions and follow up questions, with written interrogatories, it is more difficult for you to hold the employer accountable or ensure that the employer is answering the questions fully, accurately, and in good faith.

### Courts

- **Circuit Court:** Post-judgment interrogatories work the same way as interrogatories in any other phase of a case, so, unless the court specifies otherwise, you may serve a total of 30 interrogatories on any individual party. Md. R. 2-421(a). Each interrogatory or question is counted individually. *Id.* The circuit court provides recommended form questions for certain types of cases. *Id.* **Response:** the party to whom the interrogatories are directed must respond within 30 days after service of the interrogatories or within 15 days after the date on which that party's initial pleading or motion is required, whichever is later. Md. R. 2-421(b). The response must answer each interrogatory separately and fully in writing under oath, or must state fully the grounds for refusal to answer any interrogatory. *Id.*
- **District Court:** There is no form for written interrogatories, and, unless the court orders otherwise, you may only serve one set of no more than 15 interrogatories to be answered by the same party. Md. R. 3-421(b). **Response:** the party to whom the interrogatories are directed must respond within 15 days after service of the interrogatories or within five days after the date on which that party's notice of intention to defend is required, whichever is later. Md. R. 3-421(d). If 15 days pass with no answer then you can file a Motion Compelling Answers to Interrogatories in Aid of Execution (form DC/CV 30). This is a multi-part carbon copy form, so you must pick up a blank copy from the courthouse (make sure that when filling out any carbon copy forms you press down hard with the pen to ensure that all the copies are clearly legible). The defendant party will then have another 15 days to respond. Alternatively, you can have the employer answer depositions or oral examinations in court (*see next section on depositions and oral examinations in aid of enforcement*).
- *See appendix N for sample interrogatories in aid of enforcement.*

### Depositions & Oral Examinations in Aid of Enforcement

#### What is this?

If you do not have information on the employer's assets, you may require the employer to answer questions orally under oath. You can have the employer come to court or, if it's a circuit court or federal court judgment, you may also conduct depositions outside of court. If you conduct oral examinations in court, the judge may send you and the defendant into the hallway to ask your questions, and only get involved if the debtor refuses to satisfactorily answer some of your questions.

#### Why would I want to do this?

Asking questions in person, as opposed to via written interrogatories, will allow you to ask follow up questions. For this reason, for unsophisticated or fly-by-night employers, oral examinations are generally more useful than written interrogatories. Further,

#### Quick Tip:

Make sure to remind the employer to bring all relevant documents to the oral examination.



a request to come into court to answer questions in person will force the employer to take the process seriously.

### What are the drawbacks?

As with the written interrogatories, any time you alert an employer to the fact that you are doing research into its assets, you are giving it a chance to hide assets or otherwise slow down your collection process. And while requiring the employer to attend a deposition or come into court to answer questions will demonstrate your commitment to the collections process, such commitment still doesn't mean the employer will take you seriously. The employer might not show up and then you'll be stuck trying to force the employer into a court appearance through contempt proceedings, which can be a frustrating and drawn out process.

### Courts

- **Circuit Court:** In circuit court, you may depose the defendant or request that the defendant answer oral examinations in court. Md. R. 2-633(a). You must wait 30 days after the judgment is entered before filing your request to have the defendant come to court for oral examinations. Md. R. 2-633(b). The court will issue an order specifying when, where, and before whom the examination will be held. *Id.*
- **District Court:** In district court you'll need to request an oral examination of the defendant. Md. R. 3-633. This requires that you file a form for a Request for Order Directing Defendant to Appear for Examination in Aid of Enforcement of Judgment (Form DC/CV 32). *Id.* See *appendix G* for a sample DC/CV 32 form. This is a multi-part carbon copy form, so you must pick up a blank copy from the courthouse. You must wait to make your request until 30 days have passed since judgment was entered. *Id.* Additionally, you must also serve your request on the employer within 30 days of its issuance. *Id.*
- See *appendix O* for sample questions to ask during oral examination and *appendix P* for sample document requests for oral examinations.

### Remember the Third-Party Garnishee

Sometimes the best source of information is actually a third-party garnishee (e.g. the bank, or a third party owing the defendant employer money), which becomes involved with your post-judgment collections process since it holds assets belonging to the debtor. See *the section on garnishments, below, for more information on third-party garnishees*. If the third party is a bank where the employer used to have an account, even if it no longer has that account now, serving discovery on the bank can be a good way to discover where that money went and when. It may also be a good way to find money that periodically is deposited into an account—even if that account is empty at the moment. If the bank says that it has no accounts in the name of the employer, you should try to get your hands on a check with the employer's account number on it. Send that check to the bank after the bank has responded and ask it to check again. Often the bank will find an account that it did not find previously. Sometimes the name of the account holder won't match the name on the face of the check, but if you provide a copy of the check to the bank showing the employer's name on the front, the bank may be obligated to freeze it anyway, because the employer would be estopped from denying ownership of it.

Once you have confirmation from a bank that it has records of a bank account currently or previously held by the employer, you can think about serving additional discovery on

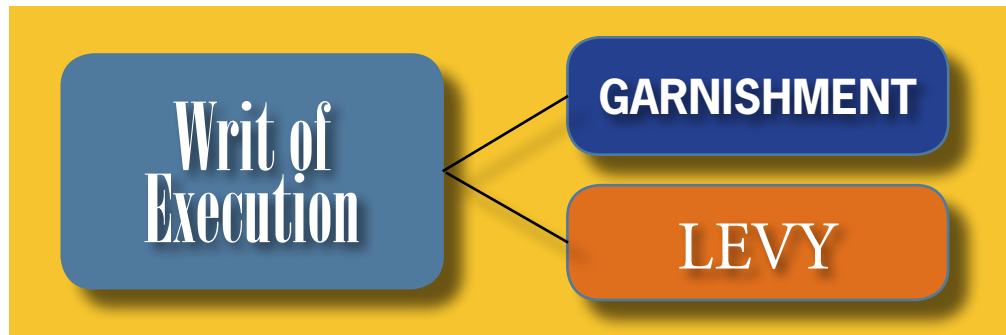
the bank. You may be charged for the research and production costs of this discovery. Two good discovery requests for the bank are:

- i. Account statements from any account held by the employer from the last 12 months. This gives you a good overview of the employer's finances over the last year. You will be able to see how often money comes in and how often it goes out, and whether there are recurring deposits from an individual, company, insurance policy, or lotto winnings that can be garnished. You will also be able to see if the employer suddenly withdrew all of its money from the account around the time of the judgment, which is some evidence that the employer is trying to hide money from you. *(If you do find suspicious withdrawals or other attempts to hide the money, see the section on fraudulent conveyances).*
- ii. Copies of the front and back of the most recent five checks written against the accounts referenced in the first request. This allows you to see where the employer's last few checks went. Perhaps the employer is writing checks to itself to deposit in another account. This sort of activity would be traceable.

### How to Handle an Uncooperative Defendant

- First, consider whether it's worth your time to pursue the defendant employer through these court-assisted asset discovery procedures, as opposed to spending that time doing your own private asset investigation.
- Request that the court issue a show cause order requiring the defendant to show cause as to why he or she should not be held in contempt for ignoring your written interrogatories and/or oral examination request. Md. R. 2-633, 3-633. For district court you'll need to file form DC/CV 33. *See appendix H for a sample DC/CV 33 form.* This is a multi-part carbon copy form, so you must pick up a blank copy from the courthouse.
- If the defendant does not respond to the show cause order, you may file a request for an Attachment for Contempt (in district court, use form DC 5). This allows the judge to issue a body attachment and take the defendant into custody for contempt of court. The risk of being taken into custody certainly gets a defendant's attention quickly, though you should also balance this against the time it may take to collect, the likelihood of a judge issuing a body attachment, and any ethical issues regarding having the employer taken into custody. Of course, sending wage thieves to jail may itself be a form of justice for your client, or it may be something your client wants to avoid.

## WRIT OF EXECUTION



### What is it?

A writ of execution is a document issued by the court that allows you to use the defendant's property to satisfy your judgment. Writs come in two varieties: garnishment and levy. The essential difference between the two is that a garnishment involves taking property that a third party holds for the defendant (like a bank) whereas a levy involves taking property that the defendant is currently in possession of. A writ of execution is a more forceful legal means to collect on a judgment than simply writing a letter to the defendant employer and hoping the employer pays.

### Why would I want to do this?

If an employer refuses to pay on the judgment, you can use a writ of execution to levy or garnish the employer's property without the employer's consent. Using a writ of execution, you can satisfy a judgment in a number of ways. First, you can garnish the property of the employer held by a third party. Generally this means going to a bank where you believe the employer has an account and paying the judgment out of the account. However this can extend to other third party situations as well—essentially any "accounts receivable" for the employer are a potential sources of garnishment. For example, in the case of a landlord, you may garnish the future rent payments from tenants. In the case of a store, you might be able to garnish credit card receipts. In the case of a contractor, you may garnish the pay from a current job, by serving the owner of the home the contractor is working on.

Second, you can levy any property owned by the employer and sell that property in a sheriff's sale, using the profit from the sale to pay off the judgment. The most common items to levy are the contents of a home or the contents of a business (including cash in the register). Unless you are trying to recover a lot of money (more than \$1000), the relatively expensive and involved process of holding a sheriff's sale may not be worth the effort (*see section on sheriff's sales below*). The true benefit of a levy is the pressure it puts on the employer to repay the loan. No store owner wants to lose his or her business and no one wants to lose his or her possessions. As soon as you levy a property, you should send a letter explaining that you now have the right to hold a sheriff's sale of the property unless the judgment is paid. This might provide enough leverage to settle the judgment.

### Serving a writ of execution

Serving a writ is no different than serving any other document except that you must have it

served by the sheriff or, in the case of federal judgments, by the U.S. Marshals Service. The sheriff or Marshal levies the real or personal property listed on the writ, so it is wise to list with particularity as much property as you are aware of. There is no bond requirement but most offices require a service fee. In Baltimore City, Baltimore County, Prince George's County, and Montgomery County, sheriffs charge a service fee of \$40. The cost of service is generally higher when using U.S. Marshals—see the section on serving federal writs of execution. Note that some property is exempt (see chart for full list of exempted property) and that the defendant has 30 days to challenge the levy on any one of the following grounds: 1) the judgment has expired, been vacated, or has been satisfied; (2) the property is exempt from levy; (3) you failed to comply with court rules and process; (4) alternative property of sufficient value to satisfy the debt will remain under lien after the release; (5) the levy will cause the employer undue hardship; or (6) the levy has existed for 120 days without sale. Md. R. 2-643. The defendant may also request that the court review the sheriff's appraisal of the property at the time of the levy. *Id.*

### Courts

- **Circuit Court:** A sheriff may only serve a writ upon property that is located in the sheriff's county. Md. R. 2-641. You must request the court to issue the writ and the court will then issue the writ to the sheriff. The request must include: the defendant's last known address; the judgment and the amount owed under the judgment; the property to be levied upon (use general terms if you are not sure what property exists: "equipment, vehicles, cash, liquor, the liquor license, other inventory, contents of the safe," etc.) and its location; and whether the sheriff should leave the levied property where found, exclude others from accessing it, or actually remove the property from the premises. Md. R. 2-641(a). Note that if you remove the property you will become responsible for properly storing it, which may require a bond. Md. R. 2-641(c). If the levy is to be made upon property located in another county, the clerk will send the request for a writ of execution to the clerk of the other county, along with instructions for the sheriff, and, if not already recorded there, a certified copy of the judgment for recording. Md. R. 2-641(b). There is more to the procedure for serving a writ of execution so you should fully read Maryland Rules 2-641, 2-642, and 2-643.
- **District Court:** Filing a request for a writ of execution in district court is quite similar to doing so in circuit court. Md. R. 3-641–3-643. File Form DC/CV 40 with the court to request the writ (see appendix E for a sample DC/CV 40 form). This is a multi-part carbon copy form, so you must pick up a blank copy from the courthouse. As in circuit court, you'll instruct the sheriff to leave the levied property where found, exclude others from accessing it, or actually remove the property from the premises. Md. R. 3-641(a).

### Quick Tip:

The process for obtaining a writ of execution is fairly similar in both circuit and district court.

## Exempted Property

Please note that there may be other exemptions, depending on the specific details of your case. The exemptions listed in the table below are, however, the main ones to keep in mind as you move forward in your debt collection process.

Post-Judgment Remedy	Exempt Property
Garnishment	<p><b>Wages:</b></p> <ul style="list-style-type: none"> <li>In Caroline, Kent, Queen Anne's, and Worcester counties, for each workweek, the greater amount of: 75 percent of disposable (i.e. post-tax) wages due, or 30 times the federal minimum hourly wages under the FLSA in effect at the time the wages are due are exempt. Md. Code Ann., Com. Law § 15-601.1.</li> <li>In all other counties, the greater amount of: \$145 multiplied by the weeks in which the wages due were earned, or 75 percent of disposable wages due are exempt. <i>Id.</i></li> <li>Medical insurance payments deducted from an employee's wages are also exempt. Com. Law § 15-601.1.</li> </ul> <p><b>Federal Benefits:</b></p> <ul style="list-style-type: none"> <li>Social Security Benefits</li> <li>Supplemental Security Income (SSI) Benefits</li> <li>Veterans' Benefits</li> <li>Civil Service and Federal Retirement and Disability Benefits</li> <li>Service Members' Pay</li> <li>Military Annuities and Survivors' Benefits</li> <li>Student Assistance</li> <li>Railroad Retirement Benefits</li> <li>Merchant Seamen Wages</li> <li>Longshoremen's and Harbor Workers' Death and Disability Benefits</li> <li>Foreign Service Retirement and Disability Benefits</li> <li>Compensation for Injury, Death, or Detention of Employees of U.S. Contractors Outside the U.S.</li> <li>Federal Emergency Management Agency Federal Disaster Assistance</li> </ul> <p>NOTE: Federal benefits may be garnished under certain circumstances not relevant here, including for payment of delinquent taxes, alimony, child support, or student loans. For more information, see: <a href="http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre18.shtm">http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre18.shtm</a></p>
Levy	<ul style="list-style-type: none"> <li>Up to \$5,000 worth of apparel, books, tools, instruments, or appliances that are necessary for the practice of any trade or profession (not including those kept for sale, lease or barter). Md. Code Ann., Cts. &amp; Jud. Proc. § 11-504.</li> <li>Any money payable in the event of sickness, accident, injury, or death of any person, including compensation for loss of future earnings. Includes but is not limited to: money payable on account of judgments, arbitrations, compromises, insurance, benefits, compensation, and relief. Note that disability income benefits are not exempt if the judgment is for necessities contracted for after the disability is incurred. <i>Id.</i></li> <li>A partnership interest subject to a charging order, in the hands of a third person for the purpose of satisfying a money judgment. <i>Id.</i></li> <li>Prescribed health aids for the debtor or any dependent of the debtor. <i>Id.</i></li> <li>Up to \$1,000 worth of interest in household furnishings, household goods, wearing apparel, appliances, books, animals kept as pets, and other items that are primarily personal (or for family or household use). <i>Id.</i></li> <li>Cash or property of any kind up to \$6,000. The debtor will have to elect for this exemption within 30 days of receiving notice or within 30 days of the sheriff levying the property. <i>Id.</i></li> <li>Money payable for child support or alimony. <i>Id.</i></li> <li>Any interest in a protected trust under § 14-113 of the Estates and Trusts Article. <i>Id.</i></li> <li>Joint trust property belonging to a husband and wife that is immune from separate creditors under § 14-113 of the Estates and Trusts Article. <i>Id.</i></li> </ul>

### GARNISHMENT

(Note: For this section, the term “debtor” is used in place of “employer,” so as not to confuse the reader when referring to wage garnishments.)

#### What is it?

Garnishment is one of two enforcement options (the other is a levy) when serving a writ of execution. A garnishment allows you to take the debtor’s money held by a third party, such as a bank, the debtor’s employer, or another person owing the debtor money.

#### Why would I want to do this?

This method is effective because it takes payment of the judgment out of the debtor’s hands. If you garnish a bank account, for example, the debtor can only object to the payment for legal reasons—the debtor cannot move the money out of the account once the garnishment takes place. Also, the bank understands it is under a legal obligation to pay the judgment (if it fails to do so, judgment can then be entered against the bank.) The tricky part, of course, is finding a bank—or other third party—with accounts in the debtor’s name that contain enough money to pay the full judgment. If you are able to identify a third party who owes the debtor money, you can ensure that the money goes directly towards paying off the debt by bypassing the debtor altogether and garnishing the third party.

#### What are the drawbacks?

In order to garnish you must first find the money—you have to identify the bank accounts or third parties that are holding assets that belong to the debtor. This can be especially difficult if the debtor has multiple banks accounts, deals primarily in cash, or has placed all of the debtor’s money in another person’s name.

#### Courts

- **Circuit Court:** The process of filing a request for a writ of garnishment is similar to the process of filing a writ of execution for levy. Both garnishment of wages and garnishment of property other than wages (e.g. bank accounts) require that the judgment first be enrolled in the county where the property is located. Then you can file a request that contains: the caption of the action; the amount owed under the judgment; the name and known address of the defendant; and the name and address of the garnishee. Md. R. 2-645. The garnishee (e.g. bank) must answer the writ within 30 days after service. *Id.* This is when the garnishee can challenge the garnishment or admit to having money belonging to the debtor. *Id.* If you are garnishing a bank account, your writ will notify the debtor that the bank will hold however much money that is needed to pay the debt that is not protected by federal or state law, such as some federal benefit payments (*see table on property exemptions above*). Md. R. 2-645.1. Any claim for exemption for a non-protected amount must be filed within 30 days of service of the writ of garnishment on the garnishee. *Id.* The process is very similar when you garnish the debtor’s wages (if this is a possible remedy). Md. R. 2-646. The garnishee (i.e. debtor’s employer) must notify the debtor of the amount to be withheld each payment period and must remit payment to the creditor (i.e. your client) within 15 days after the close of the garnishee’s last pay period in each month. *Id.* You will be required to send the garnishee and the debtor monthly statements for every month that your client receives money. *Id.*



- **District Court:** Once again, the process in district court is much the same as in circuit court. To garnish property other than wages, you will need to use Form DC/CV 60 (*see appendix I for a sample DC/CV 60 form*) and to garnish wages you will need to use Form DC/CV 65 (*see appendix J for a sample DC/CV 65 form*). These are multi-part carbon copy forms, so you must pick up blank copies from the courthouse. You must serve the garnishee in the same way that you would serve an original pleading. Md. R. 3-645(d). Also mail a copy to the debtor. *Id.* The garnishee has 30 days to answer in the district court and, for garnishment of wages, you will be required to send the garnishee and the debtor monthly statements for every month that your client receives money, using Form DC/CV 66. Md. R. 3-645–646.

**Quick Tip:** Don't forget that people tend to be lazy. They tend to bank where it's convenient. If a company banks at Bank X, then the president of the company may well have his personal account there as well. Find the four or five bank branches nearest his home or office, and garnish all of those institutions; the additional fees are modest, and recoverable as costs, and the additional paperwork necessary is manageable (mostly additional copies, not additional documents).

## LEVY

### What is it?

A levy is the other way (besides garnishment) to enforce a judgment when serving a writ of execution. A levy is the process by which the sheriff “takes domain” over items owned by the defendant who owes on a judgment. You must obtain the writ of execution (*see above*) before the property may be levied.

### Why would I want to do this?

A levy is an effective way to obtain possession of the debtor's property, or, ideally, to scare a solvent debtor into paying the judgment. Md. R. 2-641(a), 3-641(a). If requested, the sheriff can do a “till tap” and pull cash out of the register to pay the debt. Even if, in your request for the writ of execution, you only elect to leave the levied property in place or exclude the debtor from access to it (make sure to bring a locksmith to change the locks if you choose this option), there is a good chance the debtor will agree to pay—debtors facing loss of their possessions or use of their offices tend to find the money they owe quickly.

### What are the drawbacks?

Following through with a levy via a sheriff's sale can be expensive and time consuming for the collector. There may be specific regulations for how the property may be stored and you may get stuck with figuring out how to dispose of the property or earn the judgment money through sale. Further, you may not actually be able to recoup enough money from selling the employer's property to make the entire process worth your time and money. This is another reason why the most prudent choice may be to have the sheriff simply leave the property there or, better yet, exclude the employer from access to it (that prevents the employer from trying to move the levied property).

### Courts

*See the process for applying for a writ of execution, above.*

### **Sheriff's Sale**

#### **What is it?**

If all else fails, selling the levied property of the employer may be the only way to collect on a judgment. If you levy the employer's property, you can enlist the sheriff to help hold a sale of the items under levy until the debt has been satisfied.

#### **Why would I want to do this?**

The money collected from the sale of goods at a sheriff's sale will go directly to pay off your judgment. Additionally, sheriff's sales can be used as leverage—very few people want to see their possessions sold off, whether from their business or their home. You may never have to hold the sale once the employer is sufficiently motivated by the threat of losing its property—the very act of scheduling a sheriff's sale may be enough to get the employer to pay off the judgment. In a sheriff's sale, items are often sold for pennies on the dollar, which actually provides an additional financial incentive for the employer to cough up the money rather than lose even more by having its possessions sold for next to nothing. This is doubly true if the items to be sold are either 1) integral to the employer's business, or 2) household items—or the house itself.

#### **What are the drawbacks?**

Sheriff's sales, while relatively easy to initiate, can be costly and time consuming. They also tend to vary slightly in outcome from county to county. In Montgomery County, for example, most threats of a sheriff's sale are enough to initiate a settlement and very few actually end up going to sale. This makes the threat of a sheriff's sale in Montgomery County a useful tool for leverage with an employer. Conversely, in Baltimore City, the majority of scheduled sheriff's sales end up actually taking place. Therefore, if you are initiating a sheriff's sale in Baltimore City, you should be prepared to hold the sale. If the sale does go forward, it is the responsibility of the creditor to bring in the bidders. This will usually require hiring an auction house or agency to assist in the sale, or it might require advertising the sale far and wide, fielding calls, and otherwise organizing people to come and bid. Further, if you are selling property levied by other individuals as well, the proceeds may first go to pay debts owed to them. Either way, holding a sheriff's sale will require a significant investment of your time and money before you even know how much of your judgment you will recoup.

#### **Process**

First, as described above, the defendant is served with a writ of execution and its property is levied by the sheriff. If the defendant does not contest the writ and the debt is not settled within 30 days, the next step is to hold the sale. Md. R. 2-644, 3-644. At least in Baltimore City, the majority of sheriff's sales involve residential real estate, since many businesses do not own real property, or own it jointly. Personal property is easy to hide and often more hassle to sell than it is actually worth.

In general, sheriff's sales are not very common—the Baltimore City Sheriff's Department currently reports handling two or three per month. At least in Baltimore City, and Montgomery, Prince George's, and Baltimore Counties, the sheriff's departments require that sales take place through an auction house, to ensure that the process is adequately handled. The auction houses generally handle the advertising of the sale. Advertising is critical to ensure you actually have bidders—without bidders you won't make your money back. The deposit amount varies by county—in Baltimore City, an auctioneer for real property averages around \$3,000, while in Montgomery County the deposit for a real property auction is usually around \$2,500 (this includes advertising costs). The deposit is recoupable, though any money made at the auction will first go towards the sheriff's costs before being applied towards the judgment.

#### **Relevant Contacts for Sheriff's Sales**

- Prince George's County, 301-780-8600
- Baltimore County, 410-887-3151
- Montgomery County, 240-777-7000
- Baltimore City, 410-396-1155



## Quick Tips on Levies & Sheriff's Sales

As mentioned in the section on levies, you can levy any personal property owned by the defendant. This is sometimes called a writ of *feri facia*, commonly known as a writ of “fi-fa.” Typically, this sort of writ means levying the contents of the individual defendant’s house or business. Get creative, but remember you only want to levy and have a sale of property that other people would want to buy. Holding a sheriff’s sale of someone’s old furniture and kitchen goods isn’t going to bring in any money for your client and will probably be more work than it is worth. On the other hand, selling the contents of a restaurant can be very worthwhile. Here are some creative tips to make a sheriff’s sale work for you:

- Don’t actually hold the sale: if nothing else, a sheriff’s sale pressures the property owner to settle the judgment rather than have his goods sold. This is especially true if the property that you’re attempting to sell is shared with another person like a spouse or a co-manager. With this in mind, look for ways that the possibility of a sheriff’s sale can work for you so that you don’t actually have to hold it. Oftentimes, just serving the writ of execution, even if you do not remove the levied property, is enough to convince the employer to pay.
- Bait the Bidders: If the sale does go forward and no one comes to bid, you and your client can discuss whether your client wants to bid for items him or herself. The judgment can be used as credit, and by bidding, your client may be able to successfully excite bidders into joining in. Of course, if no one joins in, your client wins the items, which he or she may or may not want. There’s always selling on eBay, though that may not be your idea of fun.
- Advertise: Even though the auction houses advertise, you can help make sure the right people know about your sale. If you are selling the contents of a restaurant, for example, head to the restaurant supply stores. If you are selling the contents of a retail store, find out who buys used furniture and advertise heavily on craigslist.
- NOTE: When contemplating whether you and your client are willing to sell the employer’s personal property, think carefully about any ethical considerations. Always weigh the actual benefits—whether this will actually help you collect on a judgment—against the consequences—whether selling the property will cause emotional harm or physical hardship for the employer’s child, for example. Even when it is in the furtherance of a righteous cause, you should check your tactics, confer, and let your client decide among ethical options.

## I HAVE A FEDERAL JUDGMENT, WHAT DO I DO WITH IT?

Many wage claims are brought in federal court for violations of the Fair Labor Standards Act (FLSA), which prescribes standards for wages and overtime pay and affects most private and public employment. 29 U.S.C. §§ 201–219. If your judgment is in the federal court, you now have a choice regarding the forum in which you will proceed to collect on your judgment. You may choose to continue in federal court, but, depending on the circumstances, you might also choose to enroll your judgment in state court. Here are some things to keep in mind as you weigh your forum options:

### Choosing a forum

Most debt collectors enroll their judgments in state court and then collect on them there because: (1) state court is generally more familiar with post-judgment collection; (2) enrolling the judgment in state circuit court places an automatic lien on any real property owned by the debtor in that county (federal court judgments do not); and (3) state court is generally consid-

ered faster than federal court for post-judgment collections. However, you may decide collecting in federal court is the preferred route if you do not want to take the time to enroll the judgment in state court, or if you think the aesthetics of U.S. Marshals knocking on the employer's door would be more persuasive. Keep in mind, too, that these two options are not mutually exclusive—you may enroll the judgment in more than one forum and collect on it in the forum of your choice.

One of the most important factors is whether the local sheriff or the local U.S. Marshal's office (in Maryland, there are two Marshal's offices, which correspond to the Southern Division and Northern Division of the U.S. District Court for the District of Maryland) will be more willing to work with you in scheduling and planning for the service of the writ. Try to find out as much as you can about the office you will need to go through before filing your writ application—ask other advocates about experiences they have had with that sheriff's or Marshal's office in post-judgment collection matters. Ideally, you will find an office that is willing to choreograph the service of the writ with you, which will enhance your chances of collecting.

### Collecting in Federal Court

#### What is it?

When collecting on your judgment in federal court, you will have access to many of the same tools available to you in state court, including writs of execution and garnishments. Like in state court, you will need to file an application for a writ and the court will then issue the writ to the U.S. Marshals Service. Fed. R. Civ. P. 4.1(a). The Marshals are usually limited to serving the writ within the state in which the district court is located, unless extended by federal statute, rule, or court order. *Id.*

#### Why do I want to do this?

For all the reasons you would have a writ served for a state court judgment (*see section above on obtaining a writ of execution*). The US Marshals Service can generally do everything a county sheriff does, including serving writs of execution and holding sales of levied property, and they generally follow the same Maryland Rules referenced in this guide (*see above*). The U.S. Marshals in the District of Maryland are fairly accessible and generally quick to serve writs of execution for unpaid judgments (*see below for relevant contact information*). You must pay a deposit to cover the Marshals' time (around \$55 per hour per officer plus mileage at \$.55 per mile), though that can be recouped by adding it to the costs that you collect from the defendant employer.

#### What are the drawbacks?

See the section on choosing a forum, above. Also, the Marshals generally charge more than the local sheriff to serve a writ.

#### Process

The procedure for applying for a writ of execution for your federal judgment is much the same as it is for state court judgments. Generally, for executing a money judgment in federal court, you will follow the Maryland Rules discussed previously. *See* F. R. Civ. Pro. 69(a)(1). When you are seeking post-judgment discovery, you may follow the Maryland Rules or the Federal Rules of Civil Procedure for discovery. *See* F. R. Civ. Pro. 69(a)(2). In Maryland, you will submit an application for a writ of execution to the clerk of the U.S. District Court for the District of Maryland. The writ, just like in state court, must contain a notice advising the employer that federal and state exemptions may be available and that there is a right to move for release of the property from

the levy. It is filed in the closed case electronically through the Case Management/Electronic Case Files system (CM/ECF). The same Maryland Rules apply here, and the application must be accompanied by instructions that specify: 1) the defendant's last known address; 2) the judgment and the amount owed under the judgment; 3) the property to be levied upon and its location; and 4) whether the officer is to leave the levied property where found, or to exclude others from access to it or use of it, or to remove it from the premises. Md. R. 2-641(a), 3-641(a). Note that post-judgment interest is calculated differently for federal judgments than for state judgments. For federal judgments, the rate of interest is the weekly average 1-year constant maturity (nominal) Treasury yield for the week preceding the date of entry of judgment. 28 U.S.C. § 1961(a). For more detailed information on how to calculate interest, and for the current rate applicable, see: <http://www.uscourts.gov/FormsAndFees/Fees/PostJudgementInterestRates.aspx>.

Once the order to serve the writ has been issued to the U.S. Marshals, you should immediately contact the Marshals office to discuss the details of the service. At that point you'll find out the amount of the deposit required to initiate the service. *See appendix A for a sample federal application for a writ of execution and appendix B for a federal writ of execution. See appendix C for a federal application for garnishment of property other than wages.*

### Relevant Contacts

- U.S. Marshals Service in Baltimore (main office): 410-962-2220, 410-962-2221
- U.S. Marshals Service in Greenbelt: 310-344-1300

### Enrolling in State Court

If you decide to enroll the judgment in state court, depending on the amount of the judgment, you may have the choice between circuit court and district court. Here, again, there are advantages and disadvantages to both. One advantage to enrolling in circuit court is that it places an automatic lien on any real property owned by the employer in that county. However, most debt collectors prefer district court because is faster, more familiar with post-judgment collections, and more user-friendly as you can fill out simple pre-made forms for most procedures (one of these forms allows you to record the lien in circuit court). The downside to the forms is that they are not very flexible. This means that you may have to attach supplemental information to the forms because they have limited space and are not detailed enough to encompass every unique judgment collection situation. Additionally, you may want to enroll the judgment in circuit court if it's a more complex case, as you can take depositions in circuit court, file up to 30 interrogatories, and do requests for admissions (which, if they are not denied, are very useful). Conversely, district court only allows for 15 interrogatories and does not provide for depositions.

### Process

If the amount of the judgment (not including attorney's fees or costs) is \$2,500 or less, the judgment must be filed in the district court. Md. Code Ann., Cts. & Jud. Proc. § 11-802(a)(1)(ii). If the amount of the judgment is more than \$2,500 but not more than \$30,000, it may be filed either in the circuit court or the district court. Cts. & Jud. Proc. § 11-802(a)(1)(iii). The clerk will treat the foreign judgment in the same manner as a judgment of the court in which the foreign judgment is filed. Cts. & Jud. Proc. § 11-802(a)(2). At the time a foreign judgment is filed, the judgment creditor or the judgment creditor's attorney (i.e. you) must file with the clerk an affidavit showing the name and last known post office address of the debtor. Cts. & Jud. Proc. § 11-803(a). The clerk will mail notice to the debtor. Cts. & Jud. Proc. § 11-803(b)(1). Note that while the official

filing cost is listed in the Maryland Code as \$25, this can vary depending on the court. Cts. & Jud. Proc. § 11-805(a)(1). **Always check with the clerk before filing to make sure you understand the specific requirements of the court in which you are filing.**

### WHAT TO DO WHEN THE EMPLOYER DECLARES BANKRUPTCY

Generally speaking, it's bad news for your ability to collect on a judgment if the employer declares bankruptcy. The purpose of a bankruptcy petition is to relieve an "honest but unfortunate" debtor by discharging obligations to pay certain debts. *Cohen v. de la Cruz*, 523 U.S. 213, 217 (1998). This means that even if you have obtained a judgment before the bankruptcy is declared, your judgment could be discharged by the petition. However, the game is not necessarily lost and there are some steps to improve your chances of collecting your judgment against a bankrupt employer. Bankruptcy is often about compromise and negotiation—more times than not, the more noise you make the more likely you'll be able to collect. Here are a few steps you can take, though this is by no means a comprehensive overview and you should consult with an expert before proceeding on your own.

**WARNING:** When a debtor files bankruptcy, there is an automatic stay on collections against that debtor. 11 U.S.C. § 362. This generally means you cannot demand any payment, continue litigation, or attempt to seek or enforce a judgment against that debtor. Any violation of the automatic stay can get you hit with sanctions, so always check for bankruptcy filings before taking any step to collect on a judgment.

#### File a Proof of Claim

What is it? A proof of claim notifies the bankruptcy court of your client's claim and your intention to share in any distribution of assets to creditors, regardless of whether the debtor employer included your claim on its bankruptcy schedules.

#### Why do I want to do this?

A proof of claim ensures that you will be notified of the bankruptcy proceedings and gives you the right to object to any activity in the bankruptcy case that may affect the adjudication or valuation of your client's claim. By filing a proof of claim you can make sure you are listed as a creditor in the employer's statement of financial affairs, and that the employer has accurately characterized the claim.

#### What are the drawbacks?

There are deadlines for filing a proof of claim so make sure you call the court as soon as possible and check with the clerk to make sure you fill out all paperwork in a timely manner. Also, many Chapter 7 individual bankruptcy filings are "no asset" filings, meaning the debtor has no nonexempt assets that the trustee can distribute to creditors. In such cases, there is no opportunity for you to file a proof of claim, and you are usually out of luck.

#### Process

Unless the court indicates otherwise, the deadline for filing proofs of claim in Chapter 7 and 13 bankruptcies is 90 days after the initial meeting of creditors required under 11 U.S.C. § 341. The meeting of creditors is usually 30-60 days after the filing of the bankruptcy, and if your client is listed as a creditor in the bankruptcy schedules, he or she should receive an invitation to the

meeting as part of the notice of the filing. Information that must be included in the proof of claim includes the basis for the claim; the amount of the claim at the time the bankruptcy petition was filed; whether any portion of the claim is secured; and whether you have an unsecured priority claim.

Up to \$11,725 (this amount is subject to change in 2013) in wages earned by the creditor within 180 days before the filing of the bankruptcy petition are considered priority wage claims. 11 U.S.C. § 507(a)(4). You should attach supporting documents and be as thorough as possible in asserting the proof of claim—make sure you double check with a bankruptcy expert to ensure you include all the necessary information on time.

### **523(a) Action Challenging the Discharge of Debt**

#### **What is it?**

Some debts can be non-dischargeable in an individual bankruptcy filing, including debts incurred on account of the debtor's fraud, willful and malicious injury, false pretenses, and false representation. 11 U.S.C. § 523(a). Negligently inflicted injury or reckless disregard generally does not qualify for nondischargeability. A creditor may file a type of complaint called an adversary proceeding in bankruptcy court against a debtor to challenge the discharge of the creditor's debt if it falls in one of these categories.

#### **Why do I want to do this?**

If the employer has several creditors that may have higher priority claims than your client, a successful 523(a) nondischargeability action can save your claim while those higher priority claims are discharged. Furthermore, if you pled fraud, or willful and malicious injury in the underlying wage claim and you win judgment on that claim in the original court proceeding, you can plead collateral estoppel in the 523(a) bankruptcy action to prevent the discharge of the debt. Also, even if the employer currently has no assets, it may later obtain assets that you can attempt to collect if you successfully challenge the discharge of the debt.

#### **What are the drawbacks?**

A creditor must file an adversarial proceeding in the bankruptcy court under a very short timeline—within 60 days after the initial meeting of creditors. Also, the creditor has the burden of proof, and must prove the nondischargeability by a preponderance of the evidence. *Grogan v. Garner*, 498 U.S. 279, 288 (1991). This can be difficult, especially if the initial complaint did not allege fraud or willful and malicious injury. Another drawback is that you may be liable for the other party's attorney's fees if you lose under some of the 523(a) subsections. 11 U.S.C. § 523(d).

#### **Process**

A complaint objecting to discharge must be filed "not later than 60 days following the first date set for the meeting of creditors held pursuant to § 341(a)." Fed. R. Bankr. P. 4004, 4007(c). However, a creditor can move for an extension of time to file, as long as it files the motion before the expiration of the 60 days. Rule 9006(b)(3). To meet its burden, the party seeking nondischargeability of a debt based on fraud or false pretenses under 523(a)(2)(A) must prove the following four elements: (1) a fraudulent misrepresentation; (2) that induces (and intends to induce) an-

### **Quick Tip:**

**Secured vs. Unsecured Claims—** A secured claim is one where the creditor has possession of collateral like a mortgage, trust deed, pledge, deposit, or escrow. In bankruptcy, a secured claim takes precedence over unsecured claims since it represents a preexisting claim in the debtor's property. In most instances, an employment claim will be an unsecured claim. However, if you obtained a judgment lien that attached to the employer's real property (see subsection on judgment liens), the wage claim could be secured to the extent of the value of the lien on the attached property.



other to act or refrain from acting; (3) causing harm to the worker; and (4) the worker's justifiable reliance on the misrepresentation. *In re Biondo*, 180 F.3d 126, 134 (4th Cir. 1999).

To prove nondischargeability based on a willful and malicious injury, the employer must have actually intended to cause injury, not merely acted in a way resulting in injury. *Kawaauhau v. Geiger*, 523 U.S. 57, 61 (1998). "Maliciousness" requires a showing that an act was "wrongful and without cause or excuse," but does not require that the action be taken with specific malice or ill will. *St. Paul Fire & Marine Ins. Co. v. Vaughn*, 779 F.2d 1003, 1010 (4th Cir. 1985). A simple breach of contract, without a showing that the purpose of the breach was specifically to cause injury (that the act was tortious), is not a nondischargeable debt within the meaning of § 523(a)(6). *In re Heilman*, 241 B.R. 137, 172 (Bankr. D. Md. 1999). However, the U.S. Court of Appeals for the 9th Circuit concluded that the employer's failure to pay commission and vacation pay rose to the level of tortious acts under a California state law that allows tort recovery for breach of a contract when, in addition to the breach, "a defendant's conduct violates a fundamental public policy of the state." *In re Jercich*, 238 F.3d 1202, 1205 (9th Cir. 2001).

### **Relief from Automatic Stay**

On request from you and with a showing of cause after a notice and hearing, you may be granted relief from the automatic stay at the court's discretion. 11 U.S.C. § 362(d). The common factors bankruptcy courts use to determine whether the stay should be modified are highly discretionary, and may include: whether insurance is available to defend the employer; whether the defense will impose a financial burden; whether you have a probability of success on the merits; and whether the bankruptcy court needs to first address the bankruptcy issues before your employment case proceeds. After the court considers these and other factors, the court may lift the stay. Once you have a judgment, your claim has a specific monetary value attached to it, which makes it easier when it is time to distribute any remaining assets in the bankruptcy case. ■

# The Money's Come! What to Do When Your Judgment Has Been Paid in Full

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## ORDER OF SATISFACTION

When you receive your full judgment, simply send notice that the judgment is satisfied.

- **Circuit court:** Once you receive your payment, you must send a written statement to the court that the judgment has been satisfied. Md. R. 2-626. You must also send a written statement to the employer—who is now a former-debtor—letting it know that the judgment has been satisfied. *Id.* If you fail to follow this rule, the employer can file a motion for an order declaring that the judgment has been satisfied. *Id.* You and your client will be responsible for any costs and expenses incurred in obtaining the order. *Id.*
- **District Court:** Similar to the process in circuit court, you must notify the district court when your district court judgment is satisfied. Md. R. 3-626. To do this in district court, you must use form DC/CV 31, Order of Satisfaction (*see appendix K for a sample DC/CV 31 form*). If you do not send the notice in a timely manner, you could be responsible for the employer's attorney's fees. *Id.*
- **Federal Court:** File a notice of satisfaction of judgment with the court.

# APPENDICES

*The forms are provided as exemplars and are subject to change by the courts or the MVA. Current versions should always be obtained from the courts or the MVA rather than copied from this guide. The Maryland Judiciary provides most District Court forms online, many of which are fillable and downloadable PDFs:*

*<http://www.courts.state.md.us/district/dctcivforms.html>*



**Appendix A:**  
**Federal Application for**  
**a Writ of Execution**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

\_\_\_\_\_  
Plaintiff

v.

\_\_\_\_\_  
Defendant

\*

\*

\*

\*

Civil Action No. \_\_\_\_\_

\*\*\*\*\*

**APPLICATION FOR WRIT OF EXECUTION**  
(Maryland Rule 2-641)

A final judgment was entered in the above-entitled action on \_\_\_\_\_. No supersedeas bond has been posted nor is a stay of execution or proceedings to enforce judgment in effect. Please issue a Writ of Execution directing the U.S. Marshal of the District of Maryland to levy upon the property of the Judgment Debtor to satisfy the amount due on the judgment.

The amount now due on the judgment is as follows:

\$ \_\_\_\_\_ Amount of original judgment  
\$ \_\_\_\_\_ Plus pre-judgment interest for the period from \_\_\_\_\_ to \_\_\_\_\_ of \$ \_\_\_\_\_ per diem.  
\$ \_\_\_\_\_ Plus post-judgment interest for the period from \_\_\_\_\_ to \_\_\_\_\_ of \$ \_\_\_\_\_ per diem.  
\$ \_\_\_\_\_ Plus court costs  
\$ \_\_\_\_\_ Plus attorney's fees, if allowed by judgment  
\$ \_\_\_\_\_ Less payments made  
\$ \_\_\_\_\_ TOTAL DUE ON JUDGMENT

\_\_\_\_\_, \_\_\_\_\_  
Name of Defendant/Judgment Debtor Last known address

The property to be levied is located at \_\_\_\_\_ and described as \_\_\_\_\_

The U.S. Marshal is to (check one): ☐ leave the property where found, ☐ exclude others from access to it or uses of it, ☐ remove it from the premises. (Additional instructions may be filed as necessary and appropriate and delivered to the U.S. Marshal.)

\_\_\_\_\_  
Name of Plaintiff/Judgment Creditor

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone Number

Before requesting the writ, please check that: (1) no motions for reconsideration are pending; (2) no motions to vacate are pending; (3) no supersedeas bond has been posted; (4) the judgment is final as to all parties and claims in conformity with Fed. R. Civ. P. 54(b); (5) no stay of execution is pending on the judgment; and (6) the property to be attached is located within the state of Maryland.

# **Appendix B: Federal Writ of Execution**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

\_\_\_\_\_  
Plaintiff

v.

\_\_\_\_\_  
Defendant

\*

\*

\*

\*

Civil Action No. \_\_\_\_\_

\*\*\*\*\*

**WRIT OF EXECUTION**  
(Maryland Rule 2-641)

**TO THE U.S. MARSHAL OF THE DISTRICT OF MARYLAND:**

You are hereby directed to levy upon the property of the Defendant/Judgment Debtor to satisfy a money judgment in accordance with the applicable Maryland State laws (see attached).

Name and address of Defendant/Judgment Debtor: \_\_\_\_\_

Amount of judgment: \_\_\_\_\_ Amount due on judgment: \_\_\_\_\_

Location of property to be levied: \_\_\_\_\_

Description of property to be levied: \_\_\_\_\_

The Plaintiff/Judgment Creditor instructs you to:

- ☐ Leave the property where found
- ☐ Exclude others from access to it or use of it
- ☐ Remove it from the premises

**TO THE DEFENDANT/JUDGMENT DEBTOR:**

You are hereby notified that **federal and state exemptions may be available to you**. In order to exempt items from execution of the judgment, you must file a motion electing to exempt selected items of property or cash not exceeding in amount the cumulative value permitted by law within thirty (30) days after the levy. Those selected items of property may include real estate, personal, household, and miscellaneous possessions. You are further notified that **you have a right to file a motion for release of some or all of the property from the levy**. All motions should be filed with the Clerk of Court, U.S. District Court for the District of Maryland, Select Address

If you would like the Court to review the U.S. Marshal's appraisal made at the time of the levy, the request should accompany the motion.

WITNESS the Honorable Chief Judge of the United States District Court for the District of Maryland

\_\_\_\_\_  
Date Issued

\_\_\_\_\_  
Clerk, U.S. District Court for the District of Maryland

## NOTICE

### TO U.S. MARSHAL OF THE DISTRICT OF MARYLAND:

#### **Md. Rule 2-641. Writ of Execution—Issuance and Content.**

(c) **Transmittal to Sheriff; Bond.** Upon issuing a writ of execution or receiving one from the clerk of another county, the clerk shall deliver the writ and instructions to the sheriff. The sheriff shall endorse on the writ the exact hour and date of its receipt and shall maintain a record of actions taken pursuant to it. If the instructions direct the sheriff to remove the property from the premises where found or to exclude others from access to or use of the property, the sheriff may require the judgment creditor to file with the sheriff a bond with security approved by the sheriff for the payment of any expenses that may be incurred by the sheriff in complying with the writ.

#### **Md. Rule 2-642. Writ of Execution—Levy.**

(a) **Levy Upon Real Property.** Except as otherwise provided by law, the sheriff shall levy upon a judgment debtor's interest in real property pursuant to a writ of execution by entering a description of the property upon a schedule and by posting a copy of the writ and the schedule in a prominent place on the property.

(b) **Levy Upon Personal Property.** Except as otherwise provided by law, the sheriff shall levy upon a judgment debtor's interest in personal property pursuant to a writ of execution by obtaining actual view of the property, entering a description of the property upon a schedule, and (1) removing the property from the premises, or (2) affixing a copy of the writ and schedule to the property, or (3) posting a copy of the writ and schedule in a prominent place in the immediate vicinity of the property and affixing to each item of property a label denoting that the property has been levied upon by the sheriff, or (4) posting a copy of the writ and schedule in a prominent place in the immediate vicinity of the property without affixing a label to each item of property if affixing a label to each item of property is possible but not practical.

(c) **Possession of Personal Property by Third Person.** When the sheriff has been instructed to remove the property from the premises or exclude others from access or use and finds the property in the possession of a person, other than the judgment debtor, who asserts entitlement to possession and objects to the sheriff's removal of it or exclusion of that person from access or use, the sheriff may levy and leave the property where found.

(d) **Notice of Levy.** The sheriff shall furnish a copy of the writ of execution and schedule to any person found by the sheriff to be in possession of the property, and, if that person is not the judgment debtor, the sheriff shall promptly mail a copy of the writ and schedule to the judgment debtor's last known address.

(e) **Return.** Following a levy, the sheriff shall promptly file a return together with the schedule. If the writ of execution was received from another county under Rule 2-641(b), a copy of the return and schedule shall also be filed in the county where the judgment was entered.

### TO DEFENDANT/JUDGMENT DEBTOR:

#### **MD Rule 2-643. Release of Property from Levy.**

- (a) **Upon Satisfaction of Judgment.** Property is released from a levy when the judgment has been entered as satisfied and the costs of the enforcement proceedings have been paid.
- (b) **Upon Posting Bond.** The judgment debtor may also obtain release of property from a levy by filing a bond in an amount sufficient to satisfy the judgment and enforcement costs.
- (c) **Upon Motion of Judgment Debtor.** Upon motion of the judgment debtor, the court may release some or all of the property from a levy if it finds that (1) the judgment has been vacated, has expired, or has been satisfied, (2) the property is exempt from levy, (3) the judgment creditor has failed to comply with the rule or an order of court regarding the enforcement proceedings, (4) property sufficient in value to satisfy the judgment and enforcement costs will remain under the levy after the release, (5) the levy upon the specific property will cause undue hardship to the judgment debtor and the judgment debtor has delivered to the sheriff or made available for levy alternative property sufficient in value to satisfy the judgment and enforcement costs, or (6) the levy has existed for 120 days without sale of the property, unless the court for good cause extends the time.  
The motion and any response to the motion may be accompanied by a request for court review of the sheriff's appraisal made at the time of the levy.
- (d) **Upon Election of Exemption by Judgment Debtor.** By motion filed within 30 days after a levy, the judgment debtor may elect to exempt from execution of the judgment selected items of property or cash not exceeding in amount the cumulative value permitted by law. The motion and any response to the motion may be accompanied by a request for court review of the sheriff's appraisal made at the time of the levy. The court shall release from the levy items of cash or property selected by the debtor to the extent required by law.
- (e) **Upon Claim of a Third Person.** A person other than the judgment debtor who claims an interest in property under levy may file a motion requesting that the property be released. The motion shall be served on the judgment creditor and, if reasonable feasible, on the judgment debtor. If the judgment debtor is not served and does not voluntarily appear, the claimant shall file an affidavit showing that reasonable efforts have been made to ascertain the whereabouts of the judgment debtor and to provide the judgment debtor with notice of the motion. The court may require further attempts to notify the judgment debtor. The judgment creditor or judgment debtor may file a response to the motion.
- (f) **Hearing.** A party desiring a hearing on a motion filed pursuant to this Rule shall so request pursuant to Rule 2-311(f) and, if requested, a hearing shall be held promptly.

**Appendix C:**  
**Federal Application for**  
**Garnishment of Property**  
**Other Than Wages**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

\_\_\_\_\_  
Plaintiff

v.

\_\_\_\_\_  
Defendant

\*

\*

\*

\*

Civil Action No. \_\_\_\_\_

\*\*\*\*\*

**APPLICATION FOR WRIT OF GARNISHMENT OF PROPERTY OTHER THAN WAGES**  
(Maryland Rule 2-645)

A final judgment was entered in the above-entitled action on \_\_\_\_\_. No supersedeas bond has been posted nor is a stay of execution or proceedings to enforce judgment in effect. Please issue a Writ of Garnishment for the property of the Defendant/Judgment Debtor, in the possession of the below-named Garnishee, to satisfy the amount due on the judgment.

The amount now due on the judgment is as follows:

\$ \_\_\_\_\_ Amount of original judgment

\$ \_\_\_\_\_ Plus pre-judgment interest for the period from \_\_\_\_\_ to \_\_\_\_\_ of \$ \_\_\_\_\_ per diem.

\$ \_\_\_\_\_ Plus post-judgment interest for the period from \_\_\_\_\_ to \_\_\_\_\_ of \$ \_\_\_\_\_ per diem.

\$ \_\_\_\_\_ Plus court costs

\$ \_\_\_\_\_ Plus attorney's fees, if allowed by judgment

\$ \_\_\_\_\_ Less payments made

\$ \_\_\_\_\_ TOTAL DUE ON JUDGMENT

\_\_\_\_\_  
Name of Defendant/Judgment Debtor

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Name of Garnishee

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Name of Plaintiff/Judgment Creditor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Phone No.

Before requesting the writ, please check that: (1) no motions for reconsideration are pending; (2) no motions to vacate are pending; (3) no supersedeas bond has been posted; (4) the judgment is final as to all parties and claims in conformity with Fed. R. Civ. P. 54(b); (5) no stay of execution is pending on the judgment; and (6) the property to be attached is located within the state of Maryland.



**Appendix D:**  
**Maryland District Court Request**  
**for Writ of Attachment**  
**Before Judgment (DC/CV 5)**

**DISTRICT COURT OF MARYLAND FOR**

City/County

Located at

Court Address

Case No.

Name

Name

Address

VS.

Address

Plaintiff/Judgment Creditor

Defendant/Judgment Debtor

**REQUEST FOR AN ORDER FOR THE ISSUANCE OF A  
WRIT OF ATTACHMENT BEFORE JUDGMENT (Rule 3-115) (WABJ)**

The facts upon which the Plaintiff claims that he is entitled to the Writ of Attachment Before Judgment (one or more of the grounds indicated on the reverse side of this form) are as follows: *(State in full detail.)*

☐ Defendant \_\_\_\_\_ is in the military service.

Name

☐ No Defendant is in the military service and the facts supporting this statement are: \_\_\_\_\_

Specific facts must be given for the Court to conclude that each Defendant who is a natural person is not in the military.

☐ I am unable to determine whether or not the Defendant is in military service.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the above Complaint are true and I am competent to testify to these matters.

Date

Signature of Affiant

Signer's Telephone Number

Printed Name of Affiant

Signer's Facsimile Number if any

Signer's E-mail Address, if any

Signer's Address

☐ This is filed in a pending action \_\_\_\_\_

☐ This is an original pleading. Attached is the Complaint. Also attached are:

☐ original ☐ sworn ☐ certified ☐ photostatic copies of all material papers or parts which constitute the basis of the claim.

☐ Supporting papers are not attached. The absence of such papers is explained in the Affidavit.

☐ The Plaintiff requests a levy on the property of the Defendant (Rule 3-641 and 3-642) described as:

☐ The Plaintiff requests a garnishment of property and credits (Rule 3-645 and Rule 3-645.1).

**ORDER DIRECTING ISSUANCE OF WRIT OF ATTACHMENT BEFORE JUDGMENT**

The Court having determined that the Plaintiff is entitled to the Writ of Attachment it is ORDERED that the Writ of Attachment be issued, conditioned on the filing of a bond in the amount of \$ \_\_\_\_\_ by the Plaintiff for the satisfaction of all costs and damages that may be awarded the Defendant or a claimant of its property, with security of \_\_\_\_\_

Date

Judge

Courts and Judicial Proceedings provides:

**§3-302.**

A court of law including the District Court, within the limits of its jurisdiction, may issue an attachment at the commencement of the action or while it is pending against any property or credits, whether matured or unmatured, belonging to the Debtor upon the application of the Plaintiff in the action.

**§3-303**

- (a) An attachment before judgment may issue in any of the instances enumerated in this section.
- (b) If the Debtor is a nonresident individual, or a corporation which has no resident agent in this State, and:
  - (1) The Debtor is a person over whom the Court could exercise personal jurisdiction pursuant to §§6-102, 6-103, and 6-104 of this article; or
  - (2) The action involves claims to property in this state which property is to be attached; or
  - (3) The action is any other in which the attachment is constitutionally permitted.
- (c) If a resident individual defendant or an agent authorized to accept process for a corporation has acted to evade service.
- (d) If the Debtor has absconded or is about to abscond from the State; or if an individual has removed, or is about to remove, from his place of abode in the State with intent to defraud his creditors.
- (e) (1) If the Debtor is about to assign, dispose of, conceal, or remove his property or a portion of it from the State with the intent to defraud his creditors; or
- (2) If the Debtor has done any of these acts, or fraudulently contracted the debt or incurred the obligation which is the subject of pending action.
- (f) If the Debtor is deceased and an adult nonresident is entitled by descent or devise from the Debtor to any land or interest in land in the State, an attachment may issue against that land or interest held by descent or devise from the person indebted.
- (g) If any person who is required to be but is not licensed under the provisions of the Maryland Home Improvement Law, in an action against that person arising out of a home improvement transaction.

**Rule 3-115(g).** An attachment made before service of original process dissolves 60 days after making the levy or serving the garnishee unless before that time the summons is served upon the defendant or first publication is made pursuant to Rule 2-122, provided that publication is subsequently completed. Upon request made within the initial 60 day period, the Court for good cause may extend the attachment for not more than 60 additional days to permit service to be made or publication commenced pursuant to this section.

**Rule 3-645.1(c)(1).** Unless a Notice of Right to Garnish Federal Benefits that conforms with 31 C.F.R. §212.4 and Appendix B to 31 C.F.R. Part 212 is attached, Financial Institutions are directed: 1) not to hold property of the judgment debtor that constitutes a protected amount; 2) not to hold property of the judgment debtor that may come into the garnishee's possession following service of the writ if the account contains a protected amount; and 3) to comply with other applicable requirements, prohibitions, and limitations of 31 C.F.R. Part 212.

**INSTRUCTIONS TO SHERIFF/CONSTABLE**

☐ Levy on the goods and chattels of the Defendant which are located at \_\_\_\_\_

\_\_\_\_\_, said property being as follows: \_\_\_\_\_

\_\_\_\_\_ and

☐ remove the same from the premises ☐ leave the property with the person in whose custody or possession it was found.

☐ Exclude others from access to it or use of it.

☐ Attach the lands and tenements of the Defendant which are located at \_\_\_\_\_

said (fee simple) (leasehold) property being described as follows: \_\_\_\_\_

\_\_\_\_\_ (deed found in liber \_\_\_\_\_, folio \_\_\_\_\_ )

☐ Serve Writ of Attachment on the following Garnishee:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Plaintiff or Attorney

\_\_\_\_\_  
Signer's Address

\_\_\_\_\_  
Signer's Telephone No.

\_\_\_\_\_  
Signer's Facsimile Number, if any

\_\_\_\_\_  
Signer's E-mail Address, if any

**Appendix E:**  
**Maryland District Court Writ  
of Execution (DC/CV 40)**



## DISTRICT COURT OF MARYLAND FOR \_\_\_\_\_

City/County

Located at \_\_\_\_\_

Court Address

Case No. \_\_\_\_\_

Plaintiff/Judgment Creditor \_\_\_\_\_

Defendant/Judgment Debtor \_\_\_\_\_

**This form is not printable, and cannot be completed online. This is a complex form with signatures needed on various pages.**  
 The Court requires the carbonless multi-part form, which is available from any District Court location (Baltimore City Civil forms can be found at Fayette and Gay Street location only.) A sample form is provided here so you may see the information needed to complete the carbonless form.

**REQUEST FOR WRIT OF EXECUTION**  
 (Rule 3-641)

Please issue a Writ of Execution directing the sheriff to levy upon property of Judgment Debtor to satisfy the ☐ amount due on a judgment in the amount of \$ \_\_\_\_\_ entered in the above case ☐ amount claimed on attachment before judgment. If levy is to be made upon real property located in the county other than Baltimore City, a Notice of Lien was filed in the circuit court for \_\_\_\_\_ on \_\_\_\_\_

THE AMOUNT NOW DUE on the judgment is as follows:

\$ \_\_\_\_\_ Original amount of judgment (excluding costs and attorney's fees)

\$ \_\_\_\_\_ Less total credits

\$ \_\_\_\_\_ Net

\$ \_\_\_\_\_ Plus accrued interest, on \$ \_\_\_\_\_, at \_\_\_\_\_ %, for period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ Year

\$ \_\_\_\_\_ Plus court costs due, including this Writ.

\$ \_\_\_\_\_ Plus additional accrued interest on \$ \_\_\_\_\_, at \_\_\_\_\_ %  
 for period from \_\_\_\_\_, \_\_\_\_\_ Year, to \_\_\_\_\_, \_\_\_\_\_ Year

\$ \_\_\_\_\_ Plus attorney's fee, if allowed by judgment.

\$ \_\_\_\_\_ TOTAL DUE ON JUDGMENT

The Judgment Debtor's last known address is \_\_\_\_\_

The property to be levied is located at \_\_\_\_\_

and described as \_\_\_\_\_

The sheriff is ☐ to leave the property where found. ☐ to exclude others from access to it or use of it ☐ to remove it from the premises.

Date

Signature of Attorney/Plaintiff

Printed/Typed Name

Attorney Code

Address

Phone

**WRIT OF EXECUTION OF PROPERTY**

To the Sheriff/Constable of \_\_\_\_\_ County/City:

You are to levy upon the property listed below:

After levy you are to carry out the instructions of the Plaintiff as to the property, provided that, if bond is required for the payment of expenses that may be incurred by you in complying with Writ, it has been posted in the amount and with the security approved by you.

Date

Clerk

## NOTICE TO SHERIFF (Rule 3-642)

**(a) Levy Upon Real Property.** - Except as otherwise provided by law, the sheriff shall levy upon a judgment debtor's interest in real property pursuant to a Writ of Execution by entering a description of the property upon a Schedule and by posting a copy of the Writ and the Schedule in a prominent place on the property.

**(b) Levy Upon Personal Property.** - Except as otherwise provided by law, the sheriff shall levy upon a judgment debtor's interest in personal property pursuant to a Writ of Execution by obtaining actual view of the property, entering a description of the property upon a Schedule, and (1) removing the property from the premises, or (2) affixing a copy of the Writ and Schedule to the property, or (3) posting a copy of the Writ and Schedule in a prominent place in the immediate vicinity of the property and affixing to each item of property a label denoting that the property has been levied upon by the sheriff, or (4) posting a copy of the Writ and Schedule in a prominent place in the immediate vicinity of the property without affixing a label to each item of property, if affixing a label to each item of property is possible but not practical.

**(c) Possession of Personal Property By Third Person.** - When the sheriff has been instructed to remove the property from the premises or exclude others from access or use and finds the property in the possession of a person, other than the judgment debtor, who asserts entitlement to possession and objects to the sheriff's removal of it or exclusion of that person from access or use, the sheriff shall notify the person retaining possession of the property of the legal effect of the levy.

**(d) Notice of Levy.** - The sheriff shall furnish a copy of the Writ of Execution and Schedule to any person found by the sheriff to be in possession of the property. If that person is not the judgment debtor, the sheriff shall also mail a copy of the Writ and Schedule to the judgment debtor's last known address.

**(e) Return.** - Following a levy, the sheriff shall promptly file a return together with the Schedule. If the Writ of Execution was received from another county under Rule 3-641(b), a copy of the Return and Schedule shall also be filed in the county where the judgment was entered.

## NOTICE TO DEFENDANT

The Court has ordered that your goods or land should be levied upon sold, and the proceeds used to pay the amount of the judgment and court costs shown on the Writ of Execution. THE FOLLOWING ITEMS ARE EXEMPT UNDER THE ANNOTATED CODE OF MD FROM EXECUTION OR JUDGMENT AND MAY NOT BE LEVIED UPON BY THE SHERIFF OR CONSTABLE. (Other Federal exemptions may be available.) These exemptions do not apply to an Attachment Before Judgment.

1. Wearing apparel, books, tools, instruments, or appliances, in an amount not to exceed \$5,000 in value necessary for the practice of any trade or profession except those kept for sale, lease, or barter.
2. Money payable in the event of sickness, accident, injury, or death of any person, including compensation for loss of future earnings. This exemption includes but is not limited to money payable on account of judgments, arbitration's, compromises, insurance, benefits, compensation, and relief. Disability income benefits are not exempt if the judgment is for necessities contracted for after the disability is incurred.
3. Professionally prescribed health aids for you or any of your dependents.
4. The debtor's interest, not to exceed \$1,000 in value, in household furnishings, household goods, wearing apparel, appliances, books, animals kept as pets, and other items that are held primarily for personal, family, or household use of the debtor or any dependent of the debtor.
5. Cash or property of any kind equivalent in value to \$6,000 is exempt, unless within 30 days from the date of the levy by the sheriff, the debtor elects to exempt cash or selected items of property in an amount not to exceed a cumulative value of \$6,000.
6. Money payable or paid in accordance with an agreement or court order for child support.
7. Money payable or paid in accordance with an agreement or court order for alimony to the same extent that wages are exempt from attachment under § 15-601.1(b)(1)(ii) or (2)(i) of the Commercial Law Article.
8. The debtor's beneficial interest in any trust property that is immune from the claims of the debtor's creditors under § 14-113 of the Estates and Trusts Article.
9. With respect to claims by a separate creditor of a husband or wife, trust property that is immune from the claims of the separate creditors of the husband or wife under § 14-113 of the Estates and Trusts Article.

Appraisal of your property has been made. You may move to release some or all of the property from levy. You may avail yourself of these exemptions only by filing a motion within 30 days setting forth the items you select for exemption. A copy of that motion must be mailed to the plaintiff or his attorney and the original must be filed with the Court.

If any third person has any interest, lien, or claim in the goods or lands listed on this Schedule, it is recommended that you notify such person immediately. By this levy the goods or lands are subjected to a judicial lien and your right to sell or dispose of them is suspended. Since no complete statement of your rights and liabilities can be given here, you may wish to consult a lawyer.

**Appendix F:**  
**Maryland District Court Request for  
Transmittal of Judgment (DC/CV 34)**



**DISTRICT COURT OF MARYLAND FOR**

City/County

Located at

Court Address

Case No.

Name

Name

Address

Address

VS.

Plaintiff/Judgment Creditor

Defendant/Judgment Debtor

**REQUEST FOR TRANSMITTAL OF JUDGMENT**

(Rule 3-622)

It is requested that you transmit a certified copy of the judgment in the above case to the clerk of the District Court  
in \_\_\_\_\_ for the purpose of recording.  
County

Date

Signature of Plaintiff/Attorney/Attorney Code

Signer's Telephone Number

Printed Name

Signer's Facsimile Number, if any

Signer's E-mail Address, if any

Signer's Address

**TRANSMITTAL OF JUDGMENT**

A certified copy of judgment in the above case is herewith transmitted to \_\_\_\_\_  
County  
for the purpose of recording.

Date

Clerk

**RECEIPT OF JUDGMENT**

A certified copy of judgment in the above case was received by \_\_\_\_\_  
County

The case number assigned to this judgment is \_\_\_\_\_  
Case Number

Date

Clerk

**Appendix G:**  
**Maryland District Court Request for**  
**Defendant to Appear for Examination in**  
**Aid of Enforcement (DC/CV 32)**

This form is not printable, and cannot be completed online. This is a complex form with signatures needed on various pages. The Court requires the carbonless multi-part form, which is available from any District Court location (Baltimore City Civil forms can be found at Fayette and Gay Street location only). A sample form is provided here so you may see the information needed to complete the carbonless form.

<hr/> <small>Name</small>	VS.	<hr/> <small>Name</small>
<hr/> <small>Address</small>		<hr/> <small>Address</small>
<hr/> <small>Plaintiff/Judgment Creditor</small>		<hr/> <small>Defendant/Judgment Debtor</small>
<input type="checkbox"/> Original		<input type="checkbox"/> Serve by Sheriff
<input type="checkbox"/> Renewal		<input type="checkbox"/> Send by Restricted Delivery Mail
		<input type="checkbox"/> Serve by Private Process

**REQUEST FOR ORDER DIRECTING DEFENDANT TO APPEAR FOR EXAMINATION  
IN AID OF ENFORCEMENT OF JUDGMENT**  
(Md Rule 3-833 (ORAL))

The Judgment Creditor having recovered a judgment against the judgment Debtor in the District Court on \_\_\_\_\_  
\_\_\_\_\_ which was at least 30 days ago in the  
amount of \$ \_\_\_\_\_ and ☐ no payment of judgment  
amount having been made ☐ no previous examination having been held.

☐ Previous examination was held on \_\_\_\_\_ ☐ Additional examination is requested because \_\_\_\_\_

- ☐ The Judgment Creditor requests the Court to summon the Defendant to appear for examination under oath.  
☐ The Judgment Creditor further requests that the Defendant bring the following:

I solemnly affirm under the penalties of perjury that the matters and facts set forth in the foregoing Petition are true to the best of my knowledge, information, and belief.

I agree to promptly notify the Court if payment is made.

<hr/> <small>Date</small>	<hr/> <small>Signature of Plaintiff/Attorney/Attorney Code</small>
<hr/> <small>Signer's Facsimile Number, if any</small>	<hr/> <small>Signer's Address</small>
<hr/> <small>Signer's E-mail Address, if any</small>	<hr/> <small>Signer's Telephone Number</small>

**ORDER OF COURT**

Upon the foregoing Request and Affidavit, \_\_\_\_\_ is  
Defendant  
**subpoenaed to appear in person** before a judge of this Court, at the location shown above, on \_\_\_\_\_  
at \_\_\_\_\_ to be examined under oath concerning any assets, property or credits of the Debtor.

☐ It is further ORDERED that if any records are requested above, you are to bring those records.

<hr/> <small>Date</small>	<hr/> <small>Judge</small>
---------------------------	----------------------------

**NOTICE TO PERSON SERVED:** If you refuse or without sufficient excuse neglect to obey this ORDER, you may be punished for contempt. If you pay the amount of the judgment prior to the hearing date, you must notify the Court; however, formal written notice must be received from the Plaintiff.

**To request a foreign language interpreter or a reasonable accommodation under the Americans with Disabilities Act, please contact the court immediately. Possession and use of cell phones and other electronic devices may be limited or prohibited in designated areas of the court facility.**

DC/CV 32 (Rev. 7/2011)

---

**SUGGESTED LIST OF ITEMS WHICH CAN BE REQUESTED:**

The Judgment Creditor may request that you bring all papers, books, accounts in your possession, custody or control relating to your personal assets, income, expenditures, property, credits and business transactions since the date of \_\_\_\_\_, including but not limited to bank books, checking account records, income tax returns and records of purchases of automobiles, television sets, household furnishings, real estate, silverware and jewelry.

**Appendix H:**  
**Maryland District Court Request for Show  
Cause Order for Contempt (DC/CV 33)**

**DISTRICT COURT OF MARYLAND FOR**

City/County

Located at

Court Address

Case No.

Name

Name

Address

VS.

Address

Plaintiff/Judgment Creditor

Defendant/Judgment Debtor

- ☐ Original      ☐ Serve by Sheriff/Constable
- ☐ Renewal      ☐ Send by Restricted Delivery Mail
- ☐ Serve by Private Process

**REQUEST FOR SHOW CAUSE ORDER FOR CONTEMPT  
(3-633) (SHOR)**

The Plaintiff alleges that ..... has failed to:

Name

- ☐ obey this Court's Order compelling answers to interrogatories in Aid of Execution entered on

Date

- ☐ appear in court for examination in the Aid of Enforcement of Judgment on ..... Date

as ordered by this Court and properly served on ..... Date

- ☐ other .....

The Plaintiff requests that the Court:

1. Require the person named above to appear in Court and show cause why an order for in contempt should not be passed;
2. ☐ (Check if jail is also requested) Send the person named above to jail until the Court's order is obeyed.  
Please read important notice on reverse side of this form.

Date

Signature of Plaintiff/Attorney

Address

Telephone No.

**SHOW CAUSE ORDER FOR CONTEMPT**

Upon consideration of the Plaintiff's request, it is ORDERED:

That ..... appear in person before this

Name

Court on ..... at ..... to show cause why this Court

Date

Time

should not find you in contempt for refusing or failing to respond as shown above provided a copy of this Request and

Order is served on the person named above on or before ..... Date

Date

Judge

**NOTICE**

If you fail to appear, an order may be issued resulting in your arrest and you may be found in contempt of court. Please read the important information on the reverse side of this form

**DC/CV 33 (Rev. 7/2005)**

## NOTICE TO ALLEGED CONTEMNOR

**To the person alleged to be in contempt of court and for whom a request for jail has been made:**

1. It is alleged that you have disobeyed a court order, are in contempt of court, and should go to jail until you obey the Court's order.
2. You have the right to have a lawyer. If you already have a lawyer, you should consult the lawyer at once. If you do not now have a lawyer, please note:
  - (a) A lawyer can be helpful to you by:
    - (1) explaining the allegations against you;
    - (2) helping you determine and present any defense to those allegations;
    - (3) explaining to you the possible outcomes; and
    - (4) helping you at the hearing.
  - (b) Even if you do not plan to contest that you are in contempt of court, a lawyer can be helpful.
  - (c) If you want a lawyer but do not have the money to hire one, the Public Defender may provide a lawyer for you.
    - To find out if the Public Defender will provide a lawyer for you, you must contact the Public Defender after any prehearing conference and **at least 10 business days before the date of a hearing before a judge.**
    - If no prehearing conference is scheduled, you must contact the Public Defender as soon as possible, **at least 10 business days before the date of the hearing before the judge.**
    - The court clerk will tell you how to contact the Public Defender.
  - (d) If you want a lawyer but you cannot get one and the Public Defender will not provide one for you, contact the court clerk as soon as possible.
  - (e) **DO NOT WAIT UNTIL THE DATE OF YOUR COURT HEARING TO GET A LAWYER.** If you do not have a lawyer before the court hearing date, the judge may find that you have waived your right to a lawyer, and the hearing may be held with you unrepresented by a lawyer.
3. **IF YOU DO NOT APPEAR FOR A SCHEDULED PREHEARING CONFERENCE OR COURT HEARING BEFORE THE JUDGE, YOU WILL BE SUBJECT TO ARREST.**

To request a foreign language interpreter or a reasonable accommodation under the Americans with Disabilities Act, please contact the court immediately.



**Appendix I:**  
**Maryland District Court Request**  
**for Garnishment of Property**  
**Other Than Wages (DC/CV 60)**

	VS.	
Plaintiff/Judgment Creditor		Defendant/Judgment Debtor

REQUEST FOR GARNISHMENT OF PROPERTY OTHER THAN WAGES (MD Rule 3-645 and 3-645.1)  
(WRGP)

Date	Signature of Judgment Creditor or Attorney
Signer's Telephone Number	Printed/Typed Name
Signer's Facsimile Number, if any	Signer's Address
Signer's E-mail Address, if any	

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk/Judge

## DC/CV 60 (Rev. 7/2011)

## **NOTICE TO GARNISHEE**

The Garnishee shall file an answer within 30 days after service of the Writ. The answer shall admit or deny that the Garnishee is indebted to the Judgment Debtor or has possession of property of the Judgment Debtor and shall specify the amount and nature of any debt and describe any property. Financial Institutions shall indicate if the judgment debtor's account has protected amounts and if account consists of only protected amounts, request a judgment in favor of the garnishee terminating the garnishment. The Garnishee may assert any defense that the Garnishee may have to the Garnishment, as well as any defense that the Judgment Debtor could assert. After answering, the Garnishee may pay any garnished indebtedness into court and may deliver to the sheriff any garnished property, which shall be treated as if levied upon by the sheriff. A Garnishee who has filed an answer admitting indebtedness to the Judgment Debtor or possession of property of the Judgment Debtor is not required to file an amended answer solely because of an increase in the Garnishee's indebtedness to the Judgment Debtor or the Garnishee's receipt of additional property of the Debtor.

If the Garnishee fails to file a timely answer, the Judgment Creditor may proceed pursuant to MD Rule 3-509 for a judgment by default against the Garnishee.

If the Garnishee files a timely answer, the matters set forth in the answer shall be treated as established for the purpose of the Garnishment proceeding unless the Judgment Creditor files a reply contesting the answer within 30 days after its filing. If a timely reply is not filed, the Court may enter the judgment upon request of the Judgment Creditor, the Judgment Debtor, or the Garnishee. If a timely reply is filed to the answer of the Garnishee, the matter shall proceed as if it were an original action between the Judgment Creditor as Plaintiff and the Garnishee as Defendant and shall be governed by the rules applicable to civil actions.

## **NOTICE TO JUDGMENT DEBTOR CONCERNING EXEMPTIONS**

As a result of the judgment entered against you, the bank or other person holding your money or property has been ordered by this court to hold your money or property that does not constitute a protected amount subject to further order of the court. You may be entitled to claim an exemption of all or part of your money or property, but in order to do so you must file a motion with the court as soon as possible. If you do not file a motion within 30 days of when the Garnishee was served, your property may be turned over to the Judgment Creditor. You may include in your motion a request for a hearing. If you file a motion under Rule 3-643 (c) (2), claiming an exemption, and request a hearing, a hearing shall be held promptly. Some Federal benefit payments may be automatically protected from garnishment and will not be held in response to the writ of garnishment. Any claim for exemption for a non-protected amount must be filed with the court no later than 30 days after service of the writ of garnishment on the garnishee.

You have the right under the Annotated Code of MD to claim an exemption of certain kinds of personal property such as: wearing apparel, books, tools, instrument or appliances in an amount not to exceed \$5,000 in value necessary for the practice of any trade or profession except those kept for sale, lease or barter; money payable in the event of sickness, accident, injury or death of any person including compensation for loss of future earnings (however, disability income benefits are not exempt if the judgment is for necessities contracted for after the disability is incurred); professionally prescribed health aids for the debtor or dependent of the debtor; debtor's interest not to exceed \$1,000 in value, in household furnishings, household goods, wearing apparel, appliances, books, animals kept as pets, and other items that are held primarily for the personal, family or household use of the debtor or any dependent of the debtor. **IN ADDITION, WITHIN THIRTY DAYS AFTER THE DATE OF SERVICE OF THE WRIT OF GARNISHMENT ON THE BANK OR OTHER PERSON HOLDING YOUR MONEY OR PROPERTY, YOU MAY ELECT TO EXEMPT A TOTAL OF \$6,000.** (This exemption does not apply to an Attachment Before Judgment.)

You may be entitled to claim an exemption under Maryland law of certain money such as Social Security disability benefits; Supplemental Security Income benefits; annuity payments based on retired or retiree pay from the Armed Forces; Civil Service retirement and disability funds; annuities to widows and surviving dependent children of judges; federal worker's compensation; and federal retirement pensions.

**YOU MAY ALSO BE ENTITLED TO PROTECT OTHER MONEY OR PROPERTY NOT MENTIONED ABOVE.**

**TO PROTECT YOUR RIGHTS FULLY, IT IS IMPORTANT THAT YOU ACT PROMPTLY. IF YOU HAVE ANY QUESTIONS, YOU SHOULD CONSULT A LAWYER.**

**Appendix J:**  
**Maryland District Court Request**  
**for Garnishment on Wages (DC/CV 65)**



This form is not printable, and cannot be completed online. This is a complex form with signatures needed on various pages. The Court requires the carbonless multi-part form, which is available from any District Court location (Baltimore City Civil forms can be found at Fayette and Gay Street location only). A sample form is provided here so you may see the information needed to complete the carbonless form.

Name _____	VS.	Name _____
Address _____		Address _____
_____ Plaintiff/Judgment Creditor		_____ Defendant/Judgment Debtor
		XXX - XX - Social Security Number _____
SERVE ON:	_____ Employer/Garnishee Name	<input type="checkbox"/> Serve by Sheriff/Constable
	_____ Address	<input type="checkbox"/> Send by Restricted Delivery Mail
		<input type="checkbox"/> Serve by Private Process

### REQUEST FOR GARNISHMENT ON WAGES (3-646) (WRGW)

PLEASE ISSUE A WRIT OF GARNISHMENT on the judgment in the above entitled case to be directed to the Employer/Garnishee named above. ☐ Judgment was by confession. Judgment was entered on \_\_\_\_\_

THE AMOUNT NOW DUE on the judgment is as follows:

\$ \_\_\_\_\_ Original amount of judgment (excluding costs and attorney's fees)  
\$ \_\_\_\_\_ Less total credits  
\$ \_\_\_\_\_ Net  
\$ \_\_\_\_\_ Plus post-judgment interest, on \$ \_\_\_\_\_, at \_\_\_\_\_ %, for period  
from \_\_\_\_\_, Year to \_\_\_\_\_, Year  
\$ \_\_\_\_\_ Plus court costs due, including this Writ.  
\$ \_\_\_\_\_ Plus additional post-judgment interest, on \$ \_\_\_\_\_, at \_\_\_\_\_ %, for period from \_\_\_\_\_, Year to \_\_\_\_\_, Year  
\$ \_\_\_\_\_ Plus attorney's fee, if allowed by judgment.  
\$ \_\_\_\_\_ TOTAL DUE ON JUDGMENT

**GARNISHEE:** See reverse side for additional instructions.

_____ Signer's Telephone Number	_____ Signature of Plaintiff or Attorney
_____ Signer's Facsimile Number, if any	_____ Printed Name
_____ Signer's E-mail Address, if any	_____ Signer's Address

### WRIT OF GARNISHMENT ON WAGES (3-646)

TO THE GARNISHEE:

YOU ARE HEREBY ORDERED to withhold the attachable wages of the Defendant/Debtor for any work week or other pay period until the judgment, interest, other charges and costs as specified under the terms of the judgment are satisfied or until otherwise notified by this court. In addition to the exemptions shown on the reverse side of this writ, other Federal and State exemptions may be available.

☐ YOU ARE HEREBY ORDERED to withhold any attachable wages and not to distribute the same, subject to the further order of this Court because the judgment is not yet final.

YOU ARE FURTHER ORDERED to send the amount withheld to the Plaintiff/Creditor or attorney for the Plaintiff/Creditor within fifteen (15) days after the close of the last pay period of the Defendant/Debtor each month. If you assert a defense or are notified that the Defendant has done so, you are to send the withheld wages to the Court.

YOU ARE FURTHER ORDERED, within thirty (30) days of the date this Writ is served on you, to complete the Answer on the reverse side of this Writ and to return one copy to the Court, one to the Plaintiff/Creditor and one to the Defendant/Debtor. You must state whether the Defendant/Debtor is employed by you, and if so employed, state the rate of pay, and whether there are any prior attachments against the wages which are or may become payable. If you do not file a timely answer, the Court, on motion of the Creditor, may order you to show cause why you should not be held in contempt and require you to pay reasonable attorney's fees and costs.

A copy of this Writ shall be given to the Defendant. The Defendant/Judgment Debtor may at any time contest the Garnishment by filing a motion asserting a defense or objection.

_____ Date	_____ Judge/Clerk
---------------	----------------------

DC/CV 65 (Rev. 7/2011)

### INSTRUCTIONS TO GARNISHEE

1. Commercial Law Article §§ 15-601 to 607 of the Annotated Code of Maryland and Rule 3-646 govern wage attachment procedures.
2. By written motion, both a Defendant/Debtor and an Employer/Garnishee may assert any defense to contest the attachment.
3. If your answer denies the fact of employment, the Court may dismiss the attachment unless the Plaintiff/Creditor files a request for a hearing within (15) days of the receipt of the answer.
4. If you do not file a timely answer, the Court may, upon motion of the Plaintiff/Creditor, issue an order directing you to show cause why you should not be held in contempt of court, and why you should not be required to pay reasonable attorney's fees and costs.
5. You must notify the employee each pay period of the amount withheld and the method used to determine the amount. This may be done by the use of pay stubs, pay slips, etc.
6. If there is more than one attachment, each one is to be satisfied in full, in the order in which they are served upon you.
7. This attachment remains a lien until the judgment is paid in full, or as long as the employee remains employed. Accruing interest may increase the amount of the judgment in the future, and it is also possible that additional costs accruing under the judgment may increase this total at a later date. It is also possible that payments made independently of this attachment may decrease the total balance due. Before ceasing to withhold any wages under this attachment, it is suggested that you communicate with the Plaintiff/Creditor or his attorney to ascertain that the judgment has been completely satisfied.
8. The attachment terminates ninety (90) days after cessation of employment, unless the Defendant/Debtor is reemployed during that ninety-day period.
9. The law provides that an employer may not discharge his employee because the employee's wage are subjected to attachment for any one indebtedness within a calendar year and that any employer who willfully violates this provision is guilty of a misdemeanor and on conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding one year, or both.

### EXEMPTIONS FOR GARNISHMENT

THE FOLLOWING ARE EXEMPT FROM GARNISHMENT: (1) the greater of: (a) 75 percent of the disposable wages due; OR (b) 30 times the federal minimum hourly wages under the Fair Labor Standards Act in effect at the time the wages are due; AND (2) any medical insurance payment deducted from an employee's wages by the employer. Other federal and state exemptions may be available.

Disposable wages are the part of wages that remain after deduction of any amount required to be withheld by law.

### ANSWER

(TO BE FILED WITHIN 30 DAYS FROM RECEIPT OF THE WRIT OF GARNISHMENT ON WAGES.)

The answer of the Garnishee to the Writ of Garnishment served in this case, reports as follows:

- ☐ The Defendant (specify name) \_\_\_\_\_ is not employed by this Garnishee and the Garnishee requests dismissal of the garnishment.
- ☐ The Defendant (specify name) \_\_\_\_\_ is employed by this Garnishee, and the rate or basis of pay is \_\_\_\_\_
- ☐ The Garnishee asserts that \_\_\_\_\_
- ☐ There are other attachments against this employee's wages, as follows:

Name and Address of Court	Case Number	Plaintiff's Name and Address	Date Attached	Amount of Attachment
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signer's Facsimile Number, if any

\_\_\_\_\_  
Signer's E-mail Address, if any

\_\_\_\_\_  
Signature of Garnishee or Attorney

\_\_\_\_\_  
Signer's Address

\_\_\_\_\_  
Signer's Telephone Number

To the Garnishee:

Send copies of completed Answer to the

- ☐ Plaintiff/Creditor  
☐ Defendant/Debtor  
☐ Court

**Appendix K:**  
**Maryland District Court Order**  
**of Satisfaction (DC/CV 31)**



**DISTRICT COURT OF MARYLAND FOR** \_\_\_\_\_  
City/County

Located at \_\_\_\_\_ Case No. \_\_\_\_\_  
Court Address

Trial Date: \_\_\_\_\_

Complaint # \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Plaintiff/Judgment Creditor

\_\_\_\_\_  
Defendant/Judgment Debtor

**ORDER OF SATISFACTION  
(3-622 AND 3-626)**

To the Clerk: Please enter the judgment in the above entitled case "SATISFIED" upon payment of any open costs.

☐ Please recall body attachment previously issued for the Defendant in this case.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Creditor/Attorney/Attorney Code

\_\_\_\_\_  
Signer's Facsimile Number, if any

\_\_\_\_\_  
Signer's Address

\_\_\_\_\_  
Signer's E-mail Address, if any

\_\_\_\_\_  
Signer's Telephone Number

When this Order is properly signed, sufficient copies must be filed by the Creditor with the Clerk of the Court so that all counties and courts in which judgment was recorded can be notified. A copy shall be furnished to the Debtor.

To the Clerk of Circuit Court for:

To the Clerk of District Court for:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE OF SATISFACTION OF LIEN**

I HEREBY CERTIFY that the judgment was entered as satisfied on \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk

NOTE TO DEFENDANT/DEBTOR: Governmental Agencies (State, County, Local) do not pay court costs at the time of filing complaints. Judgment cannot be entered a "Satisfied" until all open costs are paid.

Received in Circuit Court by \_\_\_\_\_



**Appendix L:**  
**MVA Request for**  
**Motor Vehicle Administration**  
**Records (DR-057)**

**Request for Motor Vehicle Administration Records**

**Certified Record: \$12.00**  
**Non-Certified Record: \$9.00**

*Please complete all requested information as applicable.*

<b>Subject of Record:</b> <input type="checkbox"/> Vehicle record Tag No.: _____ VIN: _____ Yr./Make/Model: _____	<b>Type of Record:</b> <input type="checkbox"/> 3 year driving record <input type="checkbox"/> *Complete driving record (all information in MVA data base). <input type="checkbox"/> *PBJ driving record *Available to: individual of record or individual's attorney; police or judicial system; authorized representative of any federal, state or local government; or authorized employer of CDL drivers. <input type="checkbox"/> Application for driver's record/identification card. <input type="checkbox"/> Title record. <input type="checkbox"/> Certified copy of Maryland title for export of vehicle. <input type="checkbox"/> Registration record. <input type="checkbox"/> Other: _____
<input type="checkbox"/> Driver Record Name: _____ DOB: _____ LIC #: _____ Address: _____	<b>Requestor Information:</b> Name: _____ LIC #: _____ Address (Home): _____ Telephone (Home): _____ Address (Work): _____ Telephone (Work): _____
<b>Please complete this section if record is to be mailed.</b> <b>Please print or type information.</b>  Full Name: _____ Street Address: _____ City: _____ State: _____ Zip Code: _____	<b>Identification:</b> Type of Identification Accepted: _____ LIC #: _____ Other Number: _____ Verified By: _____
<b>Status:</b> <input type="checkbox"/> Attorney (Please sign "Attorney Certification" if requesting complete driving record of your client) "I certify that I am the attorney for the individual whose complete driving record or PBJ is being requested." <b>Attorney's Signature:</b> _____ <input type="checkbox"/> Employer: _____ "I certify that I am an employer or potential employer of the individual for whom I am requesting/receiving a driving record, and that a valid commercial driver's license is required of the individual as a condition of employment." <b>Employer's Signature:</b> _____ <b>Printed Name:</b> _____	<input type="checkbox"/> Business Name: _____ <input type="checkbox"/> Law Enforcement/Government Agency Name: _____ <input type="checkbox"/> Insurance Company Name: _____ <input type="checkbox"/> Researcher: _____ <input type="checkbox"/> Own record: _____ <input type="checkbox"/> Other: Please specify: _____
<b>Purpose of Request:</b> _____	
<p>My signature acknowledges, under penalty of criminal prosecution, that I will use information received from the Motor Vehicle Administration (MVA) solely for the purpose I describe on this application, and further agree that I will not release personal information obtained from MVA records except as permitted by §10-611, 10-616, and 10-626 of the State Government Article.</p> <p>I understand and acknowledge that by requesting information from Motor Vehicle Administration Records I have read and agree to the terms of the MVA Privacy Protection Agreement on the reverse side of this form. I also acknowledge that I have read the Notice of Appeal Procedure also set forth on the reverse side.</p> <p>Signature: _____ Printed name: _____</p>	
<p><b>MVA Use Only:</b>    <input type="checkbox"/> Certified    <input type="checkbox"/> Non-Certified    <input type="checkbox"/> Cash    <input type="checkbox"/> Check    <input type="checkbox"/> Credit Card    <input type="checkbox"/> Gratis</p>	

For more information, please call: 1-800-638-8347 (touch tone calls only), 1-800-950-1MVA (1682) (to speak with a customer service representative),

From Out-of-State: 1-301-729-4550, TTY for the hearing impaired: 1-800-492-4575. Visit our website at: [www.marylandmva.com](http://www.marylandmva.com)

Part 1 - Accounting Copy

Part 2 - Office Copy

Part 3 - Customer Copy

## MVA Privacy Protection Agreement

**Use of information obtained through this Request is governed by Federal and State laws. It is the responsibility of the Requestor to insure that all use of information obtained through this Request complies with all applicable Federal and State laws.**

By signing this "Request for Motor Vehicle Records", the Requestor certifies that the Requestor, (if applicable) Requestor's employer and employees:

1. Understand that federal laws affect access to and use of computer information including, but not limited to, 15 U.S.C.A. § 278g-3 (Computer Security Act of 1987); 23 U.S.C.A § 401 (National Driver Register Act); 5 U.S.C.A § 552 (Freedom of Information Act); 5 U.S.C.A. § 552a (Privacy Act of 1974); 18 U.S.C.A. § 1001 (Computer Fraud and Abuse Act of 1986); 17 U.S.C.A. § 109 (Computer Software Rental Amendments Act of 1990); 15 U.S.C.A. § 1681 (Fair Credit Reporting Act); and, 18 U.S.C.A. §§ 2721 et seq. (Driver's Privacy Protection Act of 1994).
2. Understand that the Maryland Department of Transportation Office of Transportation Technology Services, its client agencies and their customers also adhere to State data processing security policies as set forth in Executive Order 01.01.1983.18 (Privacy and State Data System Security); Md. Code Ann., Crim. Law §8-606 (falsification of public records) and §7-302 (unauthorized access); Md. Code. Ann., State Gov't §§ 10-611, 10-616 and 10-626 Secretary of the Department of Budget and Management from time to time under Md. Code Ann., State Fin. & Proc. § 3-403.
3. Agree to maintain in strictest confidence and not willfully disclose to any person, firm, or corporation information obtained as a result of their access to personal information from motor vehicle records.
4. Are familiar with all provisions of the federal Driver Privacy Protection Act of 1994, 18 U.S.C.A. §§ 2721 et seq., and with §§ 10-611, 10-616, 10-626 of the State Government Article and §§ 12-111 through 12-113 of the Transportation Article, Annotated Code of Maryland, which limit access to personal information from public records in Maryland. The Requestor in behalf of itself, its successors and assigns further agrees that all users will abide by the terms of both the federal and state law including, but not limited to, those restricting access to personal information from Motor Vehicle Administration records only to those persons and for those purposes which are permitted under both laws.
5. Agree to keep a record for five (5) years of persons to whom information is redisclosed under this Agreement, and the purpose for which the information is to be used; and, to make that record available to the Motor Vehicle Administration upon request.
6. Shall be liable for, and shall indemnify, defend and hold the Motor Vehicle Administration harmless for any misuse or misappropriation of any personal information in a record obtained from the Administration in connection with this Agreement, including, without limitation, reasonable attorneys' fees and all other costs of litigation.
7. Shall further indemnify the Motor Vehicle Administration for and against any and all losses, damages, judgments, liabilities, or similar costs and expenses which arise in whole or part out of acts or omissions by the client with respect to laws restricting access to and disclosure of vehicle records including, without limitation, reasonable attorneys' fees and all other costs of defending against such action or claim

## Notice of Appeal Procedure

In accordance with State Government Article ("SG") § 10-614 (b)(3)(ii), the Requestor ("You" or "you") is informed of all available remedies for review of the decision of the Motor Vehicle Administration ("MVA") to withhold any of the documents requested on this front side of the form. Under SG §§ 10-622, you are entitled to administrative review of the MVA's position upon request. If requested, such review will be conducted in accordance with the Administrative Procedures Article §§ 10-201 through 10-315 of the State Government Article, and the hearing regulations of the MVA found at Code of Maryland Regulations 11.11.02. You may also pursue judicial enforcement under SG § 10-623 of the Maryland Public Information Act. (Copies of the law available upon request).

**Reverse**



Apply to register to vote with your driver's license transaction. For details ask your customer service representative.

# **Appendix M: Sample Demand Letter**

THIS IS A SAMPLE FORM AND SHOULD BE USED AS AN ILLUSTRATION OF PROPER FORMAT AND CONTENT. HOWEVER, NO FORM SHOULD BE RELIED UPON AS A SUBSTITUTE FOR INDEPENDENT RESEARCH, KNOWLEDGE OF THE APPLICABLE LAWS, AND CONSIDERATION OF THE CONTEXT IN WHICH THE FORM IS TO BE USED.

SAMPLE DEMAND LETTER

[Date]

[Name and Address of Debtor]

Re: Case No. \_\_\_\_\_

[You or your client's name's] judgment for unpaid wages

Dear \_\_\_\_\_,

As you are already aware, on \_\_\_\_\_ the [name of the court] found that you owed me, [your name or your client's name], \$ \_\_\_\_\_ in unpaid wages. Taking into account costs, interest, and deductions for money collected, you currently owe me \$ \_\_\_\_\_.

Because you have not made any attempt to pay what is owed to me, it may be necessary to send the Sheriff to your business to collect funds. I have the right to use similar compulsory methods to obtain payment. I intend to enforce this judgment using all available legal means, if you continue to refuse to pay it.

Moreover, the amount that you owe me will increase if you do not pay immediately. You will be required to pay interest at a rate of 10% per year. *See Md. Code, Cts. and Proc., 11 § 11-107(a)*. You also will be required to pay the reasonable and necessary costs incurred in enforcing this judgment.

When I receive full payment of judgment, I assure you that the court will be informed.

Please contact me at \_\_\_\_\_ by the following date: \_\_\_\_\_. We can discuss payment of the judgment and you can avoid the continuing accumulation of costs, fees, and interest. If I do not hear from you \_\_\_\_\_, I will assume that you do not intend to pay this debt, and I will fully pursue my rights to enforce this judgment through compulsory legal processes.

Sincerely,

\_\_\_\_\_

**Appendix N:**  
**Sample Interrogatories in**  
**Aid of Enforcement**

## SAMPLE INTERROGATORIES IN AID OF ENFORCEMENT

### INTERROGATORY 1.

State the full name of each person answering these interrogatories, each person's work address, home address, work telephone number and home telephone number, title and relationship with the business on whom these Interrogatories were served.

### INTERROGATORY 2.

Describe the business on whom these Interrogatories were served, including without limitation, the name, address, telephone number, other business name(s) under which it operates, legal status (i.e. corporation, limited partnership, limited liability company, partnership, sole proprietorship, etc.), date of formation, addresses of all business locations, and federal tax identification number.

### INTERROGATORY 3.

Identify each partner, agent, shareholder, director and officer of the business by name, work and home addresses and telephone numbers, title, relationship with the business, and value of interest.

### INTERROGATORY 4.

Give the address, nature of interest, date of acquisition cost, assessed value, fair market value, appraised value, balance of all existing liens, names of lien holders, legal description, and the income derived from any real estate or interest therein owned in whole or in part by the business, whether in the business's name or that of another, wherever located, and state who paid for it.

### INTERROGATORY 5.

State whether the business has filed federal and/or state business tax returns in the last 3 years, specifying as to each return: type of return; date filed; name, address and telephone number of the signor of each return; and gross income reported.

### INTERROGATORY 6.

Identify inventory, materials, work-in-progress owned by the business, specifying as to each the description, amount, value and location.

### INTERROGATORY 7.

Give a listing of all property owned by the business, including but not limited to: (i) all checking and savings accounts (provide bank names, account numbers and present balances); (ii) stocks, bonds and other securities, identifying each by type, fair market value and location where held; (iii) all personal property owned by the business, including without limitation, fixtures, equipment, tools, trucks, automobiles, trailers, boats, tractors, planes (specifying as to each the location where kept, serial/VIN number, license number, state of registration, value, and any debts secured thereby); (iv) accounts receivable (specifying as to each the name of account, address and amount); (v) judgments held by the business against third parties (specifying as to each the court, case number, case name and amount); (vi) rents receivable (specifying as to each

property the address, lessee and amount); and (vii) intellectual property (specifying as to each the type, interest and value).

**INTERROGATORY 8.**

Describe each place of business where the business operates, specifying as to each the address, square footage, inventory and fixtures, equipment and number of cash registers.

**INTERROGATORY 9.**

As to each safe or safe deposit box of the business, identify the location and contents.

**INTERROGATORY 10.**

Identify all property of the business held by third parties, specifying as to each such item of property the holder, location, description and value.

**INTERROGATORY 11.**

Identify all loans and/or mortgages owed to the business, including any loans made to officers/directors/shareholders/employees/etc., specifying as to each the borrower's name, borrower's address and amount owing.

**INTERROGATORY 12.**

Identify any related parent and subsidiary business(es), specifying as to each the name and location(s).

**INTERROGATORY 13.**

Identify any transfers over \$1,000.00 in the last 12 months by name of transferee, amount, date and reason.

**INTERROGATORY 14.**

Identify all other sources of income or property of the business, actual or potential, which you have not disclosed in answer to previous questions, specifying as to each the type, value or potential value thereof, and the holder.

**INTERROGATORY 15.**

Attach to your answers to these Interrogatories copies of your corporate ledgers for the last 12 months.



**Appendix 0:**  
**Sample Questions for**  
**Oral Examination in**  
**Aid of Enforcement**

## SAMPLE QUESTIONS FOR ORAL EXAMINATION IN AID OF ENFORCEMENT

Of course, you may have questions peculiar to the facts of your particular debtor and what you already know, but here is an ample list of areas to explore to start with. With each question, of course, you will need to do follow up questioning when useful information is obtained from your debtor.

Name:

Social Security Number or Taxpayer Identification Number:

Address:

Phone:

Work Phone:

Date of Birth:

Current Place of Employment and Address(es):

Do you Own Any Part of the Business Where You Work?

Any and All Badge Numbers or Employment Identification Numbers:

Parents' Names and Addresses:

Number of Dependents (Please Include Names, Ages, and Relationship to You):

Any Jewelry Which You Own that Has a Value of \$50.00 or More:

Any Fire Arms Which You Own:

Who is your accountant or Bookkeeper?

Amount of Cash Available to You Which is Not in a Bank Account and Where Located:

Do You Have a Safe Deposit Box Anywhere?

What Is Your Weekly Gross Pay?

What Is Your Weekly Net Pay?

Any Part Time Jobs:

What Is Your Pay Basis for Part Time Work?

Do You Have Any Insurance Claims Pending? If So, Please Specify the Nature of Those Claims:

Are You a Statutory Agent for Any Business?

Do You Have a Retirement Plan Anywhere?

Are You a Member of the Board of Directors for Any Business?

Have You Ever Filed Bankruptcy?

Have You Traveled Outside of the Country in the Last Year?

Who Is Your Travel Agent or What Travel Agency Do You Use?

Have You Been Involved in Any Car Accidents in the Past Two Years? If So, When?

Have You Had Any Judgments Rendered in Your Favor in the Past Three Years? If So, Please Specify the Type of Judgment, When it was Rendered, In What Court it Was Rendered, the Case No., and the Amount of the Judgment:

How Many Checking Accounts Do You Have and With What Banks, Credit Unions or Financial Institutions?

Personal Accounts  
Business Accounts

How Many Savings Accounts Do You Have and With What Banks, Credit Unions, or Financial Institutions?

Personal Accounts  
Business Accounts

What is the Name of Every Credit Card You Have?

What Is the Credit Limit?  
When Did you Last Use Each One?

Do You Own Any Stocks And/or Bonds? If So, Please Specify the Nature of Any Such Stocks And/or Bonds:

Does Any One Hold Any Stocks or Bonds For You?

Do You Have Copies of Your Last Four Pay Stubs?

List All Real Estate That You Own:

Do You Have Copies of All of Your Real Estate Deeds And/or Contracts?

Do You Have Copies of Your Federal and State Income Tax Returns for the Past Three Years?

At Work, Do You Own Any of the Tools or Equipment?

Do You Own Any Interest in Any Business, Corporation, Partnership, Unincorporated Business, Real estate Owned by Someone Else, Etc.?

**Appendix P:**  
**Sample Document Request for Oral  
Examination in Aid of Enforcement**

SAMPLE DOCUMENT REQUEST FOR ORAL EXAMINATION

- 1) Your federal and state personal income tax returns, with all attachments, for the past two (2) years.
- 2) All documents you or anyone else used in the preparation of your federal, state and/or local income tax returns for all the tax years for the past two (2) years.
- 3) Copies of any other documents showing any income received by you from any source whatsoever for the past two (2) years.
- 4) The ledger portion and monthly statements from any bank account in which you have or have had a direct or indirect interest from \_\_\_\_\_ through the present.
- 5) All records or indicia of ownership or interest in any trust, corporation, partnership, joint venture or any other business venture in which you have or have had a direct or indirect interest from \_\_\_\_\_ through the present.
- 6) All existing insurance policies on your life which have a cash surrender value or any policies which covered your life from \_\_\_\_\_ through the present.
- 7) All instruments or documents or records illustrating indicia of ownership or any other interest you have in any other asset not heretofore mentioned.
- 8) All financial statements, loan applications or any similar documents prepared by you or on your behalf from \_\_\_\_\_ through the present. These are to include personal statements as well as statements for any business in which you have any interest.
- 10) Evidence of any transaction in which you are involved wherein money was loaned by you to an individual or entity from \_\_\_\_\_ through the present., as well as any evidence of any loan made to you (whether business or personal) for whatever purpose from \_\_\_\_\_ through the present.
- 11) Any real estate listing agreements signed by you from \_\_\_\_\_ through the present.
- 12) Any and all documents relating to any transactions relating to the purchase, sale, use and/or transfer of real estate in which you have been involved from August 1, 2007 through the present.
- 13) All books, calendars, diaries and any similar compilations maintained by you or for you, whether for business or personal reasons, from \_\_\_\_\_ through the present.

- 14) Your W-2 and 1099 forms from \_\_\_\_\_ through the present.
- 15) All K-1 statements for the past two (2) years through the present.
- 16) Any and all documents illustrating an appraised fair market value obtained by you or any agent for you with regard to any item of real or personal property in which you claim any interest, said appraisal having been accomplished from August 1, 2007 through the present.
- 17) Any records pertaining to or which are evidence of any current outstanding indebtedness or contingent indebtedness specifically pertaining to any suits now pending or previously pending in any court whatsoever and all cases resolved without litigation or presently being negotiated.
- 18) Evidence of any and all payments made to or received by you from any investment or employment for items other than salary or draw from \_\_\_\_\_ through the present.
- 19) Any and all documents, including but not limited to closing statements, deeds or deeds of trust, relating to any parcel of real property that you, either individually or with another person or persons, have bought and/or sold from \_\_\_\_\_ through the present.
- 20) Documents regarding your ownership interest in and value of all precious metals, diamonds, gems, artwork, or other similar investments which you currently own, or have an interest in or which you have owned or had an interest in from \_\_\_\_\_ through the present.