

Filing Judgments from Municipal Courts



Sponsored by the Essex County Magistrates Association
and
the Office of the Essex County Clerk

You were recently awarded a judgment in a local municipal court, and the question that many people ask is, "What do I do next?"

This brochure was designed not to give you legal advice, but to inform you of your options.

Read this brochure carefully and make your decision wisely.

The Essex County Magistrates Association

The Office of the Essex County Clerk

The Essex County Sheriff & the Civil Office

1. **I have been awarded a judgment when can I collect my money?**

That is not as easy as that. After a local magistrate has awarded you a judgment, the court must notify the debtor that he has 30 days to pay you. If he does not then you must file your judgment.

2. **Where do I file my judgment?**

After 30 days the judge will give you a transcript of judgment. That transcript must be filed with the County Clerk's Office.

3. **What good does filing the judgment do?**

Filing a judgment in the County Clerk's Office prohibits the debtor from getting a bank mortgage or a loan, from selling his property or getting a good credit rating.

4. **Do I have to go in person to file the judgment?**

No, you may send the transcript of judgment along with \$10.00 to the County Clerk's Office.
Essex County Clerk 7559 Court Street PO Box 247 Elizabethtown, New York 12932 518-873-3600.

5. **What does a transcript of judgment look like?**

Transcripts do vary but the following essentials of the document must always be present:

- creditor (you)
- debtor, address and profession
- when judgment was rendered
- the amount of the judgment with court costs
- the judges name, signature and court seal.

6. **Example of transcript.**

Appendix A

7. **What is an income execution and may I use it?**

An income execution is a legal way of retrieving your money if the debtor does not pay the amount of the judgment by garnishing his wages. You may use the income execution process if the 30 days has passed since the court notified the debtor.

8. **Are there certain conditions where I may not use the income execution process?**

Yes, unfortunately no process is perfect. The following are the rights of the debtor where an income execution will not work:

An income execution for installments from a judgment debtor's *gross income* cannot exceed ten percent (10%) of the judgment debtor's *gross income*

If a judgment debtor's *weekly disposable earnings* are less than thirty (30) times the current federal minimum wage (\$5.00 an hour), or (\$150.00), no deduction can be made from the judgment debtor's earnings under this income execution.

A judgment debtor's *weekly disposable earnings* cannot be reduced below the amount arrived at by multiplying thirty (30) times the current federal minimum wage (\$5.00 an hour), or (\$150.00), under this income deduction.

If deductions are being made from a judgment debtor's earnings under any order for alimony, support or maintenance for family members or former spouses, and those deductions are less than twenty-five percent (25%) of the judgment debtor's disposable *earnings*, no deductions can be made under this income execution.

If deductions are being made from a judgment debtor's earnings under any order for alimony, support or maintenance for family members or former spouses, and those deductions are less than twenty-five (25%) of the judgment debtor's disposable earnings, deductions may be made from judgment debtor earnings under this income execution. However the amount arrived at by adding the deductions from earnings made under this execution to the deductions made from earnings under any orders for alimony, support or maintenance for family members or former spouses cannot exceed twenty-five (25%) of the judgment debtor's disposable earnings.

NOTE: Nothing in this notice limits the proportion or amount which may be deducted under any order for alimony, support or maintenance for family members or former spouses.

9. What do I need to do an income execution?

Should you decide to do an income execution you will need to have the employer's name and address. The cost of the income execution is \$5.00 and this process may be done in the mail.

Where do I get an income execution?

You get the execution at the County Clerk's Office.

Do I get my money immediately?

No, after the income execution is prepared by the County Clerk's Office, the original and five copies are sent to the County Sheriff's Civil Office where the Civil Office serves the employer with a notice to garnishee. The employer is required to take a certain amount out in each paycheck. The employer sends that amount to the Sheriff's Civil Office where after a certain time it is sent to you.

10. What if someone works in another county or another state?

If the debtor works in another county but lives in Essex County then our Sheriff's Department will serve them at home. If the debtor does not respond in 20 days then the creditor must take the papers to the County where the debtor works.

If the debtor lives or works in another state then the creditor must seek out the Sheriff in that locality and give the Sheriff's Office the execution.

11. What is a property execution?

A property execution is yet another way to legally collect your money by securing the debtors property or bank account.

12. Where do I get a property execution?

You may get a property execution at the County Clerk's Office. It will cost \$5.00.

13. If I desire may I get an income execution and a property execution?

Certainly, you may get both executions together or separately. However, it will cost you \$5.00 a piece.

14. What if I don't know where the debtor works, where he has his bank account etc.?

If you are unfamiliar with where the debtor works, has his bank accounts, or what property he does possess, you may apply to the court for an information subpoena to be sent to the debtor.

15. Example of an income execution.

Appendix B

16. Example of a property execution.

Appendix C

17. What do I need when I apply for a property execution?

When applying for a property execution you will need some of the following items:

- the name of the bank or financial institution
- the personal property and identifying marks
- if a vehicle - abstract of title from the Department of Motor Vehicles

The personal property is then sold at a Sheriff's auction. If you are owed \$500.00 and only get \$350.00 at the auction then you must reapply for another execution to make up for the difference.

18. Does the judgment filed with the County Clerk have any real effect?

When filed with the County Clerk the transcript has a broad effect. First it turns the judgment into the equivalent of a supreme court judgment making it enforceable throughout the state against real as well as personal property.

19. What is the length of the transcript?

A lien on land is good for 10 years.

A judgment is good for 20 years.

20. What are the sheriff's costs?

The creditor does not upfront any money to the Sheriff's Office. The Sheriff's Office affixes the costs to the debtor execution and take the money owed them out of your first payment.

21. What happens if the debtor pays the amount owed?

If the debtor pays what is owed to the Sheriff, the Sheriff's Office returns the execution back to the Clerk's Office, wholly satisfied. That removes the judgment against the debtor. If the debtor pays you after the transcript of judgment has been filed but prior to an execution the creditor must go back to the judge and ask for a certificate of disposition (satisfaction).

22. Am I guaranteed my full amount owed?

No, unfortunately not. Due to many different circumstances, the debtor may not have to pay the amount due. If a transcript is filed and an execution applied for, the execution could be returned; wholly satisfied, partially satisfied, or unsatisfied.

23. If an execution is returned partially satisfied or unsatisfied can I get another execution?

Yes, if you are unsuccessful with an execution you may apply again.

24. With all the costs that were outlined may I get these costs back in the judgment?

No, only the costs involved in the local courts.

25. What if I file a judgment and an execution and there are other executions on file?

Your execution must take its place behind those filed first.

26. May I do an execution on real property?

If the defendant owns real property, you may be able to collect your judgment from its sale. The clerk will direct you to the proper office where you can check property ownership. You will have to obtain a transcript of your Small Claims judgment from the court and file it with the County Clerk. You then should consult the sheriff, who may conduct a sale at public auction. It is your responsibility to prepare the papers to sell the property. The sheriff, after deducting his or her fees and expenses, and after paying off any prior mortgage, tax liens and judgments, will send the balance to you up to the amount of your judgment, plus interest.

27. Is a car/vehicle considered personal property?

Yes, it is.

Your judgment can be paid from the sale of defendant's personal property, such as automobiles. Contact the enforcement officer for details of the expenses and fees required. It is your responsibility to prepare the papers required to sell the property.

If you give an enforcement officer the model, year and license plate number as well as the location of the defendant's automobile, the officer can seize it, sell it at auction, and pay your judgment with the proceeds. You can check with the New York State Department of Motor Vehicles to learn whether defendant owns an automobile (Fill out form MV-15). You can also find out from the Department of Motor Vehicles whether a bank or finance company already has a claim against defendant's car.

If the defendant has a large unpaid auto loan, a bank or finance company might be entitled to payment of the loan from the sale of the defendant's vehicle before your judgment can be satisfied.

28. If a claim is based on a defendant's ownership of a vehicle (accident etc.) what else am I allowed to do?

If your claim is based on the defendant's ownership or operation of a motor vehicle, you may be able to have the Department of Motor Vehicles suspend the defendant's driver's license and auto registration until the judgment is paid. To take advantage of this procedure, you must have a judgment of over \$1,000 that has remained unpaid for more than 15 days after it becomes final. Ask the clerk for details of this procedure.

29. Can the debtor appeal the judge's decision?

Yes, a debtor can appeal the judge's decision.

30. How is a judgment from Court satisfied?

When satisfied the prevailing has an obligation to get a satisfaction from that court. The satisfaction is called a certificate of disposition.
See Appendix E.

31. What information is need to give to the County Clerk for a property execution?

For a property execution on a vehicle you must get a certified copy of the title from DMV.
Bring the certified copy to the Sheriff's Dept.
The Sheriff's Dept. will REQUIRE the towing and storage fee up front. (usually \$300 - \$400.)
You must also bring the Sheriff's Dept. a property execution from the County Clerk's Office listing the vehicle.

For a property execution on a bank account you must have a bank account number, social security number, and date of birth.

32. Due to ethics, Judges, the Clerk's Office and the Sheriff's Office are not allowed to give out legal advice.

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N.Y., this _____ day of _____, 19 _____

Williamson Law Book Co., Rochester, N.Y. 14609

STATE OF NEW YORK COURT, TOWN OF , COUNTY OF ESSEX INDEX NO.

Judgment Creditor(s)

Income Execution

THE PEOPLE OF THE STATE OF NEW

TO THE ENFORCEMENT OFFICER, GREETINGS:

Judgment Debtor(s) name and last known address.

*The Enforcement Officer is the Sheriff, Marshal or Constable
authorized by Law to enforce income executions.*

Whereas, in an action in the court of the town of judgment creditor and against
County of Essex, a judgment was entered on in favor of
judgment debtor whose last known address is in the amount of \$ including costs,
of which \$ together with interest thereon from remains due and unpaid.

Whereas, a transcript of the judgment was filed on
with the clerk of the County of Essex in which county the judgment was entered;

Whereas, the judgment debtor is receiving or will receive from
the garnishee (see CPLR § 5231(f) re municipal or state employees) whose address is

the sum of \$ 154.50 per WEEKLY pay period.

NOW, THEREFORE, THE ENFORCEMENT OFFICER IS DIRECTED, within 20 days after this execution
is delivered to him, to serve a copy of it upon the judgment debtor.

DIRECTIONS TO DEBTOR: THE JUDGMENT DEBTOR IS HEREBY NOTIFIED AND DIRECTED to commence
payment within 20 days to the enforcement officer of installments equal in amount to 10% (but no more than the Federal
limits set forth on reverse side) of any and all monies, including any and all overtime earnings, commissions, or other
irregular income, received or hereafter to be received by the judgment debtor from the garnishee, in accordance with Section
5231 of the Civil Practice Law and Rules until the judgment together with interest thereon and the fees and expenses of
this execution are fully paid and satisfied, (or until this income execution is modified as provided in Section 5231(g) of the
Civil Practice Law and Rules); AND THE JUDGMENT DEBTOR IS FURTHER NOTIFIED that upon his default in
paying any installments due hereunder, this execution will be served upon the above names garnishee (employer);

DIRECTIONS TO EMPLOYER: THE GARNISHEE (EMPLOYER) IS HEREBY DIRECTED to withhold and pay
over to the enforcement officer installments equal in amount to 10% (but no more than the Federal limits set forth on
reverse side) of any and all monies, including any and all overtime earnings, commissions and other irregular income, due
to the judgment debtor, at the time of, or after, service of this instrument upon you in accordance with Section 5231 of the
Civil Practice Law and Rules, until the judgment together with interest thereon and the fees and expenses of this execution
are fully paid and satisfied, or until this income execution is modified as provided in Section 5231(g) of the Civil Practice
Law and Rules, and THE GARNISHEE IS HEREBY NOTIFIED that if he fails to make such payments to the enforcement
officer, the judgment creditor may commence a proceeding against him for all accrued installments.

DATED

ATTORNEY(S) FOR JUDGMENT CREDITOR(S)
OFFICE ADDRESS AND PHONE NUMBERThe name signed must be printed beneath
JOSEPH A PROVONCHA, COUNTY CLERK

JUDGMENT DEBTOR - See important information on reverse side

IMPORTANT STATEMENT TO JUDGMENT DEBTOR PURSUANT TO CPLR 5231(g)

This income execution directs the withholding of up to ten percent of the judgment debtor's *gross income*. In certain cases, however, state or federal law does not permit the withholding of that much of the judgment debtor's *gross income*. The judgment debtor is referred to New York Civil Practice Law and Rules § 5231 and 15 United States Code §1671 *et seq.*

I. LIMITATIONS ON THE AMOUNT THAT CAN BE WITHHELD.

A. An income execution for installments from a judgment debtor's *gross income* cannot exceed ten percent (10%) of the judgment debtor's *gross income*.

B. If a judgment debtor's *weekly disposable earnings* are less than thirty (30) times the current federal minimum wage (\$4.25 an hour), or (\$127.50), no deduction can be made from the judgment debtor's earnings under this income execution.

C. A judgment debtor's *weekly disposable earnings* cannot be reduced below the amount arrived at by multiplying thirty (30) times the current federal minimum wage (\$4.25 an hour), or (\$127.50), under this income execution.

D. If deductions are being made from a judgment debtor's earnings under any orders for alimony, support or maintenance for family members or former spouses, and those deductions equal or exceed twenty-five percent (25%) of the judgment debtor's earnings, no deduction can be made under this income execution.

E. If deductions are being made from a judgment debtor's earnings under any orders for alimony, support or maintenance for family members or former spouses, and those deductions are less than twenty-five percent (25%) of the judgment debtor's disposable earnings, deductions may be made from judgment debtor's earnings under this income execution. However the amount arrived at by adding the deductions from earnings made under this execution to the deductions made from earnings under any orders for alimony, support or maintenance for family members or former spouses cannot exceed twenty-five percent (25%) of the judgment debtor's disposable earnings.

NOTE: Nothing in this notice limits the proportion or amount which may be deducted under any order for alimony, support or maintenance for family members or former spouses.

II. EXPLANATION OF LIMITATIONS

Definitions:

Disposable Earnings

Disposable earnings are that part of an individual's earnings left after deducting those amounts that are required by law to be withheld (for example, taxes, social security, and unemployment insurance, but not deductions for union dues, insurance plans, etc.).

Gross Income

Gross income is salary, wages or other income, including any and all overtime earnings, commissions, support from trusts, before any deductions are made from such income.

Illustrations Regarding Earnings:

If disposable earnings is:

Amount to pay or deduct from earnings under this income execution is:

- (a) 30 times federal minimum wage (\$154.50) or less
- (b) more than 30 times federal minimum wage (\$154.50) and less than 40 times federal minimum wage (\$170.00)
- (c) 40 times the federal minimum wage (\$206.00) or more

No payment or deduction allowed.

The lesser of: the excess over 30 times the federal minimum wage (\$154.50) in disposable earnings, or 10% of gross earnings
The lesser of: 25% of disposable earnings or 10% of gross earnings.

III. NOTICE: YOU MAY BE ABLE TO CHALLENGE THIS INCOME EXECUTION THROUGH THE PROCEDURES PROVIDED IN CPLR § 5231(g)* and CPLR § 5240

If you think that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should act promptly because the money will be applied to the judgment. If you claim that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should contact your employer or other person paying your income. Further, **YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY.** New York State Law provides two procedures through which an income execution can be challenged.

CPLR § 5231(i) Modification. At any time, the judgment debtor may make a motion to a court for an order modifying an income execution.

CPLR § 5240 Modification or protective order; Supervision of enforcement. At any time, the judgment debtor may make a motion to a court for an order denying, limiting, conditioning, regulating, extending or modifying the use of any post-judgment enforcement procedure, including the use of income executions.

COURT
COUNTY OF ESSEX

Plaintiff

EXECUTION

against

Index No.

Defendant.

The People of the State of New York

TO THE SHERIFF OF ANY COUNTY, GREETING:

WHEREAS, in an action in the court of Essex County, between as plaintiff and
, as defendants, who are all the parties named in said action, a judgment was entered on
, judgment creditor and against judgment debtor whose last known address is
, in the amount of including costs, of which , together with interest thereon from
remains due and unpaid;

WHEREAS, a transcript of the judgment was filed on , with the Clerk of the County of Essex, in which
County the judgment was entered; and

WHEREAS, a transcript of the judgment was docketed in the office of the Clerk of Essex County
on

NOW, THEREFORE, WE COMMAND YOU to satisfy the said judgment out of the real and personal property
of the above named judgment debtor and the debts due to him; and that only, the property in which said judgment debtor,
who is not deceased, has an interest or the debts owed to him shall be levied upon or sold hereunder: AND TO RETURN
this execution to the clerk of the above captioned court within sixty days after issuance unless service of this execution
is made within that time or within extensions of that time made in writing by the attorney(s) for the judgment creditor.

WITNESS, Joseph A. Provoncha, Clerk, this day of , 19 .

The name signed must be printed beneath.
JOSEPH A. PROVONCHA, COUNTY CLERK
Attorney(s) for Judgment Creditor
Office and Post Office Address

ENDORSEMENT

Please take notice that the following named defendants were not served with a summons herein, viz:

and that, as to them, the execution must be restricted as below prescribed.

An execution against property shall not be levied upon the sole property of such a defendant, but it may be collected out of real and personal property owned by him jointly with the other defendants who were summoned, or with any of them, and out of the real and personal property of the latter or any of them.

.....
Attorney(s) for

Address of Judgment Debtor

.....
Location of Property

.....
Index No.

COURT
COUNTY OF ESSEX

Plaintiff,

against

Defendant.

Execution
AGAINST PROPERTY

Sheriff of any County

Levy and collect as within directed

with interest from _____, 19____
besides your fees, etc.

Attorney(s) for

Dated and time received

_____, Sheriff

APPENDIX D

COURT OF _____

Index No. _____

COUNTY OF _____

QUESTIONS AND ANSWERS
in connection with
INFORMATION SUBPEONA

Plaintiff(s)

regarding

~~-against-~~

Defendant(s)

Judgment Debtor

STATE OF NEW YORK, COUNTY OF _____ SS.:

being duly sworn deposes and says; that deponent* is the judgment debtor above named and the recipient of the information subpoena herein and of the original and copy of questions accompanying said subpoena. Deponent makes the following answers in compliance with the subpoena.

- Q. No. 1 What is your full name?
- Q. No. 2 Have you ever been known by any other name, and if so, what other name or names?
- Q. No. 3 What is your spouse's full name?
- Q. No. 4 Where do you reside?
- Q. No. 5 What is your telephone number?
- Q. No. 6 What is your Social Security Number?

*Answers shall be made in writing under oath by the person upon whom served, if an individual, or by an officer, director, agent or employee having information, if a corporation, partnership or sole proprietorship.

Each question shall be answered separately and fully and each answer shall refer to the question to which it responds. Answers shall be returned together with the original of the questions within seven days after receipt.

SHOULD YOU FAIL TO ANSWER, YOU MAY BE HELD IN CONTEMPT OF COURT.

MAIL ANSWERS TO: _____

- Q. No. 7 Do you lease your premises?
- Q. No. 8 If you rent, what is the name and address of your landlord and what rent do you pay?
- Q. No. 9 How much security do you have on deposit with your landlord?
- Q. No. 10 Do you own your own home?
- Q. No. 11 If you have a mortgage, who holds it; what is the approximate balance?
- Q. No. 12 Have either you or your spouse owned any real property in this state in the last two years, and if yes, where?
- Q. No. 13 What is your present occupation and trade?
- Q. No. 14 Where are you presently employed?
- Q. No. 15 What is your weekly salary?
- Q. No. 16 Where is your spouse employed?
- Q. No. 17 What is your spouse's weekly salary?
- Q. No. 18 Do you or your spouse own any real property in this state or any other state, and if yes, where?
- Q. No. 19 Have you or your spouse ever been in bankruptcy? If so, state when and in what court.
- Q. No. 20 Do you or your own a motor vehicle or boat? If yes, give make, model, year and vehicle identification number.
- Q. No. 21 Is there any balance owed on the motor vehicle or boat? If yes, what is the approximate balance?
- Q. No. 22 Have you any life, accident, health or any other type of insurance?
- Q. No. 23 If so, what are the names of the companies and the number and amounts of each policy?

Q. No. 24 Do you have any claims outstanding under any insurance policy? If yes, what is the nature of the claim?

Q. No. 25 List below the following information concerning all savings accounts, checking accounts, certificates of deposit, IRA accounts, KEOGH accounts, money market funds and any other types of account or deposit which you and/or your spouse have at any sort of banking, saving or investment institution:

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT	ACCOUNT NUMBER	CURRENT BALANCE
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Q. No. 26 Have you closed any bank account since the summons in this action was served?

Q. No. 27 If so, give name and address of bank and amount on deposit at the time the account was closed.

Q. No. 28 What was the amount of the last check drawn in the closed account, to whom was it issued, on what date was it issued and in exchange for what consideration was it issued?

Q. No. 29 Do you or your spouse own any stocks, bonds, or other securities which are not kept in banking, savings or investment institutions? If yes, list amount and name(s) of such stocks, bonds, or other securities and where they are kept.

Q. No. 30 List all sources of income which the judgment debtor has, including royalties, rents, dividends, interest, etc.

Q. No. 31 Do you have any outstanding loans at any lending institution that you are repaying? If yes, list the institution, the amount of the loan and the monthly payment.

Q. No. 32 Are you or your spouse buying any article on the installment plan? If yes, set forth the nature of the article, from whom purchased, its total cost and your monthly payments.

- Q. No. 33 Are there any judgments on record against you or your spouse? If so, list all such judgments.
- Q. No. 34 Do you have any judgments in your favor? If so, state details and amount.
- Q. No. 35 Does any person, firm or corporation owe you money? If so, identify the person, firm or corporation and the amount of the debt.
- Q. No. 36 Do you have any other outstanding bills or accounts? If so, list the items and list how much you are paying on each item.
- Q. No. 37 Do you have any deposits with any utility or telephone company? If so, set forth the name of the company and the amount of the deposit.
- Q. No. 38 Have you ever sold, conveyed or assigned any of your property, real or personal within the last two years? If so, list the items sold, the date sold, the amount received and the person to whom the item was sold, conveyed or assigned.

Sworn to before me this _____ day
of _____,

Notary Public

Judgment Debtor
Name signed must be printed beneath

Printed Name

LOCAL JUDGES

Town of Chesterfield	1 Vine St. PO Box 456, Keeseville, N.Y. 12946
Town of Crown Point	PO Box 503, Crown Point, N.Y. 12944
Town of Elizabethtown	PO Box 265, Court St., Elizabethtown, N.Y. 12932
Town of Essex	Main St. PO Box 355, Essex, N.Y. 12936
Town of Jay	PO Box 730, AuSable Forks, N.Y. 12912
Town of Keene	PO Box 89, 10892 NYS Rt. 9N, Keene, N.Y. 12942
Town of Lewis	PO Box 59, Lewis, N.Y. 12950
Town of Minerva	PO Box 937, Minerva, N.Y. 12851-0937
Town of Moriah	Town Hall, 14 Park Place, Port Henry, N.Y. 12974
Town of Newcomb	PO Box 405, Newcomb, N.Y. 12852
Town of North Elba	301 Main Street, Lake Placid, N.Y. 12946
Town of North Hudson	PO Box 60, Rt. 9, North Hudson, N.Y. 12855
Town of St. Armand	PO Box 338, Main St., Bloomingdale, N.Y. 12913
Town of Schroon	PO Box 578, Schroon Lake, N.Y. 12870
Town of Ticonderoga	PO Box 471, Ticonderoga, N.Y. 12883
Town of Westport	PO Box 465, Westport, N.Y. 12993
Town of Willsboro	PO Box 370, Willsboro, N.Y. 12996
Town of Wilmington	PO Box 180, Wilmington, N.Y. 12997