

# Post-Judgment: Basic Steps for Handling a Small Claims NON-EARNINGS GARNISHMENT (Recovery of Judgments Totaling \$10,000 or less)

This guide is provided by the Wisconsin court system to give you general information about Wisconsin small claims actions. Resources available in each county may be found at the link below:

<https://www.wicourts.gov/services/public/selfhelp/docs/countylegalresources.pdf>

For additional information, please see the Pre-Judgment and Post-Judgment Basic Steps Documents. These basic steps documents and any forms mentioned in this basic guide may be obtained from the clerk of court or online at:

<https://www.wicourts.gov/forms1/circuit.htm>.

In addition to the guidance in this handbook, follow local court rules or procedures:

[Wisconsin Circuit Court Rules](#)

**NOTICE:** Small Claims laws change often. The small claims forms are intended to be useful in many cases, but you may have to add or attach additional information as it applies to your case. Talk to a lawyer if you are unsure whether these forms are the most appropriate for your situation.

**COURT STAFF CANNOT GIVE LEGAL ADVICE.**

## What is a non-earnings garnishment?

A non-earnings garnishment is when the court orders a person or entity (garnishee), who is not an employer of the debtor but who owes money to the debtor, to pay a judgment creditor for an amount owed by the debtor to the creditor.

## **CREDITOR'S STEPS:**

1. **First, you have to win your case.**
2. **Decide in which county you will file your garnishment.** Small Claims non-earnings garnishments to recover judgments totaling \$10,000 or less are typically filed in the county where the original judgment was entered. You may also file your garnishment in any county in which you have filed a transcript of the original judgment.
3. **Fill out a Summons and Complaint Non-Earnings Garnishment Small Claims, (SC-301) form.** In a non-earnings garnishment, you are the creditor and the person who owes you money is the debtor. The person or entity holding the debtor's money is the garnishee. Make three copies of the completed form.
4. **File the Summons and Complaint Non-Earnings Garnishment Small Claims and pay the fee to the clerk of court in the county where you are filing your garnishment.** The clerk will keep the original and return the three (3) copies to you with court information completed.

5. **Serve (deliver) one (1) copy of the Summons and Complaint Non-Earnings Garnishment Small Claims on the garnishee and on the debtor.** For a non-earnings garnishment to begin, you must:
- Serve the garnishee with a copy of the summons and complaint and pay a \$3.00 fee to the garnishee.
  - Within ten (10) days of serving the garnishee, the debtor must be served with a copy of the summons and complaint.
- Service may be done by the sheriff or a private process server. See the "Pre-Judgment: Basic Steps to Small Claims Service" ([SC-6050V](#)) for additional information.
6. **Review any answer you receive from the debtor or garnishee.** In some counties, a hearing will be scheduled by the clerk and the date will be indicated on the summons and complaint. In other counties, if no hearing is scheduled, you must object and request a hearing if you object to the answers of the debtor and/or garnishee.
7. **Attend the hearing.** At the hearing, the court will review the debtor's financial situation and/or whether the garnishee has followed the law. If the court orders the non-earnings garnishment to continue, the court will send the garnishee an order directing the garnishee to release the money to the creditor. If the court determines the debtor is exempt, the garnishee will not be required to withhold the money from the debtor. If the court stops the garnishment, you have the option of beginning the entire non-earnings garnishment process again when you believe a new non-earnings garnishment is appropriate.

### **GARNISHEE'S STEPS:**

1. **Once you receive the Summons and Complaint Non-Earnings Garnishment Small Claims, you must withhold the amount claimed by the creditor**, except that if you are indebted to the debtor for payment for the sale of agricultural products grown or produced by the debtor or the debtor's minor children, you must pay the debtor the exempt net income allowed under law.
2. **You must file a Garnishee Answer Non-Earnings Garnishment Small Claims, ([SC-302](#)) form within 20 days of being served with the Summons and Complaint.** You should file the original with the court and send copies to the creditor and debtor. The *Answer* should state if you claim any setoff, lien, or claim to the property. Additionally, you may state any claim of exemption on the part of the defendant or other objection. If you fail to answer within 20 days from service of this *Summons*, judgment may be entered against you for the amount of the creditor's judgment against the debtor(s) plus the costs of this action.
3. **If the debtor serves you with a Debtor's Answer Non-Earnings Garnishment Small Claims, ([SC-303](#)) form claiming exemptions, you must withhold the amount claimed by the debtor until further order of the court.**
4. **You must attend any hearing.** If the creditor objects to the claims in your answer and schedules a hearing, you must appear at the hearing for a determination to be made by the court as to how much money may be withheld from the creditor's claim.
5. **If you have no exemption to claim and the debtor does not claim an exemption, you must release the money claimed by the creditor upon the order of the court.**

**DEBTOR'S STEPS:**

1. **Receive a copy of the Summons and Complaint Non-Earnings Garnishment Small Claims which the creditor is required to serve on you.** Service must be done by a sheriff or a private process server.
2. **Complete the Debtor's Answer Non-Earnings Garnishment Small Claims if you believe your money is completely exempt or your money is partially exempt.**
- The first part of the *Answer form* lists reasons why your money is completely exempt for reasons, such as that the judgment listed by the creditor has been paid or that you have filed bankruptcy.
  - The second part of the *Answer form* lists reasons why your money is completely or partially exempt due to exemptions under the law, such as an exemption of 75% of your net income.
3. **File the Debtor's Answer Non-Earnings Garnishment Small Claims by the date and time listed on the Summons and Complaint or bring it with you to the hearing date listed.**
- If you are instructed to file a written answer and no hearing is scheduled, file the *Answer form* with the clerk of court by the date and time listed on the *Summons and Complaint*. You must also serve a copy of the answer on the creditor's attorney or the creditor and on the garnishee.
  - You must sign the *Answer form* and indicate the date the form was delivered or mailed to the court, to the creditor's attorney or creditor, and to the garnishee.
- Service may be done by first class mail or by certified mail with return receipt requested or by personally delivering the copy of the *Answer form* to the creditor's attorney or the creditor, and the garnishee.
4. **Try to resolve any disputes with the creditor before a hearing.** If the creditor objects to the exemptions you claim, the creditor may try to resolve the dispute informally. You should send copies of documentation that you believe supports your exemptions to the creditor in order to try and resolve any disputes.
5. **You must attend any hearing.** If a hearing is scheduled on the *Summons and Complaint* or if the creditor objects to the claims in your answer or the garnishee's answer and schedules a hearing, you must appear at the hearing for a determination to be made by the court as to how much money may be withheld from the creditor's claim. The court will decide what exemptions are appropriate and how much money, if any, must be released by the garnishee to pay to the creditor.
6. **If you and the garnishee do not claim any exemptions and the garnishee does have money of yours, the court will order the garnishee to release the money requested by the creditor.**