

POST-JUDGMENT INTERROGATORIES DIRECTIONS

If you have received a judgment and do not know what assets the debtor may have, you may file "Post-Judgment Interrogatories." These are statutory questions to help you locate assets. (The forms required for each "step" can be obtained in the Clerk's office or on our web-site at www.magistratefulton.org.)

1. STEP ONE: FILING POST-JUDGMENT INTERROGATORIES

Who to Serve

If the judgment debtor is an individual, you should list this person in the judgment debtor section of the post judgment interrogatory form.

If you are serving a corporate judgment debtor, you should send post judgment interrogatories to a corporate officer who is reasonably likely to be able to answer the interrogatories. This typically is the president or treasurer. The position of "registered agent" is NOT a corporate officer.

The Court cost for filing post judgment interrogatories on a Fulton Magistrate Court case is \$10.00. The clerk serves the judgment debtor by certified mail. For judgments from other courts, the filing fee is \$54.00 dollars with costs for service and is a new case in this Court. To avoid wasting your time, please make reasonably certain that the address for the judgment debtor is still current and correct.

You must file all new cases in the county where the judgment debtor resides. For a corporation, this would be in the county where the corporation has its principal place of business or registered agent. (For corporate information, call 404-656-2817, or Internet, www.sos.state.ga.us/corporations.) You must pay a new filing fee and complete the Entry of Service form. The judgment debtor will be initially served by the Sheriff's Department.

The judgment debtor has thirty (30) days from the date the debtor is served to answer these interrogatories. When you receive complete and truthful written answers to these interrogatories from the debtor, this process is complete. If the debtor fails to answer the questions, or if you have reasonable evidence to believe that the debtor has failed to completely and truthfully answer these interrogatories, go to Step #2.

2. STEP TWO: MOTION TO COMPEL ANSWERS TO POST JUDGMENT INTERROGATORIES

Filing a Motion to Compel Answers to Post Judgment Interrogatories is step two.

The clerk sets a hearing date for this motion. You will be given or mailed notice of this hearing date. A copy of your motion and a notice of the hearing date are served upon the debtor by first class mail by the clerk.

Answers received: If the opposing party sends you complete and truthful written answers, this process is complete. And, you must advise our clerk's office in writing that you have received your answers. (Clerk, Fulton County Magistrate Court, 185 Central Avenue, TG100, Atlanta, GA 30303). If you have notified the clerk in writing, you do not need to attend the hearing as your motion has been withdrawn.

No answers or incomplete answers: You must attend the hearing if the debtor has failed to answer the questions, or if you have reasonable evidence to believe that the debtor has failed to completely and truthfully answer these interrogatories. If the judge finds in your favor, the judge will issue a "Ten Day Order" directing the debtor to file answers (or more complete answers) within ten (10) days. The clerk sends a copy of this order and a blank interrogatory form to the debtor by first class mail.

Failing to attend: If you fail to attend this hearing, your motion to compel answers will be dismissed.

3. STEP THREE: MOTION TO INCARCERATE THE JUDGMENT DEBTOR / CORPORATE OFFICER FOR FAILING TO COMPLY WITH ORDER COMPELLING ANSWERS TO POST JUDGMENT INTERROGATORIES

If the judgment debtor has not responded to the ORDER COMPELLING ANSWERS TO POST JUDGMENT INTERROGATORIES, you will proceed to Step #3. The ten day period begins from the date of mailing by the clerk + 3 days for mail service. Your next step is to file a MOTION TO INCARCERATE JUDGMENT DEBTOR / CORPORATE OFFICER FOR FAILING TO COMPLY WITH ORDER COMPELLING ANSWERS TO POST JUDGMENT INTERROGATORIES. You are seeking to have the judgment debtor / corporate officer held in contempt of court for failing to file answers to post judgment interrogatories within 10 days of the court's order. You must prepare an Entry of Service form also. The debtor must be personally served with notice of this hearing. Make sure you have a correct address for the judgment debtor so that service can be perfected. The clerk sets a hearing date. Notice of this hearing date is either given or mailed to you. The debtor must be served personally. No hearing can be held until personal service is completed. You must provide the server with the correct address for the debtor.

Answers received: If the debtor sends you complete and truthful written answers, this process is complete. Advise the Clerk of Fulton County in writing that you have received your answers. (Clerk, Fulton County Magistrate Court, 185 Central Avenue, TG100, Atlanta, GA 30303). After you have notified the clerk's office in writing, you do not need to attend the hearing as the process is complete and your motion is withdrawn.

No answers or incomplete answers: You must attend the hearing if the debtor has failed to answer the questions, or if you have reasonable evidence to believe that the debtor has failed to completely and truthfully answer these interrogatories. If the judge finds in your favor, the judge may issue an order incarcerating the debtor / corporate officer in the Fulton County jail until such time as the judgment debtor / corporate officer answers the interrogatories. Once the judgment debtor/ corporate officer is jailed, the answers are soon forthcoming. The magistrate on duty determines whether the answers are complete. The judgment debtor remains in jail until the magistrate completes this analysis.

Failing to attend: If you fail to attend this hearing, your motion to incarcerate the judgment debtor will be dismissed.

After the hearing -- Settlement, Payment or Answers received: If the court enters an order incarcerating the judgment debtor, you have an affirmative duty to IMMEDIATELY advise the court, in writing, filed with the clerk, of the following:

- (1) The debtor sends you written answers to interrogatories;
- (2) The civil matter is settled or debt is paid.

The order directing that the judgment debtor be incarcerated remains active until it is canceled by order of this court. Time is of the essence and is critical. You could be personally liable for failing to promptly inform the court.

These instructions apply to the interrogatory process only. Post judgment Interrogatories serve as one information source to use in the collection process. Some debtors are temporarily “judgment proof,” they have no assets, or all the assets are in a family member’s name. There may be very little you can do until those circumstances change.

4. DISPOSSESSORIES & DISTRESS WARRANT JUDGMENTS.

In addition to other remedies, parties seeking to collect judgments in dispossessionary or distress warrant, may utilize the more powerful Civil Practice Act Discovery Law set forth in O.C.G.A. §9-11-69.