

GUIDE TO SMALL CLAIMS PROCEDURES: PAYING THE JUDGMENT

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I. When the Judgment Must be Paid

- You are the "judgment debtor" if you lost the claim.
- The party that won the claim is called the "judgment creditor."
- The judgment becomes final 30 days after you receive the *Notice of Entry of Judgment (SC-130)* or the date it is mailed.
- If you have not filed a *Notice of Appeal (SC-140)* or *Notice of Motion to Vacate Judgment (SC-135)* you must pay the judgment.
- If you do not pay the judgment against you within 30 days after it becomes final, you must complete a *Judgment Debtor's Statement of Assets (SC-133)*. You will receive this form from the court with the *Notice of Entry of Judgment*.
- On **SC-133** you are required to provide information about your income and assets which are used in collecting the money you owe.
- If you do not produce this information, you can be brought back into court when the judgment creditor completes and files an *Application and Order to Produce Statement of Assets and to Appear for Examination (SC-134)*. You will then have to submit the *Judgment Debtor's Statement of Assets (SC-133)* to the court.

II. How to Pay the Judgment

In addition to paying the entire judgment to the creditor in one lump sum, you have other options.

You can request:	You will:
Payment to the court	Complete a <i>Request to Pay Judgment to Court (SC-145)</i> and submit it with the total judgment amount. You may want to pay through the court if you do not want to deal with the plaintiff, cannot find the plaintiff, and/or want to end the claim immediately. The Small Claims clerk completes and files an <i>Acknowledgement of Satisfaction of Judgment (EJ-100)</i> . For a fee of \$25 you may obtain a Certificate of Satisfaction of Judgment showing that the Judgment has been paid.

You can request:	You will:
<p>A motion to pay the judgment over a period of time</p>	<p>You should first ask the plaintiff if they are willing to accept payments.</p> <p>If you and the plaintiff cannot agree on a payment schedule, ask the court for permission to pay the judgment in installment payments.</p> <p>You will need to file <i>Request to Make Payments (SC-220)</i> and <i>Financial Statement (EJ-165)</i>.</p> <p>Copies of these forms are sent to the plaintiff by the court along with a blank <i>Response to Request to Make Payments (SC-221)</i>. If the creditor does not respond within 10 days, the court will accept your proposed payment schedule. If the creditor does not accept your proposed payment schedule, a hearing may be held to determine if the payment terms are acceptable.</p>

III. Protecting Property or Income from a Judgment

- You may be able to protect some of your property and income from being taken to pay a judgment. These "exempt" assets that may be protected are listed on ***Exemptions From the Enforcement of Judgments (EJ-155)***.
- You will need to file a ***Claim of Exemption (EJ-160)*** within 10 days after you receive notice that your property may be taken as payment of a judgment.
- You will need to file a ***Claim of Exemption (Wage Garnishment) (WG-006)*** if a garnishment is placed against your wages.
- The court will ultimately decide whether any assets or wages are protected.

IV. How is it Recorded That You Have Paid the Judgment?

- The judgment creditor must sign and file a form called ***Acknowledgment of Satisfaction of Judgment (form EJ-100)***.
- If the judgment creditor does not file this form, you may ask the court clerk to enter a "satisfaction of judgment" in the file. You will have to provide proof that you paid the full amount of the judgment with interest and costs. This can be done in one of two ways:
 - ❖ A canceled check or money order for the full or partial amount of the judgment written by the judgment debtor and made payable to and endorsed

by the judgment creditor, or a cash receipt for the full or partial amount of the judgment written by the judgment debtor after judgment and signed by the judgment creditor, **OR**

- ❖ A declaration stating that (A) the judgment debtor has made full or partial payment of the judgment including accrued interest and costs; (B) the judgment creditor has been requested to file an acknowledgment of satisfaction of the judgment and refuses to do so, or refuses to accept subsequent payments, or the present address of the judgment creditor is unknown; and (C) the documents identified in and accompanying the declaration constitute evidence of the judgment creditor's receipt of full or partial payment.
- You may also request in writing that the judgment creditor sign and file the ***Acknowledgment of Satisfaction of Judgment (form EJ-100)***. If the judgment creditor does not do so within 14 days, you can sue him for \$50 plus any damages you incur.

V. What if You Learn of the Judgment Late?

- ❖ Sometimes defendants are not properly served with a *Plaintiff's Claim* and do not learn of the judgment until after it is entered.
- ❖ If that happens to you, you have up to 180 days to file a ***Notice of Motion to Vacate Judgment (form SC-135)*** after the date you learned of or should have learned of judgment.
 - **TIP:** Don't delay in filing this - do it as soon as you learn of the judgment!
 - Court will grant motion if it determines i) service not proper (you must show why), and ii) request to vacate was timely filed.
 - If granted and all the parties are present and agree, underlying case may be heard immediately.
 - If denied, you have 10 days to appeal to Superior Court by filing ***Notice of Appeal (form SC-140)*** (\$75 filing fee). If Superior Court decides that motion should have been granted, it may hear the case, or transfer it to Small Claims Court.
- ❖ If the plaintiff has started trying to collect against you, and/or the judgment was entered more than 180 days ago, then you should instead file a ***Request for Court Order and Answer (form SC-105)***, and ask the judge to set the judgment aside because the complaint was not properly served.

- ❖ **TIP:** If the judgment is more than two years old, the judge will probably not set it aside. In that case, you should consider asking for a payment plan which at a minimum will protect your driver's license (for car accident cases) and your paycheck if there is a garnishment.