

HOW IS A JUDGMENT SATISFIED? FREQUENTLY ASKED QUESTIONS



LAURA E. ROTH
Clerk of the Circuit Court, Volusia County

Historical Court House
Volusia County, Florida

1) The Clerk of Court cannot collect your Judgment or give you legal advice; however, the following procedures may help you collect.

- Obtain a certified copy of the Judgment from the Clerk's office where your case was filed.
- Record the certified copy in the county where the defendant resides and any county where the defendant may have real property.

2) Can I place a lien against the defendant's property?

- After recording the certified copy of the Judgment, it becomes a lien against any real property then owned or thereafter acquired by the defendant in his/her name. Effective July 1, 2001, if the certified copy is first recorded in accordance with the requirements of F.S. 55.10, on or after July 1, 1994, then the Judgment shall be a lien in that county for an initial period of 10 years from the date of recording. The lien may be extended for 10 years by re-recording a certified copy of the Judgment and an Affidavit with the current address of the person who holds the lien.

➤ **NOTE:** Fees for making, certifying and recording a certified copy of the Judgment are set by statute and are subject to change by legislative action. Refer to the fee schedule on our website or contact the Clerk's office for current fees.

- There are certain restrictions governing Judgments. Please refer to Chapter 55, Florida Statutes.

3) What is a Writ of Execution? How do I obtain one?

- A Writ of Execution is a method directed by the Court to attempt to enforce a Judgment that has been granted. It authorizes a Sheriff to levy on property belonging to the defendant within the State of Florida.
- If you can locate and describe any property owned by the defendant, real or personal, you can secure a Writ of Execution from the Clerk's office after a ten (10) day period has elapsed. **Effective October 1, 2001, Judgment information must be registered with the Secretary of State and a certificate received prior to taking the Writ to the Sheriff's department.
F.S. 55 and F.S. 56
**Refer to www.sunbiz.org for more information.
- Prepare Instruction for Levy. Take it along with the Writ of Execution and Certificate from the Secretary of State, to the Sheriff's department. The Sheriff's office will advise you of the costs to proceed with the Writ.
- Please refer to your Judgment. It may allow you to attempt collection proceedings immediately. If the Judgment states "for which let execution issue "instanter" or "forthwith",

then you may proceed without waiting the ten (10) day period.

➤ NOTE: Other procedures are available to obtain information to help you in the collection of your Judgment; however, the Clerk's office is unable to assist you any further. If you do not have an attorney, you may contact the LAWYERS REFERRAL SERVICE for assistance. Telephone #1-800-342-8011

4) How is a Judgment satisfied and cleared from the Official Record Books?

- Prior to the actual levy of execution being issued, all final Judgments in the courts of the State of Florida for the payment of money may be satisfied by the full payment of such Judgment with interest thereon.
- The defendant may pay the full amount of the Judgment and Interest from the date of the Judgment directly to the plaintiff.
- The plaintiff, or attorney of record in the case with the Judgment, to whom such payment is made, shall execute in writing an instrument acknowledging satisfaction of the Judgment. It shall be acknowledged and recorded in Official Records in the proper county.
- Within 60 days of the date of receipt of the full payment of the Judgment, the person required to acknowledge satisfaction of the Judgment shall send the recorded Satisfaction to the person who made the full payment.
- **F.S. 701.04(3) Whenever a Writ of Execution has been issued, docketed and indexed with a Sheriff and the Judgment upon which it was issued has been fully paid, it is the responsibility of the party receiving payment to request from the Sheriff (in writing), the return of the Writ of Execution as fully satisfied.

5) What if the plaintiff or person to whom the money is owed cannot be located?

- Often defendants or persons who have a money Judgment against them are unable to take care of the Judgment immediately and sometimes forget that there is an outstanding Judgment against them.
- Several years may pass and the plaintiff or person holding the Judgment may have moved or gone out of business. The Judgment may then be satisfied by the Clerk of Court upon the following conditions:
 - * Payment of the full amount of the Judgment plus interest as well as court registry fees. (Fee for receiving money into the registry of the court - 3% of the first \$500.00 plus 1.5% of the balance of the deposit.)
 - * Payment of the costs for recording, satisfying the Judgment and notifying the Judgment holder as prescribed by the Florida Statutes.
 - * The Clerk shall issue a receipt for the money and record the Satisfaction of Judgment.

- If an address for the Judgment holder was provided under F.S. 55.10(1), the Clerk shall formally send a copy of the Satisfaction to the Judgment holder at that address by certified mail with return receipt or by registered mail if the notice is to be sent outside the continental United States. If an address is not provided under F.S. 55.10(1) or if delivery cannot be effected to such address, the Clerk may, but is not obligated to, make reasonable attempts to locate the Judgment holder. The discharge of the lien by the issuance of the Satisfaction is not dependent upon the delivery of Notice by the Clerk.
- Upon application of the Judgment holder, the Clerk shall pay over to the Judgment holder the full amount of the payment received, less the Clerk's fees for issuing execution on such Judgment, if any has been issued; less the Clerk's fees for receiving into and paying out of the registry of the court such payment; less the clerk's fees for recording the Satisfaction of Judgment; and, if the Clerk incurred expenses in locating the Judgment holder, less the reasonable expenses so incurred.

➤ **All Judgments for money rendered in the courts of this State and which have become final, may be satisfied at any time prior to the actual levy of execution issued thereon by payment of the full amount of such Judgment, with interest thereon, plus the costs of the issuance, if any, of execution thereon into the registry of the court where rendered.

REFERENCES:

Florida Statutes 55.141 and 701.04

Florida Rules of Civil Procedure

Florida Small Claims Rules

Trawicks – Florida Practice and Procedure