

Show Me the Money!

You took the time and effort to use the small claims court system on your own as to avoid the time, cost and attorney fees associated with the filing of a lawsuit in the traditional superior or circuit county courts. Better yet, you were victorious and obtained a judgment in your favor! In many instances, the judgment debtor is not going to fork over the amount due. However, do not let frustration over come you and let that judgment go to waste – you have ways to make them “show you the money.”

Proceedings supplemental to execution allow the court to order, with certain exceptions, any property, income, or profits of the judgment debtor, or any debt due to the judgment debtor, to be applied to satisfy the judgment. The property that you can reach as a judgment creditor is extensive and includes, but is not limited to, money, checking accounts, savings accounts, inheritances, accounts receivables, promissory notes, rental payments and money coming to the judgment debtor through a successful lawsuit. In addition, you can seek garnishment of earnings to the lesser of 25% of disposable earnings or, if less, the amount of disposable earnings in excess of \$154.50¹ per week.

Instituting these proceedings is accomplished by filing a motion in proceedings supplemental with the court. Many county clerks in Indiana, including the Vanderburgh County Clerk, can assist a judgment creditor in filing such a motion. The clerk will then issue an order for the judgment debtor to appear at a hearing and answer your questions on what property is subject to your judgment. At that hearing, you will have the opportunity to ask the judgment debtor questions about their employment, income, property and any other personal information you may need to determine how the judgment will be satisfied. Once you have that information you can many times come to an agreement with the judgment debtor on a payment plan that the court will order and enforce. If an agreement is not reached, you can request the court enter an order requiring payments, the court will consider the judgment debtor’s financial situation and a decision will be rendered.

If you have made the efforts to get a court order requiring payments to be made, make sure and let the court know if the payments are not made in accordance with the order. Violation of the court order may result in the judgment debtor being held in contempt of court and they will have to answer to the court as to why the payments have not been made.

At the end of the day, getting the money you are due is the goal of collection proceedings. Do not let your judgment go to waste, stay vigilant and use the court system’s tools to have that judgment satisfied.

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¹ This figure changes with the federal minimum wage.

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