



WRIT OF GARNISHMENT AND WRIT OF EXECUTION PROCEDURES

WRIT OF GARNISHMENT

APPLICATION FOR WRIT OF GARNISHMENT PROCEDURE

The party requesting a Writ of Garnishment may electronically file an Application for Writ of Garnishment via CM/ECF [Adversary → Motions → Writ of Garnishment]. You must provide the following information:

- Name of garnishee
- Judgment amount –verify judgment amount against the judgment amount referenced in the application

After the Application for Writ of Garnishment has been reviewed by the Court, the Clerk's Office will issue the Writ of Garnishment and electronically notice the filer. The Application for Writ of Garnishment may also be filed in person over the counter, and the Clerk's Office will issue the Writ of Garnishment and provide a paper copy for the filer at the time of filing.

If the Writ of Garnishment is to be executed in the same district in which the judgment was entered, the Writ should be docketed in the adversary proceeding in which the judgment was entered (no fee is required).

Note: An Application for Writ of Garnishment should **NOT** be used to open a new adversary proceeding.

RESPONSES TO WRIT OF GARNISHMENT

If a response is filed to the Writ of Garnishment, we will review the response to determine if a hearing will be set.

WRIT OF EXECUTION

WRIT OF EXECUTION ISSUED PROCEDURE

To obtain a writ of execution from the Bankruptcy Court, a party must first obtain a certified copy of the judgment from the Clerk of the Court. This copy must be attached to Form BTXN 097 and submitted to the clerk. We will issue the writ and give the original of the writ, with the certified copy of the judgment, to the party requesting the writ.

The clerk will keep one copy of the writ and judgment for the court files. The original writ and the certified copy of the judgment must be submitted to the United States Marshal, together with one copy of each document. A fourth copy should be kept for the judgment creditor's files.

The papers submitted to the Marshal must be accompanied by a completed Form USM-285. This form should be obtained directly from the Marshal's office.

Generally, the writ of execution must be issued by a court in the district in which the judgment debtor resides or in which the property to be levied upon is located. Before the court can issue a writ on a judgment entered by another court, the “foreign” judgment must be registered in the court. The judgment can be registered pursuant to 28 U.S.C. § 1963 by using Form B265, Certification of Judgment for Registration in Another District, and payment of the fees prescribed by the Judicial Conference pursuant to 28 U.S.C. § 1930.

Usually, the judgment may be registered either in the district court in the other district, in the bankruptcy court there pursuant to the order of reference for bankruptcy cases and matters, or in both courts. In the states which require that judgments be registered in a “court of general jurisdiction” or with the “clerk of the United States District Court,” the judgment should be registered in the district court.

Once the judgment has been registered in the other district, the writ of execution can be issued by the court in which it has been registered.

JUDGMENTS ISSUED BY LOCAL OFFICIALS

Some judgment creditors may prefer to have their judgment executed upon by local officials, such as a Sheriff or City Marshal, rather than by the United States Marshal. In that event, the bankruptcy court judgment should be registered with the county clerk for the county in which the judgment debtor resides. This may be done using Form B 265, Certification of Judgment for Registration in Another District. In this circumstance, the Writ of Execution Form BTXN097 should NOT be used, as the bankruptcy court has no authority to issue a writ to a state or local official.