

Table of Contents

CHAPTER 1. INTRODUCTION

§ 1:1 Introduction

CHAPTER 2. PRE-JUDGMENT COLLECTION PROCESS

§ 2:1 Fee arrangements

§ 2:2 A word of caution

§ 2:3 A suggested collection procedure

CHAPTER 3. OBTAINING JUDGMENTS

§ 3:1 Seeking a money judgment

§ 3:2 Conciliation court

§ 3:3 Conciliation court practices

§ 3:4 Special concerns for bad debt check collections

§ 3:5 Suits involving automobile loan deficiency judgments

§ 3:6 Trial

§ 3:7 Default judgment

§ 3:8 Stay of judgment and appeal

§ 3:9 Demanding payment of collection costs

§ 3:10 Suing in district court

§ 3:11 Default judgment—District court

§ 3:12 Attorneys' fees in default judgments

§ 3:13 Contested cases

§ 3:14 District court advantages

§ 3:15 Effect of district court judgment—Generally

§ 3:16 Judgment liens

§ 3:17 Duration of lien

§ 3:18 Federal court judgments

§ 3:19 Satisfaction of judgment

§ 3:20 Bankruptcy and judgments

§ 3:21 Child support judgments

CHAPTER 4. GARNISHMENT OVERVIEW

§ 4:1 Introduction

§ 4:2 Minnesota's unique garnishment statute

§ 4:3 Courts in which garnishment is available

§ 4:4 Garnishment venue statute exempt from FDCPA

CHAPTER 5. REPLEVIN

§ 5:1 Generally

- § 5:2 Self help repossession
- § 5:3 Choice of court
- § 5:4 Venue
- § 5:5 Parties
- § 5:6 Seizure of property without notice to debtor
- § 5:7 Alternative relief
- § 5:8 Date of hearing
- § 5:9 Service of notice of hearing when collateral is seized
before notice of hearing
- § 5:10 If claimant does not prevail at hearing
- § 5:11 Summons and complaint
- § 5:12 Alternative relief
- § 5:13 Affidavit in replevin
- § 5:14 Recovery of property after notice and hearing to
respondent
- § 5:15 Service of motion
- § 5:16 Time of hearing
- § 5:17 Form of notice of hearing
- § 5:18 Seizure of property after hearing
- § 5:19 Instances where respondent can maintain possession
of property
- § 5:20 Alternative relief where court denies claimant's motion
for immediate possession
- § 5:21 Order for seizure of property
- § 5:22 Bond
- § 5:23 Sufficiency of surety
- § 5:24 Duties of sheriff
- § 5:25 Property is concealed
- § 5:26 Third parties claim a right to property
- § 5:27 Trial

CHAPTER 6. SUPPLEMENTARY PROCEEDINGS

- § 6:1 Generally
- § 6:2 Place of examination
- § 6:3 Procedure
- § 6:4 Orders in supplementary proceedings are often ignored
- § 6:5 Order to show cause for failure to appear for
examination in supplementary proceedings
- § 6:6 Orders to show cause for failure to make discovery
- § 6:7 Depositions in aid of execution
- § 6:8 Examination of third parties holding money or
property owed to debtor
- § 6:9 Miscellaneous thoughts

TABLE OF CONTENTS

- § 6:10 Dealing with irate or hostile debtors
- § 6:11 Obtaining information from third parties

CHAPTER 7. EXECUTIONS

- § 7:1 Generally
- § 7:2 Obtaining an execution
- § 7:3 Summary execution of judgment debt
- § 7:4 Financial institution levies
- § 7:5 Duties of sheriff on receiving an execution
- § 7:6 Priority of executions
- § 7:7 Personal property levy procedures
- § 7:8 Sale
- § 7:9 Execution on real estate
- § 7:10 Property not subject to levy
- § 7:11 Levy on airplanes
- § 7:12 Using a judgment and decree to collect in family law matters

CHAPTER 8. THE FAIR DEBT COLLECTION PRACTICES ACT

- § 8:1 Introduction
- § 8:2 Scope of the FDCPA
- § 8:3 Communicating with the debtor
- § 8:4 Calculating the amount of the debt
- § 8:5 Collecting time-barred debts
- § 8:6 Credit reporting
- § 8:7 Civil liability
- § 8:8 FDCPA compliance tips
- § 8:9 Gramm-Leach-Bliley

CHAPTER 9. CONCILIATION COURT PROCEDURES

- § 9:1 Conciliation court judgment
- § 9:2 Obtaining default judgments in conciliation court
- § 9:3 Transcribing the judgment to district court
- § 9:4 Post-judgment discovery

CHAPTER 10. JUDGMENTS IN DISTRICT COURT—PROCEDURES

- § 10:1 Commencing the action
- § 10:2 Default judgment
- § 10:3 Answer to complaint
- § 10:4 Voluntary payments

- § 10:5 Default on voluntary payments
- § 10:6 Summary judgment
- § 10:7 Docketing foreign judgments
- § 10:8 Judgment as lien on registered property

CHAPTER 11. GARNISHMENT PROCEDURES

- § 11:1 Garnishment procedure generally
- § 11:2 Earnings garnishments
- § 11:3 Wage garnishment of government employees
- § 11:4 Garnishing military debtors
- § 11:5 Bank garnishments
- § 11:6 Duties of garnishee
- § 11:7 Conditional release to avoid levy procedures and minimize expense

CHAPTER 12. REPLEVIN PROCEDURES

- § 12:1 Recovery of possession after notice and hearing
- § 12:2 Recovery of possession prior to notice and hearing
- § 12:3 Deficiency judgment

CHAPTER 13. SUPPLEMENTARY PROCEEDINGS PROCEDURES

- § 13:1 Commencement of action
- § 13:2 No appearance by defendant
- § 13:3 Specific information to be obtained from debtor

CHAPTER 14. EXECUTION/LEVY ON GARNISHED FUNDS—PROCEDURES

- § 14:1 Levy by sheriff
- § 14:2 Levy by attorney

CHAPTER 15. EXECUTION/LEVY ON PROPERTY OR MONEY BY SHERIFF

- § 15:1 Generally

CHAPTER 16. CREDIT REPORTING

- § 16:1 Minnesota Debt Fairness Act
- § 16:2 Fair Credit Reporting Act

CHAPTER 17. FORMS

- Form 17:1 Suit authorization

TABLE OF CONTENTS

| | |
|------------|---|
| Form 17:2 | Statement of claim |
| Form 17:3 | Attorney instructions |
| Form 17:4 | Letter requesting transcript—Conciliation court |
| Form 17:5 | Affidavit of identification of judgment debtor |
| Form 17:6 | Request for certified copy of district court judgment |
| Form 17:7 | Transmittal letter to registrar of titles |
| Form 17:8 | Summons |
| Form 17:9 | Complaint (money judgment) |
| Form 17:10 | Affidavit of no answer, identification, non–military status, amount due and costs and disbursements |
| Form 17:11 | Affidavit of identification, non–military status, amount due and costs and disbursements |
| Form 17:12 | Affidavit and order for attorney’s fees |
| Form 17:13 | Findings of fact, conclusions of law and order for judgment (for promissory note) |
| Form 17:14 | Transmittal slip to district court |
| Form 17:15 | Stipulation—After commencement of suit |
| Form 17:16 | Affidavit (default upon terms of stipulation) |
| Form 17:17 | Order (for judgment upon default pursuant to stipulation) |
| Form 17:18 | Transmittal slip—Request to judge to sign order |
| Form 17:19 | Interrogatories (for promissory note) |
| Form 17:20 | Notice and motion for failure to answer interrogatories |
| Form 17:21 | Affidavit of attorney (failure to answer, for Hennepin County only) |
| Form 17:22 | Order (for Hennepin County only) |
| Form 17:23 | Memorandum (failure to answer, for Hennepin County only) |
| Form 17:24 | Notice of motion for summary judgment |
| Form 17:25 | Affidavit in support of motion for summary judgment by plaintiff |
| Form 17:26 | Order for summary judgment |
| Form 17:27 | Memorandum of law in support of motion for summary judgment |
| Form 17:28 | Garnishment Exemption Notice and Notice of Intent to Garnish Earnings |
| Form 17:29 | Garnishment Exemption Notice and Notice of Intent to Garnish (default) and Instructions and How the Process Works |
| Form 17:30 | Exemption Notice and Notice of Levy on Earnings |
| Form 17:31 | Your Funds Have Been Garnished |
| Form 17:32 | Garnishment summons |

COLLECTIONS

| | |
|------------|---|
| Form 17:33 | Your Funds Have Been Levied |
| Form 17:34 | Garnishment non-earnings disclosure |
| Form 17:35 | Garnishment earnings disclosure |
| Form 17:36 | Letter to garnishee for failure to disclose |
| Form 17:37 | Notice of motion and motion for judgment against garnishee |
| Form 17:38 | Order commanding appearance of garnishee for oral disclosure |
| Form 17:39 | Affidavit in support of motion for judgment against garnishee |
| Form 17:40 | Memorandum in support of motion for judgment against garnishee |
| Form 17:41 | Notice of motion and motion for judgment against garnishee for failure to disclose to garnishment summons |
| Form 17:42 | Affidavit of attorney for judgment creditor against garnishee for failure to disclose |
| Form 17:43 | Memorandum of law |
| Form 17:44 | Proposed order |
| Form 17:45 | Release of garnishment |
| Form 17:46 | Conditional release of garnishment and order |
| Form 17:47 | Payroll deduction order |
| Form 17:48 | Summons in replevin |
| Form 17:49 | Complaint in replevin |
| Form 17:50 | Affidavit in replevin |
| Form 17:51 | Notice of hearing (after notice and hearing) |
| Form 17:52 | Memorandum (after notice of hearing) |
| Form 17:53 | Claimant's affidavit and replevin order to show cause (prior to notice and hearing) |
| Form 17:54 | Claimant's affidavit (prior to notice and hearing) |
| Form 17:55 | Findings of fact, conclusions of law and order in replevin |
| Form 17:56 | Notice of hearing (prior to notice and hearing) |
| Form 17:57 | Order for bench warrant |
| Form 17:58 | Complaint for deficiency |
| Form 17:59 | District court transmittal slip |
| Form 17:60 | Partial satisfaction of judgment |
| Form 17:61 | Supplementary proceedings worksheet |
| Form 17:62 | No property found |
| Form 17:63 | Affidavit in supplementary proceedings |
| Form 17:64 | Order in supplementary proceedings |
| Form 17:65 | Letter to debtor |
| Form 17:66 | Order to show cause contempt for failure to appear pursuant to order in supplementary proceeding |

TABLE OF CONTENTS

| | |
|------------|--|
| Form 17:67 | Notice and motion to hold debtor in contempt of court for failure to appear pursuant to an order for supplementary proceedings |
| Form 17:68 | Certification of appearance by referee |
| Form 17:69 | Affidavit of attorney |
| Form 17:70 | Bench warrant |
| Form 17:71 | Order for writ of attachment |
| Form 17:72 | Financial condition statement |
| Form 17:73 | Request for execution |
| Form 17:74 | Instructions for sheriff |
| Form 17:75 | Notice of levy on earnings and disclosure and worksheet |
| Form 17:76 | Financial Institution Execution Disclosure |
| Form 17:77 | Levy on execution earnings disclosure |
| Form 17:78 | Instructions to garnishee |
| Form 17:79 | Levy request to Sheriff |
| Form 17:80 | Creditors Notice of Objection and Notice of Hearing On Exemption Claim (garnishment) |
| Form 17:81 | Creditors Notice of Objection and Notice of Hearing On Exemption Claim (levy) |
| Form 17:82 | Affidavit of No Return of “Notice and Request for Hearing” |
| Form 17:83 | CFPB Model Validation Notice (12 CFR 1006-B1) |

Table of Laws and Rules

Table of Cases

Index