

SMALL CLAIMS – METHOD OF COLLECTION

Revised 9/21

If the trial court Judge awarded you money or property in the final judgment:

Note: Procedures are subject to change with Florida Statute changes

YOU will need to collect the judgment. The responsibility for collecting this judgment rests entirely on you. The following outlines a method of collecting a judgment; however, we suggest you consult with a licensed Florida attorney.

NOTE: Once you have been awarded a final judgment in a Small Claims case you may begin your steps of collection, however, the judgment will not be available for approximately 5-10 days from your hearing date. If you would like to check with the Clerk's Office prior to coming in, please call (239) 533-5000. If you would like to purchase and record a certified copy of the judgment by mail, you may send your request *with your case number*, a \$3.00 check and an \$18.50 check, both made payable to the **LEE COUNTY CLERK OF COURT** and mailed to:

CLERK OF COURTS, SMALL CLAIMS DIVISION
P.O. Box 310
Fort Myers, FL 33902-9345

RECORDING JUDGMENT: Secure a certified copy of the judgment from the Clerk of Court. Take the certified copy to the Clerk's Office, Recording Division located at 2115 Second Street, Fort Myers and have it recorded. Fees for these services are set by statute. This will give you a lien against any real property in Lee County owned now or in the future by the defendant. (To foreclose on the lien you will have to consult an attorney)

WRIT OF EXECUTION: 15 days after the date of the recording of the original judgment, you may secure a Writ of Execution from the Clerk of Court. Procedures for filing the Writ of Execution should be followed pursuant to Florida Statute 55.201 – 55.209. You may visit the Secretary of State's web site @ www.sunbiz.org.

WRIT OF GARNISHMENT: If there is no real or personal property to be seized under a Writ of Execution, look to see if the defendant has property in another's possession. If a third person owes the defendant money or has the defendant's property in his possession or if there is a bank account in the defendant's name, you may file a Writ of Garnishment against that person or the bank. To do this you will need to remit \$85.00 for the Clerk's filing fee in each individual case. Effective July 1, 2000 Florida Statute 77.041 requires a "Notice to Defendant" and "Claim of Exemption and Notice of Hearing" form attached to all Writs of Garnishments. This section requires the plaintiff to mail a "Notice" and "Claim of Exemption" along with a copy of the Motion for Writ and Writ of Garnishment to the defendant and requires the plaintiff to file a certificate as proof of such service. The garnishee will, of course, have a chance to answer the Writ.

BE AWARE – Certain property may not be taken to satisfy a judgment because it is considered exempt. *Exempt property includes:* a home where the defendant who is the head of a family residing in Florida or his family lives on ½ acre of land in a city or on up to 160 acres of contiguous land outside a city, personal property belonging to the head of a family residing in Florida of up to \$1,000.00 in value (*Art X, Section 4, Fla. Constitution*).

There are also restrictions on garnishing a defendant's wages from his place of employment. Generally, under Florida law, the wages of the person who is the head of a family cannot be garnished. (*Fla. Statute Sections 222.11-12*). Even when a person's wages are subject to garnishment, you as a creditor have to follow the limitations on garnishment set forth in the *Federal Consumer Credit Protection Act, 15 U.S.C. Sections 1671-1691* (this act includes the limitation that no more than approximately ¼ of a person's wages may be garnished from a paycheck).

There are exceptions to some of these general rules and other types of property are exempt.

Once you as the prevailing party collect the judgment you **MUST** record the Satisfaction of Judgment (Clerk's Office-Recording Division, 2115 Second Street, Fort Myers) and send a copy to the person who made the full payment.

For collecting or satisfying a judgment, we again suggest you consult with an attorney. You also may want to look to the Florida Statutes (and Constitution) and the United States Code.