

I Got A Notice Telling Me To Appear At A “Proceedings Supplemental.” What Does That Mean?

If you get a notice ordering you to appear at a Proceedings Supplemental (also called an “Order to Appear and Answer” or a “Proceedings Supplementary”) it means you were sued and you already have a judgment against you. Now the creditor wants to collect the money you owe.

A Proceedings Supplemental is a court-ordered meeting between you and the creditor (the person you owe) to determine what your income, savings and property are. Your bank or employer may also have to give information to the creditor and the court. The purpose of a Proceedings Supplemental is to decide how you will pay the judgment. You can make arrangements to pay the creditor, your property can be sold, or your wages can be garnished *unless you are judgment proof*.

What Does “Judgment Proof” Mean?

If your assets are less than the above exempt amounts and your take-home pay is less than \$154.50 per week, you are judgment proof. This means that the creditor cannot collect from you at this time. The creditor may summon you to court from time to time during the first ten years after the judgment to see if you have any more income or property. After ten years, the creditor must get court approval to continue collection efforts on the judgment.

Do I Have To Go To The Proceedings Supplemental?

Yes. If you don’t go, you may be found in contempt of court and a “body attachment” (like an arrest warrant) can be issued. Also, you need to go so you can answer questions at the hearing regarding your income and property AND to tell

the court what exemptions you are entitled to claim, so that your creditor cannot take those items.

What Will Happen During The Proceedings Supplemental?

The creditor and/or the court will ask you questions about your income and what property you own. You can try to work out a payment arrangement with the creditor. Before you agree to make payments, you should make sure you understand what a creditor can and cannot do to get his or her money.

You cannot be sent to jail because you cannot pay your debt.

Can The Creditor Make Me Sell My House Or My Property?

If you own real property, a judgment is automatically a lien on your real estate. This means that before you sell the property, you will have to pay off the judgment. The creditor can also ask the court to sell some of your property. However, the creditor can’t ask to sell any of your property that is “exempt property.” “Exempt property” is protected from creditors and cannot be taken, YOU have to tell the court what property you believe is exempt.

What Are The Exemptions?

The basic exemptions are:

- \$7,500 for a house or mobile home if you are single
- \$15,000 for a house or mobile home if you are married and both spouses owe the creditor (if only one spouse owes, the property cannot be touched).

- \$4,000 for other real estate and personal property (furniture, cars, household goods, cash, electronics, and jewelry).
- \$100 in bank accounts, stocks and bonds.
- All health aids.
- Interests in some pension or retirement funds.

The total value of all property that can be exempted is \$10,000 for a single person and \$20,000 for a married couple. The creditor can ask the court to order your property to be sold if the equity value is more than your exemptions. Equity is the value of the property minus the amount that you owe for it.

YOU ARE ENTITLED TO THESE EXEMPTIONS, BUT YOU MUST ASK FOR THEM WHEN YOU GO TO COURT.

Can The Creditor Take My Paycheck?

If your wages are more than a certain amount, the creditor may ask the Court to garnish your wages. Garnishment is a court order to your employer telling him or her to take out some of your wages, and pay it directly to the court for the creditor.

Your wages can be garnished only if there is a judgment against you AND your weekly take-home pay is more than \$154.50. This figure is based on 30 times the minimum wage (30 x \$5.15) and is subject to change if the minimum wage changes. If your weekly take-home pay is more than \$154.50 per week, the court will use two formulas to determine how much of your check can be garnished. The court will order your employer to take out the **lesser** of:

1. 25% of one week's take-home earnings;
or
2. The total amount by which a week's take-home earnings is more than \$154.50 (30 x minimum wage).

For example, if your take-home pay is \$300 the court could garnish the **lesser** of:

1. $25\% \times \$300 = \75 or
2. $\$300 - \$154.40 = \$145.50$

So the court could order up to \$75 to be garnished from your weekly check.

NOTE: Different rules apply if you owe child support or if you owe money to the government for taxes or student loans. Contact an attorney if you have these debts to see what can be taken.

Can The Creditor Take My Governmental Benefits, Like Social Security?

Most governmental benefits, like TANF, unemployment compensation, and veteran's benefits, CANNOT be garnished. Generally, Social Security benefits CANNOT be taken to pay debts. SSI can never be taken to pay any debt. SSD CANNOT be taken by private creditors (such as credit card companies or landlords). There are a few times SSD can be taken for debts owed to the government (student loan debts, food stamp overpayments) and for past due child support. There are limits to how much SSD can be taken for these debts. If a creditor tries to take your SSD, you should contact an attorney.

Can More Than One Creditor Take Money From My Paycheck At One Time?

It is possible to have more than one garnishment taken out at a time. However, the limits on the amount of garnishment still apply. If one creditor is garnishing the maximum allowed by law, other creditors cannot garnish your income until the first creditor has been paid.

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ILS Office Contact Numbers	
<p>Bloomington: (812) 339-7668 1-800-822-4774</p>	<p>Hammond: (219) 853-2360</p>
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PROCEEDINGS SUPPLEMENTAL: WHAT CAN A CREDITOR TAKE FROM ME?

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WWW.INDIANAJUSTICE.ORG