

Small Claims Court

Collecting on a Judgment Without a Lawyer

Congratulations!! You filed a lawsuit in Small Claims Court and you won. Now what do you do?

Without a lawyer most people would find it far too complicated to use the Court to seize the defendant's property (cars, real estate, fishing boats) or to initiate a "garnishment" (seize bank accounts and paychecks)

BUT, there are two relatively easy things that people can do without a lawyer to help collect on a judgment

1. Record your "Judgment" in the Public Record. The "Public Record" is where deeds and mortgages are recorded. Putting your Judgment in the Public Record creates lien on any real estate that the Defendant owns. In other words, if he ever wants to sell or mortgage his property he'll have to pay you first.

How to do it:

- Get a certified copy of the judgment from the Court Clerk's office.
- Record the judgment - The fee is \$10 for the first page and \$8.50 for each other page
County Recorder's Office
Courthouse East
22 NW First Street, 1st. Floor
Miami, Florida 33128

2. Have the Court to Order the Defendant to Appear at a "Hearing in Aid of Execution". This forces the defendant to show up in Court and disclose information about their income, bank accounts and property. Use the following forms:

Motion & Order for "Hearing in Aid of Execution"

Use this "motion" to ask the judge to order the defendant to complete a "Fact Information Sheet" and to appear in Court to answer questions about his property, bank accounts, wages, etc. The form includes a "Order" for the judge to sign. After filling in the blanks take the Motion and Order **to the office of the judge that entered the judgment and NOT the office of the Clerk of Court**. Talk to the judge's assistant and (hopefully) they will be helpful.

Order to Show Cause

IF YOU SHOW UP FOR THE HEARING AND THE DEFENDANT DOES NOT ask the judge to sign this Order It requires the Defendant to appear and explain ("show cause") why he or she should not be held in contempt of court. If the Defendant fails to appear at the show cause hearing the judge has the power (if he is so inclined) to declare the defendant to be in **"contempt of court"** and to issue an arrest warrant.

Motion and Order

For

Hearing in Aid of Execution

Note: there are two versions the the "Fact Information Sheet" attached to the Order. One is to be used if the Defendant is an individual and the other if the Defendant is a business. CHOOSE ONE AND DELETE THE OTHER

IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No. _____

Plaintiff - (judgment creditor)

vs.

Defendant - (judgment debtor)

**EX PARTE MOTION FOR HEARING IN AID
OF EXECUTION**

The judgment creditor, _____, pursuant to Florida Small Claims Rule 7.221, moves for an order requiring the judgment debtor(s), _____, to appear at a hearing in aid of execution for the purpose of examining the judgment debtor(s) regarding his/her/their ability to satisfy the final judgment entered in this cause and requiring the judgment debtor(s) to complete a FACT INFORMATION SHEET and bring it to the hearing in aid of execution.

Signature, Plaintiff

Address: _____

Telephone: _____

IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No. _____

Plaintiff - (judgment creditor)

vs.

Defendant - (judgment debtor)

ORDER FOR HEARING IN AID OF EXECUTION

IT IS ORDERED AND ADJUDGED that the judgment debtor(s), _____, shall:

1. appear before Judge _____ on _____, 20__ at _____ o'clock ____ m., in Courtroom _____ located at _____. Florida, to be examined as to the judgment debtor('s)(s') ability to satisfy the final judgment entered in this cause; and
2. bring to the hearing all documents and papers that relate to the judgment debtor('s)(s') financial condition and the completed, notarized Fact Information Sheet attached hereto. Judgment debtor('s)(s') failure to comply with this order shall be grounds for contempt.

ORDERED at _____, Florida, on _____, 20__

County Court Judge

IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No. _____

Plaintiff - (judgment creditor)

vs.

Defendant - (judgment debtor)

FACT INFORMATION SHEET — INDIVIDUAL

Full Legal Name: _____

Nicknames or Aliases: _____

Residence Address: _____

Mailing Address (if different): _____

Telephone Numbers: (Home) (Business) _____

Name of Employer: _____

Address of Employer: _____

Position or Job Description: _____

Rate of Pay: \$ _____ per _____

Average Paycheck: \$ _____ per _____

Average Commissions or Bonuses: \$ _____ per _____.

Commissions or bonuses are based on _____

Other Personal Income: \$ _____ from (Explain details on the back of this sheet or an additional sheet if necessary.)

Social Security Number: _____

Birth date: _____

Driver's License Number: _____

Marital Status: _____

Spouse's Name: _____

Spouse's Address (if different): _____

Spouse's Social Security Number: _____

Spouse's Birthdate: _____

Spouse's Employer: _____

Spouse's Average Paycheck or Income: \$ per

Other Family Income: \$ per (Explain details on back of this sheet or an additional sheet if necessary.)

Names and Ages of All Your Children (and addresses if not living with you):

Child Support or Alimony Paid: \$ _____ per _____

Names of Others You Live With: _____

Who is Head of Your Household? You Spouse Other Person _____

Checking Account at: Account # _____

Savings Account at: Account # _____

(Describe all other accounts or investments you may have, including stocks, mutual funds, savings bonds, or annuities, on the back of this sheet or an additional sheet if necessary.)

For Real Estate (land) You Own or Are Buying: _____

Address: All Names on Title: _____

Mortgage Owed to: _____ Balance Owed: _____

Monthly Payment: \$ _____

(Attach a copy of the deed or mortgage, or list the legal description of the property on the back of this sheet or an additional sheet if necessary. Also provide the same information on any other property you own or are buying.)

For All Motor Vehicles You Own or Are Buying: (List all automobiles, as well as other vehicles, such as boats, motorcycles, bicycles, or aircraft, on the back of this sheet or an additional sheet if necessary.) For each vehicle provide the following:

Year/Make/Model: Color: Vehicle ID #: Tag No:

Mileage: Names on Title: Present Value: \$

Loan Owed to:

Balance on Loan:

Monthly Payment: \$_____

Have you given, sold, loaned, or transferred any real or personal property worth more than \$100 to any person in the last year? _____. If your answer is "yes," describe the property and sale price, and give the name and address of the person who received the property.

Does anyone owe you money? _____

Amount Owed: \$_____

Name and Address of Person Owing Money: _____

Reason money is owed: _____

Please attach copies of the following:

1. Your last pay stub.
2. Your last 3 statements for each bank, savings, credit union, or other financial account.
3. Your motor vehicle registrations and titles.
4. Any deeds or titles to any real or personal property you own or are buying, or leases to property you are renting.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

Judgment Debtor

The foregoing was acknowledged before me on _____, 201__ by _____ who is personally known to me or has produced _____ as identification and who (check one) __did or __did not take an oath.

Notary Public

State of Florida

My Commission expires: _____

MAIL OR DELIVER THE COMPLETED FORM TO THE JUDGMENT CREDITOR OR THE JUDGMENT CREDITOR'S ATTORNEY.

IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No. _____

Plaintiff - (judgment creditor)

vs.

Defendant - (judgment debtor)

FACT INFORMATION SHEET — BUSINESS ENTITY

Name/Title of person filling out this form: _____

Address: _____

Telephone Number: Home: Business: _____

Address of Business Entity: _____

Type of Entity: (Check One) _____ Corporation _____ Partnership _____ Limited Partnership
_____ Sole Proprietorship _____ Limited Liability Corporation (LLC)
_____ Professional Association (PA) _____ Other: (Please Explain)

Does Business Entity own/have interest in any other business entity? _____ If so please explain.

Gross/Taxable income reported for Federal Income Tax purposes last three years:

\$ _____
\$ _____
\$ _____

Taxpayer Identification Number: _____

List Partners (General or Limited and Designate Percentage of Ownership): _____

Average No. of Employees/Month: _____

Names of Officers and Directors: _____

Checking Account at: Account No: _____

Savings Account At: Account No: _____

Does the Business Entity own any vehicles: _____

Years/Makes/Models: _____

Vehicle I.D. Nos.: _____

Tag Nos.: _____

Loans Outstanding: _____

Does the Business Entity own any real property: _____ YES _____ NO

If Yes: Address: _____

Please check if the business entity owns the following:

_____ Boat Camper

_____ Stocks/Bonds Other Real Property

_____ Other Personal Property Intangible Property

Please attach copies of the following:

1. All tax returns for the past 3 years, including but not limited to state and federal income tax returns and tangible personal property tax returns.
2. All bank, savings and loan, and other account books or statements for accounts in institutions in which the defendant had any legal or equitable interest for the past 3 years . 3. All canceled checks for the 12 months immediately preceding the date of this judgment for accounts in which the defendant held any legal or equitable interest.
4. All deeds, leases, mortgages, or other written instruments evidencing any interest in or ownership of real property at any time within the 12 months immediately preceding the date of this judgment.
5. Bills of sale or other written evidence of the gift, sale, purchase, or other transfer of any personal or real property to or from the defendant within the 12 months immediately preceding the date of filing this lawsuit. Any transfer of property within the last year other than ordinary course of business transactions.
6. Motor vehicle documents, including titles and registrations relating to any motor vehicles owned by the defendant alone or with others.
7. Financial statements and any other business records, including but not limited to accounts payable and accounts receivable ledgers, as to the defendant's assets and liabilities prepared within the 12 months immediately preceding the date of this judgment.

8. Copies of articles, by-laws, partnership agreement, operating agreement, and any other governing documents, and minutes of all meetings of the defendant's shareholders, board of directors, or members held within 2 years of the date of this judgment.

9. Resolutions of the shareholders, board of directors, or members passed within 2 years of the date of this judgment.

10. A list or schedule of all inventory and equipment.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

Signature of Defendant's Designated Representative

Legibly print name and title

STATE OF FLORIDA
COUNTY OF MIAMI

The foregoing was acknowledged before me on _____, 201__ by _____ as the defendant's duly authorized representative, who is personally known to me or has produced _____ as identification and who (check one) __did or __did not take an oath.

WITNESS my hand and official seal, on _____, 201__.

Notary Public

State of Florida
My Commission expires: _____

Order to Show Cause

For Failure to Appear at Hearing in Aid of Execution

IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

Case No. _____

Plaintiff - (judgment creditor)

vs.

Defendant - (judgment debtor)

ORDER TO SHOW CAUSE

For Failure to Appear at Hearing In Aid of Execution

IN THE NAME OF THE STATE OF FLORIDA:

TO: _____
(Defendant - judgment debtor)

YOU ARE HEREBY COMMANDED TO APPEAR before this court on _____, at ____ m., in Courtroom _____ at the Miami-Dade County Courthouse, Address: _____, _____, Florida, to show cause, if any, why you should not be adjudged in contempt of court for your failure to appear in Court on _____, 201__ at ____ m., as required by the court's Order issued on _____, 201__ for a hearing in aid of execution.

ORDERED at _____, Florida, on _____, 201__

County Court Judge