

Supplemental Proceedings

When should I use this publication?

If you received:

- an Order for Examination of Judgment Debtor OR
- a Notice of Supplemental Proceeding OR
- an Order to Show Cause re: Supplemental Proceedings

(Different counties call this Order or Notice different things. It is all the same thing.)

Should I worry that I might lose my exempt income, like Social Security?

No. The hearing cannot allow a creditor to take any income or property that the law says they cannot take. Your Social Security, veterans pension and most other government income still have protection from the creditor. Most private pensions, disability and retirement incomes are also exempt, but the rules are a little different. Call a lawyer to discuss how to protect yourself. You also still maintain a homestead exemption that protects \$125,000 of equity (the amount you would keep after you sell your home and pay off the mortgage and other liens) in a home you live in.

What is an Order for Examination of Judgment Debtor or Notice of Supplemental Proceeding or Order to Show Cause re Supplemental Proceedings?

A creditor has a judgment ordered by a court and wants to collect the money. The creditor wants to know if you have (nonexempt)

property or income they can take. They will ask things such as:

- Do you work? Who is your employer? How much do you earn?
- Do you have any bank accounts, stocks, bonds?
- Do you own a home? A vacation home?

❖ Court papers will call your creditor the **judgment creditor**. You are the **judgment debtor**. In this publication, we will use creditor and debtor for short.

The order requires you to go to court to answer the creditor's questions. This meeting is called a supplemental proceeding.

Do I have to go to the supplemental proceeding?

Yes, you must go to the supplemental proceeding. The creditor's lawyer may offer to let you respond in writing instead of going to the hearing. If you receive documents that give you the **option** of going to the hearing, follow through with the creditor's lawyer. Make sure you do not have to go to the hearing if you fill out the paperwork they send you.

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- ❖ If you get an order signed by a judge to appear in court, you **MUST** appear. If you do not appear, the court may find you in contempt. It can issue a warrant for your arrest.
 - ❖ If the judgment is for **MEDICAL** debt, the judge may not issue a warrant if you do not appear for the hearing.
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What happens at a supplemental proceeding?

The creditor's lawyer will ask you questions about your financial situation. You will also talk about whether you can pay the judgment. People with little income or assets or with only exempt income or assets will not have to pay the judgment.

You have the right to be treated respectfully. If you feel that the creditor's lawyer is rude, or pressuring or threatening you, or you do not feel heard, ask the court to have your conversation recorded.

The creditor wants to know if:

- Your wages, bank account, or other property can be garnished
- Your property can be sold
- You can agree with the creditor on another way to pay
- You are "collection-proof." See below. (The creditor is bringing you to court hoping to find out you are not collection-proof, when often you are.)

What happens when I go to court?

When you appear in court, a judge will call out your case name. Listen closely for it.

Stand up. Let the judge know you are there. Go to the front of the courtroom. The judge will put you under oath.

Usually, the judge will then have you leave the courtroom with the creditor's lawyer. Sometimes these meetings are in public areas of the courthouse, such as a hallway. Be careful that other people do not overhear your private information, like bank account numbers. You can ask the lawyer to move if you feel uncomfortable. The lawyer will ask you questions about your property and employment. The judge will not be with you.

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- ❖ You may bring your own lawyer to this proceeding. You do not need to have a lawyer.
 - ❖ Do not bring your children with you, if you can help it. The judge probably will not let them sit in the courtroom.
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You will need to let the creditor's lawyer know which of your property is exempt. There is more information on exempt property later in this publication.

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- ❖ **Be ready.** Before you go to court, find out whether you have exempt wages or property. Take all documents and information with you that the order tells you to. Read [How to Claim Personal Property Exemptions](#) and [Money that Cannot be Taken From You to Pay off a Debt](#), available at WashingtonLawHelp.org.
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You may stop the meeting and go back to the courtroom if the lawyer treats you badly.

Examples: The lawyer is rude, asks

questions that do not make sense, or is looking for information not related to your income or property. Tell the judge what is wrong. The judge will try to solve the problem.

You do not have to answer a question if you think the answer would be an admission of a crime, like fraud or theft. If you think this might be the case, ask the judge for time to talk to a lawyer.

You do not have to give the creditor's lawyer any money or property at the supplemental hearing. All you have to do is **provide information** about income and property.

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- ❖ **Do not agree to any voluntary account deductions.** You should not give the creditor's lawyer direct access to any bank accounts. If you have two or more creditors, and you give one creditor authority for an automatic account deduction, you are at risk of getting your wages garnished and money you voluntarily agreed to pay taken from your bank account at the same time.
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You may want to file an exemption claim if your income and property are exempt from garnishment. Use our [How to Claim Personal Property Exemptions](#) packet.

What is “exempt property” and why does it matter?

The law protects – or “exempts” – some income and property from being taken from you to pay for a money judgment. The creditor will not know your property is exempt unless you file an exemption claim.

Some kinds of **income** are exempt, including:

- SSI
- Social Security Disability, Retirement and Survivor benefits
- Veterans Benefits
- TANF benefits
- ABD benefits
- Unemployment compensation benefits
- Child Support you receive
- Federal student loans
- Retirement pensions

Read [Money that Cannot be Taken From You to Pay off a Debt](#) for more about exempt income and property.

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- ❖ Most pensions are exempt from garnishment even after they are sent to you. But some are not. **Do not have pension checks direct deposited into a bank account, if possible.** See if the pension fund can mail pension checks directly to your home.
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IF A CREDITOR TRIES TO TAKE MONEY FROM YOUR BANK ACCOUNT, CALL CLEAR AT 1-888-201-1014 FOR HELP. Also, read [How to Claim Personal Property Exemptions](#) and [Money that Cannot be Taken From You to Pay off a Debt](#), available at [WashingtonLawHelp.org](#).

Some kinds of **property** are also exempt, including:

- **Home.** The **equity** in your home is exempt up to \$125,000. The **equity** is the amount you would keep after you sell your home and pay off the mortgage and other liens. **EXAMPLE:** Your home can sell for \$200,000. You still have a mortgage for \$125,000. You have equity of \$75,000.
- **Wages.** Part of your wages is exempt. We explain below in the garnishment section.
- **Clothing and jewelry up to \$3,500 in value.**
- **Household goods.** Household goods, appliances, furniture, yard equipment, provisions and fuel up to \$6,500.00 in value per person, not to total more than \$13,000 per couple. Car. Equity in your car is exempt up to \$3,250; equity in two cars up to \$6,500 is exempt for a married couple.
- **Cash.** Up to \$2,000 (\$1,500 before 7/28/19) in a bank account for a judgment for consumer debt.

I cannot pay my debt. Will I go to jail?

YOU CANNOT BE SENT TO JAIL BECAUSE YOU CANNOT PAY YOUR DEBTS. You may be sent to jail if you do not show up to court, though.

❖ **WARNING:** Some debt collectors ask the court to issue arrest warrants when debtors do not show up for supplemental proceedings. Do not let this happen to you. If the judgment is for MEDICAL debt, the judge may not issue a warrant if you do not appear for the hearing.

Can the creditor sell my house or my property?

A judgment is an automatic lien on your home. A **lien** on the property means you must pay off the judgment before you sell the property. The creditor cannot make you sell any of your property that is “exempt property.” **EXAMPLE:** If you have more than \$125,000 in equity in a home that you live in, the creditor could force a sale. If you are facing the forced sale of your home, contact CLEAR right away. (See contact information at the end of this publication.)

Can they garnish my wages to pay off my debt?

Yes, in some cases. A creditor can ask your employer to garnish your wages. A creditor can garnish your wages and your bank account at the same time.

[How to Claim Personal Property Exemptions](#) has more on when and how much income can be garnished.

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- ❖ **If possible, do not get your paycheck by direct deposit.** If you deposit your paycheck after your wages have been garnished, a creditor may claim that the funds are no longer exempt as wages and may garnish your bank account. Never give creditors permission to withdraw money from your bank account.
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What does “collection-proof” mean?

It means a creditor has no legal way to collect a debt or judgment that you owe. A creditor can still sue you and win a judgment against you. But a creditor cannot take any of your money or property if you are collection-proof.

Even collection-proof debtors have to answer questions about their property. Failure to do so could result in a bench warrant.

Am I collection-proof?

Yes, if your income and assets are protected from collection (they are all exempt).

You may not be collection-proof forever. Creditors may be able to collect from you in the future. (**Examples:** If you inherit money, re-enter the workforce after a disability, or get a higher-paying job.)

The judgment may become much larger when time passes because interest and fees are added on. A creditor can try to collect on a judgment for up to twenty years after the court ordered it. If your circumstances change (for example, you get a job or the equity in your home increases), contact CLEAR. (See below.) You may have other options, like bankruptcy.

I think I am collection-proof. Do I still have to go to court?

Yes. Answer the lawyer’s questions. Tell him or her about your exemptions. Tell the lawyer you think you are collection-proof. Also tell the lawyer if you think that your finances will not get better for a long time.

Would it help to file for bankruptcy?

In most cases you do not need to file for bankruptcy if you are collection-proof. A creditor cannot take any income or property from you, even if a court has entered a judgment saying you owe money.

However, if you earn more than \$420.00 weekly, you may want to file for bankruptcy if your debts are for credit cards, unpaid rent, or medical expenses. (These are usually dischargeable in bankruptcy.) It would cost much less to file a bankruptcy petition than to have to live with the amount of wages you could lose to garnishment, due to the judgment interest rate and collection fees.

Once you file your bankruptcy petition, creditors are “stayed” or stopped from proceeding with a wage garnishment. If you get a discharge in your bankruptcy, creditors whose claims were discharged are permanently stopped from collecting these debts.

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- ❖ Before filing for bankruptcy, talk to a lawyer. Whether bankruptcy is a good option for you depends on the facts of the case and the amounts of your debts. You can only file for Chapter 7 bankruptcy once every eight years.
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I received a notice of Supplemental Proceedings. Can I get legal advice?

- Apply online with [CLEAR*Online](https://www.clearonline.org)
- nwjustice.org/get-legal-help
or
- Call CLEAR at 1-888-201-1014

CLEAR is Washington’s toll-free, centralized intake, advice and referral service for people with low income seeking free legal assistance with civil legal problems.

- **Outside King County:** Call 1-888-201-1014 weekdays 9:15 a.m. - 12:15 p.m.
- **King County:** Call 211 for info and referral to a legal services provider

weekdays 8:00 am – 6:00 pm. You can also call (206) 461-3200, or toll-free 1-877-211-WASH (9274). You can also get information on King County legal service providers at www.resourcehouse.com/win211/.

- **Persons 60 and Over:** Seniors age 60 or over can call CLEAR*Sr at 1-888-387-7111, regardless of income. Assets limits may apply. King County seniors can call 2-1-1.
- Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 (or toll-free 1-877-211-9274) using the relay service of your choice.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

This information is current as of July 2019.

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