



COLLECTING A JUDGMENT – FOR THE JUDGMENT DEBTOR

An Informational Guide to North Dakota State Civil Court Process

The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota state courts. The information provided in this informational guide is not intended for legal advice but only as a general guide to a civil court process. **If you decide to represent yourself, you will need to do additional research to prepare.**

When you represent yourself, you must abide by the following:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders;
 - Any local court rules.

Links to the laws, case law, and court rules can be found at www.ndcourts.gov.

A glossary with definitions of legal terms is available at www.ndcourts.gov/legal-self-help.

When you represent yourself, you are held to same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you are unsure if this information suits your circumstances, consult a lawyer.

***This information is not a complete statement of the law.** This covers basic information for the person who has a court judgment against them about the requirements under North Dakota law that must be followed when collecting a court judgment. The Center is not responsible for any consequences that may result from the information provided. The information cannot replace the advice of competent legal counsel licensed in the state of North Dakota. Use at your own risk.*

IMPORTANT!

When a North Dakota Small Claims or State District Court orders a judgment against you (you lose), the person granted the judgment may use a variety of judgment collection options to get their money.

The person granted the judgment MUST follow the requirements of the judgment collection option they use. Following is information about some common judgment collection options available under North Dakota law.

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NO FORMS AVAILABLE THROUGH THE ND LEGAL SELF HELP CENTER

The ND Legal Self Help Center **does not** have forms available for any of the processes within this informational guide.

If you decide to represent yourself, you must create and prepare your own legal documents. **Names and descriptions of many of the documents you must create and prepare are found throughout this guide.**

A variety of General-Use templates are available at www.ndcourts.gov/legal-self-help. Scroll to the “District Court Civil” section. You may find the General-Use templates of interest as a starting point for creating your own legal documents.

If you would like assistance creating any of your legal documents, consult a lawyer licensed to practice in North Dakota. Ask the lawyer about Limited Legal Representation.

Lawyers licensed to practice in North Dakota may agree to help you with part of your civil action, such as preparing legal documents, while you handle the rest of your civil action. You and the lawyer must agree in writing to Limited Legal Representation.

The ND Legal Self Help Center cannot assist you with creating any of your legal documents and cannot provide Limited Legal Representation.

RESOURCES AVAILABLE FROM LEGAL SERVICES OF NORTH DAKOTA

Legal Services of North Dakota is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income.

Legal Services of North Dakota Educational Brochures:

Legal Services of North Dakota publishes a variety of educational brochures on their website of www.legalassist.org. Click on the “Educational Materials” link, then the “Consumer” link.

Following are brochures related to debt collection:

- Help! I Am Being Sued On A Debt!
- Help! Someone Is Trying To Garnish My Wages
- Help, My Power Has Been Shut Off!
- How Can A Claim For Exemptions Help Me?
- Trouble With Collection Agencies Harassing You?
- What Can I Do About Medical Bills?

Legal Services of North Dakota Forms for Claiming Exemptions:

Legal Services of North Dakota publishes two kits for claiming exemptions on their website of www.legalassist.org. Click on the “Self Help Forms” link.

- Claim for Exemption Kit Head of Family Forms and Instructions
- Claim for Exemption Kit Individual Forms and Instructions

Legal Services of North Dakota Form for Claiming Dependents to Reduce the Amount Garnished:

Legal Services of North Dakota publishes a form for claiming dependents to reduce the amount of money being garnished. Go to their website of www.legalassist.org. Click on the “Educational Materials” link, then the “Consumer” link.

- Verified List of Dependents/Garnishment Form

You may find some of the forms in the Legal Services of North Dakota Family Law Manual of interest. The Legal Services of North Dakota Family Law Manual contains a variety of family law forms that were created for lawyers to use as examples in family law cases. The Legal Services of North Dakota website is www.legalassist.org.

(References to the Legal Services of North Dakota resources are for your convenience only. The ND Legal Self Help Center does not endorse, warrant, or accept responsibility for the content or uses of the Legal Services of North Dakota resources. Use at your own risk.)

DEFINITIONS

Exempt Assets: assets of the judgment debtor that cannot be used to satisfy a money judgment. Exempt assets are identified in North Dakota state law and federal law.

Foreign Judgment: a money judgment issued by another state's court that was registered in a North Dakota state district court. After registration, the judgment collection options in this guide may be used to collect money judgments issued by the court of another state.

- (See the Registering a Foreign Judgment research guide in the "Miscellaneous" section of ND Legal Self Help Center webpage.)

Garnishee: when using the garnishment judgment collection process, the person who has control of the judgment debtor's property, i.e. wages. For example, a judgment debtor's employer is the Garnishee.

Judgment: a money judgment issued by a North Dakota Small Claims Court or a North Dakota State District Court. The judgment collection options in this guide may be used to collect these North Dakota state court money judgments.

Judgment Creditor: the person who is owed money. The written judgment signed by the court will name the person (or persons) to whom money is owed. The written judgment will also say how much money is owed.

Judgment Debtor: the person who owes the money. The written judgment signed by the court will name the person (or persons) who owe money. The written judgment will also say how much money is owed.

Non-Exempt Assets: assets of the judgment debtor that can be used to satisfy a money judgment.

North Dakota Century Code (NDCC): the laws of North Dakota enacted by the North Dakota State Legislature. You will see a series of numbers beginning with the letters NDCC. The numbers refer to Title, Chapter and Section. You can find the NDCC at www.legis.nd.gov and many North Dakota public and academic libraries.

North Dakota Rules of Civil Procedure: the rules that govern all procedures in civil actions in district court. You can find the rules at www.ndcourts.gov/legal-resources/rules and many North Dakota public and academic libraries.

Statutory Forms: forms included by the North Dakota State Legislature within the text of the law. The text of North Dakota's garnishment laws includes statutory forms for many of the required garnishment legal documents.

KEEP GOOD RECORDS

Keep good records of the steps that are taken to collect the judgment against you, when and how the judgment has been paid, and how much of the judgment has been paid.

Remember that you may need to prove or challenge any or all of the following:

- The judgment creditor did not correctly take all required steps in the option, or options, they chose to collect the judgment.
- The amount of judgment interest the judgment creditor claims on any outstanding amount of the judgment.
- How much of the judgment was paid.
- Who paid the judgment and how much.

Recreating this information from memory is difficult, if not impossible. Keep records of the judgment and records of all other transactions related to the judgment.

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CLAIM FOR EXEMPTIONS

Overview:

North Dakota law protects certain property to be protected, or exempt, from levy and other collection processes. Exempt property is property under law that you, the Judgment Debtor, are allowed to keep. (See Exempt Assets in the Definitions section.)

In order to protect the exempt property, you must make a claim for exemptions within a specific deadline. A claim for exemptions is a written response to a judgment creditor's attempt to take some or all of your property to pay the judgment.

The Writ of Execution deadline for a claim for exemptions is ten days. If the judgment creditor obtains a writ of execution from the clerk of court, the claim for exemptions must be completed within ten days after service of the notice of levy on, you, the Judgment Debtor. (See Writ of Execution on Page 13 of 25 below.)

The Garnishment deadline for a claim for exemptions is twenty days if non-wages are being garnished. If the judgment creditor is garnishing non-wages, the claim for exemptions must be completed within twenty days of service of the Garnishee Summons upon you, the Judgment Debtor. (See Garnishment on Page 19 of 25 below.)

Laws and Rules:

- [NDCC Chapter 28-22](#) Exemptions, contains exempt property of the judgment debtor that cannot be used to satisfy a judgment.

Forms:

The ND Legal Self Help Center **does not** have claim for exemptions forms.

However, Legal Services of North Dakota provides two claims for exemption kits on their website. (See Resources Available Through Legal Services of North Dakota on Page 3 of 25 above.) Since these are not ND Legal Self Help Center forms, the Center cannot provide support for the forms.

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VERIFIED LIST OF DEPENDENTS (GARNISHMENT)

Overview:

Garnishment is the withholding of your, Judgment Debtor's, wages to pay a judgment or, it is the withholding of property (non-wages) held by a third party, such as a bank account.

If wages are being garnished, when you, the Judgment Debtor, receive a copy of the Garnishee Summons, you have 10 days to give a written verified list of dependents to your employer. The amount garnished from wages is reduced by \$20.00 for each dependent listed on the verified list of dependents.

Laws and Rules:

- [NDCC Chapter 32-09.1](#) Garnishment, contains requirements and process for garnishment.

Overview of Garnishment Process (See Garnishment on Page 19 of 25 below):

- **Step One** – You are served a written Notice Before Garnishment by the Judgment Creditor.
- **Step Two** – 10 days after you are served the Notice Before Garnishment, the Judgment Creditor serves a written Garnishee Summons on you and the Garnishee (Employer).
 - You have 10 days to give a written verified list of dependents to your employer. The amount garnished from your wages is reduced by \$20.00 for each dependent listed on your verified list of dependents.
- **Step Three** – The Garnishee must serve the Judgment Creditor with a completed Garnishment Disclosure form.
- **Step Four** – The Garnishee holds the garnished earnings, until:
 - The Judgment Creditor serves a writ of execution on the Garnishee; or
 - You authorize the release of the garnished earnings to the Judgment Creditor.

Forms:

The ND Legal Self Help Center **does not** have verified list of dependent forms.

However, Legal Services of North Dakota provides a verified list of dependent form on their website. (See Resources Available Through Legal Services of North Dakota on Page 3 of 25 above.) Since these are not ND Legal Self Help Center forms, the Center cannot provide support for the forms.

BANKRUPTCY INFORMATION AND RESOURCES

Bankruptcy is a federal court process for individuals and businesses to request relief from their debts, or request assistance handling their debts. Bankruptcy is a complex area of law with long-term legal and financial consequences.

All bankruptcy cases are filed in federal court and are governed by United States federal law.

ND Legal Self Help Center cannot provide assistance with federal court processes, such as bankruptcy. The Center does not have bankruptcy forms or instructions.

The United States Bankruptcy Court for the District of North Dakota can be contacted at (701) 297-7100. The website is www.ndb.uscourts.gov. The address is:

Bankruptcy Clerk's Office
Quentin N. Burdick United States Courthouse
655 1st Ave North, Suite 210
Fargo, ND 58102

The website for the United States Bankruptcy Court for the District of North Dakota has resources specifically for self-represented litigants.

WHEN A JUDGMENT CREDITOR CAN START COLLECTING A JUDGMENT

Generally, fourteen days must have passed since the notice of entry of the judgment (or entry of a default judgment) before using the following judgment collection options.

Review the laws and rules related to the civil action for any exceptions to this general rule.

- For example, when registering a foreign judgment (see Foreign Judgment in the Definitions section), NDCC Section 28-20.1-03 requires that ten days must have passed since filing the judgment before beginning any execution or other process to enforce the judgment.

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POST-JUDGMENT DISCOVERY TO IDENTIFY NON-EXEMPT ASSETS

Overview:

In aid of the judgment or execution of the judgment, the judgment creditor may obtain discovery from, you, the judgment debtor. The judgment creditor can use post-judgment discovery to identify your non-exempt assets before applying for a writ of execution.

Basic information about two common methods of discovery, interrogatories and production of documents, is available below.

Laws and Rules:

- [Rule 69\(b\) of the Rules of Civil Procedure: Obtaining Discovery](#) allows post-judgment discovery.
- [Rules 26 through 37 of the Rules of Civil Procedure](#), also called the Discovery Rules, contain the requirements and process for discovery.
 - [Rule 33 of the Rules of Civil Procedure](#) – Interrogatories, contains the requirements and process for requesting answer to written interrogatories.
 - [Rule 34 of the Rules of Civil Procedure](#) – Production of Documents, contains the requirements and process for requesting production of documents.
- [NDCC Chapter 28-22 Exemptions](#), contains exempt property of the judgment debtor that cannot be used to satisfy a judgment.

Post-Judgment Discovery is not Filed with the Clerk of Court:

Post-judgment discovery is not filed with the clerk of court unless:

- The discovery materials are being submitted to the court for disposition of a pending motion;
- The court orders the discovery material to be filed; or
- A judgment creditor, judgment debtor (you) or person affected by post-judgment discovery certifies that the filing is necessary for safekeeping of the documents or exhibits, in which event the judgment creditor, judgment debtor (you) or person affected by post-judgment discovery must state the reasons safekeeping is necessary.

Interrogatories:

Interrogatories are written questions that are answered in writing under oath. A party may ask interrogatories of any other party. See [Rule 33 of the Rules of Civil Procedure](#).

- An interrogatory may relate to any matter that may be inquired into under Rule of Civil Procedure 26(b).
- There is a limit of no more than fifty (50) written interrogatories, including discrete subparts.
- The interrogatories and answers/objections to the interrogatories must be served on you as required by Rule of Civil Procedure 5.
 - The interrogatories and answers/objections to the interrogatories are not filed with the clerk of court except as listed above.
- The interrogatories must be answered by the party to whom they are directed.
- The answers/objections to the interrogatories must be served on the requesting party within 30 days of being served the interrogatories.
 - If you do not answer or object in writing to each interrogatory within the deadline, you cannot make the objection.

Objections to Interrogatories. If you object to an interrogatory, you must write the specific grounds (reasons) for your objections. Write your objection(s) concisely and in a non-argumentative, non-confrontational manner. (NOTE: The judgment creditor may challenge your objection(s).)

Examples of grounds (reasons) to object:

- **Irrelevant.** This objection states a specific fact or belief that this evidence has no bearing on the judgment collection issues.
- **Overly Broad or Unduly Burdensome.** This objection states a specific fact or belief that this question lacks specificity as to time, place and/or subject matter being requested. However, over broad is not a valid objection unless you can show that the request imposes an undue burden.
 - Be prepared to be specific and provide plenty of support for your objection.
- **Asked and Answered.** This objection states a specific fact or belief that you have already been asked and answered the question in a previous interrogatory.
- **Documents or Answers not Available.** This objection states a specific fact or belief that the question seeks information and documents not reasonably available at this time.
- **Vague and Ambiguous.** This objection states a specific fact or belief that the question is vague, ambiguous, fails to identify the answer sought with sufficient particularity, and is not reasonably limited in time, nature or scope.

Remember, if you do not object in writing within the deadline, you cannot make the objection.

Production of Documents:

Production of Documents is a written request to produce discoverable documents, electronically stored information or tangible things and permit them to be copied. This request is available to any other party. See [Rule 34 of the Rules of Civil Procedure](#).

- The request for production of documents must:
 - Describe with reasonable particularity each item or category of items to be inspected;
 - Specify a reasonable time, place and manner for the inspection and for performing the related acts; and
 - Specify the form or forms in which electronically stored information is to be produced.
- The request for production of documents and answers/objections to the request must be served on the parties as required by Rule of Civil Procedure 5.
 - The requests for production of documents and answers/objections to the request are not filed with the clerk of court except as listed above.
- The answers/objections to the requests must be served on the requesting party within 30 days of being served the requests.
 - If you do not answer or object in writing to each interrogatory within the deadline, you cannot make the objection.

Objections to Production of Documents. If you object to a request to produce a document, you must write the specific grounds (reasons) for your objections. Write your objection(s) concisely and in a non-argumentative, non-confrontational manner. (NOTE: The judgment creditor may challenge your objection(s).)

Examples of grounds (reasons) to object:

- **Irrelevant.** This objection states a specific fact or belief that this evidence has no bearing on the judgment collection issues.
- **Overly Broad or Unduly Burdensome.** This objection states a specific fact or belief that this request lacks specificity as to time, place and/or subject matter being requested. However, over broad is not a valid objection unless you can show that the request imposes an undue burden.
 - Be prepared to be specific and provide plenty of support for your objection.
- **Asked and Answered.** This objection states a specific fact or belief that you have already been asked and answered the request.
- **Documents or Answers not Available.** This objection states a specific fact or belief that the request seeks information and documents not reasonably available at this time.

- **Vague and Ambiguous.** This objection states a specific fact or belief that the request is vague, ambiguous, fails to identify the document sought with sufficient particularity, and is not reasonably limited in time, nature or scope.

Remember, if you do not object in writing within the deadline, you cannot make the objection.

Service Instructions and Forms:

Service information and resources are available at the ND Legal Self Help Center website: www.ndcourts.gov/legal-self-help. Scroll to the “District Court Civil” section.

Other Resources:

Legal Services of North Dakota has an online Family Law Manual that includes examples of some types of discovery documents. See the link on Page 3 of 25 above.

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WRIT OF EXECUTION

Overview:

A writ of execution is a court order to a sheriff to seize your, the judgment debtor's, non-exempt property.

There are two kinds of execution.

- The first kind of execution is against the property of the judgment debtor
- The second kind of execution is to deliver possession of the property and any damages for keeping the property from the judgment creditor.

If the judgment requires the sale of property, the judgment may be enforced by a special writ of execution. The special writ of execution must direct that the property be sold and the proceeds from the sale are used to pay the judgment and the costs of the sale.

A judgment creditor can apply for a writ of execution at any time within ten years after the court ordered the judgment.

- The judgment creditor must apply for a writ of execution in the same county that ordered the judgment.

Generally, fourteen days must have passed since the notice of entry of the judgment (or entry of a default judgment) before requesting a writ of execution. Review the laws and rules related to the civil action for any exceptions to this general rule.

In order to protect your exempt property, you, the judgment debtor, must make a claim for exemptions within ten days of notice of levy. A claim for exemptions is a written response to the judgment creditor's attempt to take all or part of your property to pay the judgment.

Laws and Rules:

- [Rule 62 of the Rules of Civil Procedure](#) Stay of Proceedings to Enforce a Judgment.
- [Rule 69\(a\) of the Rules of Civil Procedure](#) Money Judgment; Applicable Procedure.
- [NDCC Chapter 28-21](#) Execution of the Judgment, contains requirements and process for writs of execution.
- [NDCC Chapter 28-22](#) Exemptions, contains exempt property of the judgment debtor that cannot be used to satisfy a judgment.
- [NDCC Chapter 28-25](#) Proceedings Supplementary to the Execution. See Page 15 of 25 below for more information about this process.

Process:

The judgment creditor must apply for a writ of execution with the clerk of court of the North Dakota state district court or small claims court that ordered the judgment.

The North Dakota state district court or small claims court that granted the judgment may issue a writ of execution to the sheriff of any county in North Dakota.

- More than one writ of execution may be issued at the same time to different sheriffs.

The judgment creditor will also be required to prepare and file an Affidavit of Identification before the court will issue a writ of execution. This is a notarized document that provides the name and address of the judgment debtor.

- A blank Affidavit of Identification form is available at www.ndcourts.gov/legal-self-help. Scroll to the “Miscellaneous” section.

If the court issues a writ of execution, the clerk of court will give or send the writ to the sheriff, depending on local procedures.

Once the sheriff serves (gives) the writ of execution and notice of levy on you, the judgment debtor, you have ten days to file a claim for exemption. (See the Resources Available from Legal Services of North Dakota section on Page 3 of 25 above.)

- Property that is protected is found in NDCC Chapter 28-22 Exemptions.

Service information and resources are available at the ND Legal Self Help Center website: www.ndcourts.gov/legal-self-help. Scroll to the “District Court Civil” section.

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PROCEEDINGS SUPPLEMENTARY TO THE EXECUTION

Overview:

If an execution returns unsatisfied or partially unsatisfied, a judgment creditor can ask the court to order you, the judgment debtor, to appear and provide information about assets.

If it appears to the court that you have property which you unjustly refuse to apply to the satisfaction of the execution, the court may require you to appear and answer concerning your property.

The hearing will be held in the county where you reside, if you are a resident of North Dakota. Otherwise, the hearing may be held where ordered by the court.

Laws and Rules:

- [NDCC Chapter 28-25](#) Proceedings Supplementary to the Execution.
- [NDCC Chapter 28-22](#) Exemptions, contains exempt property of the judgment debtor that cannot be used to satisfy a judgment.
- [Rule 3.2 of the Rules of Court](#) Motions, contains process and requirements for making a motion (request) to a North Dakota state court in an existing case.

Process:

The process to make a request to a North Dakota state court in an existing case is called a motion.

The ND Legal Self Help Center does not have forms or instructions available for making a motion or answering a motion for proceedings supplementary to the execution.

The judgment creditor must serve and file a written motion to the court to make the request. For information about the requirements the judgment creditor must follow to make a motion, go to www.ndcourts.gov/legal-self-help. Scroll to the “District Court Civil” section and click on the “Making a Motion” link.

To respond, or answer, the motion, general information about answering a motion is available at www.ndcourts.gov/legal-self-help. Scroll to the “District Court Civil” section and click on the “Answering a Motion” link.

First, determine your deadline for answering the motion.

If the motion was served by handing it to you, or by leaving it at your office or residence, you have fourteen days after service to serve and file your answer to the motion in writing.

If the motion was served by mailing it to you, or by third party commercial carrier, you have seventeen days from the postmarked date to serve and file your answer to the motion in writing.

Second, create your answer to motion documents.

Generally, the following documents must be created, served and filed to answer a motion.

- Answer Brief in support of the answer to motion;
 - A required written document that explains why your argument should prevail. A brief takes the relevant laws or rules and applies them to the facts of a particular situation.
- Your affidavit to support the answer to motion;
 - A written statement of the facts, about which you have first-hand knowledge. Facts referred to in the answer brief should also appear in the affidavit.
- Other supporting documents (other affidavits, exhibits, etc.); and
- Confidential Information Form
(www.ndcourts.gov/Media/Default/Legal%20Resources/rules/ndrct/Appendix-H.pdf).

Remember, make copies of all of your documents for your records.

Third, serve copies of your answer to motion documents on the judgment creditor. File the originals with the clerk of court.

Copies of the answer to motion documents must be served on the judgment creditor as required by Rule of Civil Procedure 5. Service information and resources are available at the ND Legal Self Help Center website: www.ndcourts.gov/legal-self-help. Scroll to the “District Court Civil” section and click on the “Service Instructions and Forms” link. See the “Service After a District Court Civil Action Has Started” section.

The original answer to motion documents and the documents showing proof of service must be filed with the clerk of court.

Fourth, if a hearing is scheduled, attend the hearing.

If it appears to the court from the motion documents that you have property which you unjustly refuse to apply to the satisfaction of the execution, the court may require you to appear and answer concerning your property.

The hearing will be held in the county where you reside, if you are a resident of North Dakota. Otherwise, the hearing may be held where ordered by the court.

JUDGMENT LIEN AGAINST REAL PROPERTY (REAL ESTATE)

Overview:

The judgment acts as a lien against the non-exempt real property (real estate) located in the county where the judgment is docketed, and for ten years from the original docketing of the judgment.

The ten year lien timeframe also applies to non-exempt real property (real estate) you acquire after the docketing of the original judgment.

- The homestead is exempt property. If you have real property that qualifies as your homestead, the judgment lien does not apply to the homestead.

This is not a direct collection of money, however, the judgment lien prevents you from selling or mortgaging the real property (real estate) until the judgment is paid or expires.

Laws and Rules:

- [Rule 58 of the Rules of Civil Procedure](#) Entry and Notice of Entry of Judgment.
- [NDCC Chapter 28-20](#) Judgments. See specifically:
 - Section 28-20-13: Docketing judgment - Transcript to other counties - Lien on real property.
 - Section 28-20-16: How judgment docketed.
- [NDCC Chapter 28-22](#) Exemptions, contains exempt property of the judgment debtor that cannot be used to satisfy a judgment.
- [NDCC Chapter 47-18](#) Homestead, contains the definition of homestead and requirements related to the homestead.

Process:

The judgment must be docketed in the North Dakota county where the real property (real estate) is located.

First, the judgment creditor must file an affidavit of identification of the judgment debtor (you) with the clerk of court. This is a notarized document that provides your name and address.

- A blank Affidavit of Identification form is available at www.ndcourts.gov/legal-self-help. Scroll to the “Miscellaneous” section.

Second, the clerk of court will docket the judgment.

If non-exempt real property (real estate) of the judgment debtor (you) is located in a different North Dakota county than the county where the judgment was granted, make a written request to the clerk of court of the county that granted the judgment.

After receiving the written request and the fee to transcribe the judgment, the clerk of court of the county that granted the judgment can transcribe the judgment to other North Dakota county clerks of court.

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GARNISHMENT

Overview:

Garnishment is the act of taking the judgment debtor's money from a third party to satisfy a judgment. For example, taking the judgment debtor's wages from their employer, or the judgment debtor's money from their bank.

After the court orders a judgment, the judgment creditor can issue a summons against any person, any public corporation, the United States, the State of North Dakota or any institution, department, or agency of the state, indebted to or having any property in possession or under control, which belongs to the judgment debtor.

Please note that the person who has control of the judgment debtor's property, i.e. wages, is called the Garnishee. For example, a judgment debtor's employer is the Garnishee.

Garnishment is the only way to require an employer to withhold a portion of the judgment debtor's wages for payment of the judgment.

Laws and Rules:

- [Rule 4 of the Rules of Civil Procedure](#) Persons Subject to Jurisdiction; Process; Service.
- [Rule 69\(a\) of the Rules of Civil Procedure](#) Money Judgment; Applicable Procedure.
- [NDCC Chapter 28-21](#) Execution of the Judgment, contains requirements and process for writs of execution.
- [NDCC Chapter 28-22](#) Exemptions, contains exempt property of the judgment debtor that cannot be used to satisfy a judgment.
- [NDCC Chapter 32-09.1](#) Garnishment, contains requirements and process for garnishment.
 - The ND State Legislature included statutory forms within NDCC Chapter 32-09.1 for many of the required garnishment legal documents. The statutory forms provide suggested language and formatting.

No Garnishment Forms Through ND Legal Self Help Center:

Forms for garnishment are not available through the ND Legal Self Help Center. Refer to the statutory forms within NDCC Chapter 32-09.1.

See the Resources Available from Legal Services of North Dakota section on Page 3 of 25 above for information on how to find their claim for exemptions kits and verified list of dependents form.

Process:

First, the judgment creditor must serve (give) you the following:

1. Notice that a garnishee summons will be served; and
2. A garnishment debtor's list.

NDCC Section 32-09.1-04 includes a statutory form for the notice and the garnishment debtor's list. (www.legis.nd.gov/cencode/t32c09-1.pdf#nameddest=32-09p1-04)

The notice must be served on you at least ten days before the garnishee summons is served.

Service information and resources are available at the ND Legal Self Help Center website: www.ndcourts.gov/legal-self-help. Scroll to the "District Court Civil" section.

- Service of the notice on you must be in person or by first-class mail. If the notice is not served correctly, the garnishment is void.
 - The requirements for personal service are found in Rule of Civil Procedure 4(d).
- An affidavit showing proof of service must be completed by the person who served the notice and the garnishment debtor's list on you.
 - The requirements for proof of service are found in Rule of Civil Procedure 4(i)-(k).

Keep the completed proof of service form(s) in your records. You may be required to show proof of service.

You must wait at least ten days before moving to the next step.

Second, ten days after the notice of the garnishee summons and garnishment debtor's list have been served on you, the judgment creditor must:

Serve the following on the garnishee:

1. Garnishee Summons;
2. Notice to Defendant;
3. A blank Garnishment Disclosure form; and
4. Include a \$25 payment, payable to the garnishee, as the fee for completing the Garnishment Disclosure form.

The judgment creditor must also serve the following on you:

1. Garnishee Summons; and
2. Notice to Defendant.

NDCC Section 32-09.1-07 includes a suggested form for the Garnishee Summons and Notice to Defendant. (www.legis.nd.gov/cencode/t32c09-1.pdf#nameddest=32-09p1-07)

NDCC Section 32-09.1-09 includes a suggested form for the Garnishee Disclosure. (www.legis.nd.gov/cencode/t32c09-1.pdf#nameddest=32-09p1-09)

Service on both the garnishee and you must be by personal service.

- The requirements for personal service are found in Rule of Civil Procedure 4(d).

An affidavit showing proof of service must be completed by the person who served the notice and the garnishment debtor's list on you.

- The requirements for proof of service are found in Rule of Civil Procedure 4(i)-(k).

When you receive a copy of the Garnishee Summons, if **wages will be garnished**, you have ten days to give a written, verified list of dependents to your employer. (See the Resources Available from Legal Services of North Dakota section on Page 3 of 25 above.)

If **non-wages will be garnished**, you have twenty days to make a claims for exemptions. (See the Resources Available from Legal Services of North Dakota section on Page 3 of 25 above.)

Third, within twenty days of service of the Garnishee Summons and Notice to Defendant, the garnishee must serve the judgment creditor with a completed Garnishment Disclosure form.

Fourth, the garnishee holds the garnished earnings, until:

- The judgment creditor serves a writ of execution on the garnishee; or
- You authorize the release of the garnished earnings to the judgment creditor.

This must occur no earlier than twenty days and no later than three hundred and sixty days from service of the garnishee summons. The judgment creditor and you may agree in writing to a longer period of time.

NDCC Chapter 28-21 includes writ of execution requirements. (www.legis.nd.gov/cencode/t28c21.html)

NDCC Section 32-09.1-20 includes termination of garnishment requirements. (www.legis.nd.gov/cencode/t32c09-1.pdf#nameddest=32-09p1-20)

The judgment creditor is required to serve the writ of execution on the garnishee. An affidavit showing proof of service must be completed by the person who served the writ of execution on the garnishee. The requirements for proof of service are found in Rule of Civil Procedure 4(i)-(k). Service information and resources are available at the ND Legal Self Help Center website: www.ndcourts.gov/legal-self-help. Scroll to the “District Court Civil” section.

RENEWAL OF JUDGMENT

Overview:

In general, a North Dakota small claims or state district court judgment expires ten years from the date the judgment was first docketed. However, the judgment may be renewed one time.

At least ninety days before the ten year expiration date of the judgment, an Affidavit for Renewal of Judgment and an Affidavit of Identification may be filed with the clerk of court where the judgment is docketed.

The judgment can only be renewed one time.

Laws and Rules:

- [NDCC Chapter 28-20](#) Judgments. See specifically:
 - Section 28-20-21: Renewal of judgments by affidavit.
 - Section 28-20-22: Affidavit of renewal - Where filed - Entry.
 - Section 28-20-23: Lien extended for ten years by renewal.

Process (These are the steps the judgment creditor must follow. They are listed for your information):

First, In order to renew a judgment, the judgment creditor will need the following documents:

- Affidavit for Renewal of Judgment; and
- Affidavit of Identification.

The content of the Affidavit for Renewal of Judgment must include:

- The names of all of the parties, in other words, the names of all plaintiffs and defendants;
- The name of the court in which the judgment is docketed;
- The date and dollar amount of the original judgment;

- The file number of the case in the county in which the judgment was originally entered;
- The name of the owner of the original judgment, and, if not the party in whose name the judgment was entered, the source of that person's ownership and a statement of each assignment of said judgment necessary to trace the ownership of the judgment from the original judgment creditor;
- If the judgment was entered upon a certified transcript from any other court, a statement of this fact;
- A statement of each county in which a transcript of said judgment has been filed;
- A statement that no execution is outstanding and unreturned upon said judgment, or, if any execution is outstanding, that fact must be stated;
- The date and amount of each payment upon said judgment, whether collected under execution or otherwise, and that all payments have been duly credited upon said judgment, and whether any amount has been realized that has not been credited upon the judgment and upon the records in the court in which the judgment was originally rendered, or in any other court to which it has been transcribed;
- That there are no offsets or counterclaims against the person for whose benefit the renewal is sought and in favor of the judgment debtor or debtors; or
 - If a counterclaim or offset does exist in favor of the judgment debtor, a statement of the amount of the counterclaim or offset, if ascertained or certain, and an offer to allow the counterclaim or offset as a credit upon the amount due from the judgment debtor; or
 - If the counterclaim or offset is unsettled or undetermined, an offer that when the counterclaim or offset is settled or determined, by suit or otherwise, the counterclaim or offset may be allowed as a payment or credit upon the judgment to the full amount which subsequently may be adjudged due the judgment debtor thereon;
- The exact amount due upon said judgment, after allowing all offsets and counterclaims known to the affiant;
- Any other facts or circumstances necessary to a complete disclosure as to the exact condition of said judgment; and
- A verification statement that the content of the affidavit is true and is not based on information or belief.

An Affidavit of Identification tells the court the following information about the person that owes the judgment, also called the Judgment Debtor:

- Judgment Debtor’s name;
- Judgment Debtor’s address;
- Judgment Debtor’s occupation; and
- Judgment Debtor’s military status.

Second, the judgment creditor must serve copies of the Affidavit for Renewal of Judgment and the Affidavit of Identification on every party in the case.

Service information, including blank proof of service forms, is available at www.ndcourts.gov/legal-self-help. Scroll to the “District Court Civil” section and click on the “Service Instructions and Forms” link.

See the instructions and forms for “Service After the District Court Civil Action Has Started.”

Third, the judgment creditor files the following original documents with the clerk of court of the North Dakota county where the original judgment was first docketed:

- Affidavit for Renewal of Judgment;
- Affidavit of Identification; and
- Proof of service of the Affidavit for Renewal of Judgment and Affidavit of Identification on every other party in the case.

Fourth, after entry and docketing of the Affidavit of Renewal of Judgment by the clerk of court, the judgment is renewed for ten years.

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LAWYER RESOURCES & LIMITED LEGAL REPRESENTATION

You are not required to hire a lawyer to bring a civil action in North Dakota State District Court. If you decide to represent yourself, you must follow all of the rules, laws and procedures that a lawyer is required to follow.

Lawyer Resources

If you decide to find a lawyer to represent you, you may find the following options of interest.

- Legal Services of North Dakota is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is www.legalassist.org.
- The State Bar Association of North Dakota provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is www.sband.org. The cost is \$30.00 for a 30 minute consultation with a lawyer.
- For a list of all lawyers who are licensed to practice in North Dakota, go to the North Dakota Supreme Court website at www.ndcourts.gov/Lawyers. You can narrow your search by name or location.

Limited Legal Representation

Lawyers licensed to practice in North Dakota may provide Limited Legal Representation in civil actions. Limited Legal Representation (sometimes called “unbundling”) is a way that a lawyer can help you with part of your case while you do the rest of your case. You pay for the part of the case the lawyer handled.

For example:

- You may want an attorney to give you an expert opinion about your options, or your legal rights and responsibilities;
- You can consult with an attorney to prepare or review your legal documents, but attend hearings yourself;
- You can represent yourself through the whole case, and periodically consult with an attorney who can coach you on the law, procedures and strategy;
- You can do the preparation yourself and hire an attorney just to make court appearances for you.

You and the lawyer must agree in writing to Limited Legal Representation.