

CAO CvPi INSTRUCTION 10-5
INSTRUCTIONS FOR JUDGMENT DEBTOR EXAMINATIONS

If you have been awarded a judgment for money and the defendant has not paid that judgment, you may ask the judge to order the defendant to appear in court and answer questions about any assets that might be applied toward the payment of the judgment. This request must be filed in the same proceeding in which the judgment was entered, using the correct forms available through the Court Assistance Office.

To obtain an order for the examination of a judgment debtor:

Step One. Before you can make this request, you must first request the Clerk of the Court to issue a Writ of Execution which you must give to the Sheriff of the County where the defendant resides, or if the defendant resides outside of Idaho, to the Sheriff of the County where the judgment was entered. The Sheriff is required to contact the defendant for payment of the judgment and to seize any non-exempt assets which might be sold to pay the judgment. Typically, the Sheriff does not receive payment or find assets, and submits a "Return" on the Writ of Execution stating he has attempted execution, but did not receive anything, or enough to satisfy the judgment. Once the Writ of Execution is returned unsatisfied, in whole or in part, you may file the request to have the defendant examined to help locate assets upon which the Sheriff can execute.

Step Two. Obtain and complete the correct court assistance forms. These forms can be obtained from your local court assistance officer, or the Supreme Court's Self-Help Center at <http://www.courtselfhelp.idaho.gov/>. The forms you will need are:

CAO CvPi 10-5 Motion and Affidavit for Examination of Judgment Debtor
CAO CvPi 10-6 Order on Motion for Examination of Judgment Debtor

- Complete the forms listed above by typing or neatly and legibly printing in black ink. Fill in your full current name, address, and telephone number on the lines provided at the left-hand corner of page 1 of each form. Fill in the judicial district and your county in the heading in capital letters (for example, "IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT IN AND FOR THE COUNTY OF LATAH"). Fill in the name of the plaintiff and the defendant in the caption just as they appear in the judgment.
- Fill in the information required in the Motion. Sign and date the Motion before a notary public, swearing or affirming the information in the Motion is true.
- Complete the Order on Motion for Examination of Judgment debtor in the same way. You must make sure the lower portion of the Order is completed. This includes the defendant's correct name and the date, time, and location the defendant must appear. You will receive this information from the Court Clerk when you file the Motion if the defendant lives in the county where the judgment was entered. If the defendant lives in a different county, the examination must take place in that county. You must contact the Clerk of the Court in that county to obtain a date, time and location for the defendant to appear, then insert that information into the Order submitted with the Motion.

Step Three. Serve the Motion and Order on the judgment debtor. Once the Motion is filed with the Clerk of the Court and the Order is signed by the judge, those documents must be personally served on the defendant. Instructions on the proper way to personally serve court documents can be obtained from your local court assistance office. While you can have an

adult over the age of 18, not a party to the lawsuit, personally serve these documents, it is recommended you request the Sheriff of the county where the defendant resides to complete service to ensure it is done properly.

Step Four. Attend the hearing. You must travel to the county where the defendant resides to conduct the examination. Judgment debtor examinations may be handled differently by different judges. But you must be prepared to ask direct and relevant questions about the defendant's assets to obtain the information you need to direct the Sheriff to seize specific assets to satisfy the judgment.

As with any legal proceeding, this process may be complicated, and issues may arise which you will not have the legal knowledge to understand or be able to properly respond. It is always best to have an attorney represent you to ensure you are fully informed and your rights in court are protected.