

EXECUTION ON A JUDGMENT

JUDGMENT AGAINST AN INDIVIDUAL

The procedure on execution shall be in accordance with the practice and procedure of the state in which the district court is held (Rule 69(a) F.R.C.P.). A judgment creditor may file a pre-execution demand after ten (10) days from the entry of the judgment.

The pre-execution demand consists of:

1. NOTICE OF RIGHT TO HAVE EXEMPTIONS DESIGNATED.
2. SCHEDULE OF DEBTOR'S PROPERTY AND REQUEST TO SET ASIDE EXEMPT PROPERTY.
3. MOTION TO CLAIM EXEMPT PROPERTY (Constitutional Exemptions).

The three (3) documents as set out above are to be served on the judgment debtor. The judgment creditor prepares the forms to be submitted with an extra copy of each to the Clerk of Court. The Clerk will issue the Notice of right to set off debtor's exempt property, file-stamp the original notice which will be retained in the court's case file. Copies of this notice will be returned to the judgment creditor for service on the judgment debtor along with 1) Schedule Of Debtor's Property & Request To Set Aside Exempt Property and 2) Motion to Claim Exempt Property forms.

SCHEDULE OF PROPERTY/REQUEST TO SET ASIDE EXEMPT PROPERTY FILED:

The judgment debtor has twenty (20) days to file either form, an executed Schedule Of Property & Request To Set Aside Exempt Property or the Motion to Claim Exempt Property. The Schedule or Motion will be forwarded to a Magistrate Judge for consideration and entry of an order thereon.

After exemptions, if any, are designated by the Magistrate Judge, the judgment creditor may proceed with a Writ of Execution. The Writ should be submitted to the Clerk for issuance.

The issued Writ of Execution should be accompanied by:

- Two (2) certified copies of the judgment.
- Two (2) certified copies of the order designating exemptions.
- Original and one copy of the issued Writ of Execution form.
- Completed U.S. Marshals Service Form USM-285.

This package will be returned to the judgment creditor to make arrangements with the United States Marshal's Office for execution of the property.

FAILURE TO FILE SCHEDULE OF PROPERTY/REQUEST TO SET ASIDE EXEMPT PROPERTY OR MOTION TO CLAIM EXEMPT PROPERTY:

In the event a judgment debtor fails to file the schedule or motion within the time prescribed, the judgment creditor should submit for filing the following:

1. MOTION FOR FINAL EXECUTION AND ORDER TO PRECLUDE EXEMPT PROPERTY RIGHTS.
2. PROPOSED FORM OF ORDER FOR FINAL EXECUTION AND PRECLUSION OF EXEMPT PROPERTY.

After execution of the Order, the judgment creditor may submit the Writ of Execution to be issued by the Clerk.

The issued Writ of Execution should be accompanied by:

- Two (2) certified copies of the judgment.
- Two (2) certified copies of the Order for Final Execution and Preclusion of Exempt Property.
- Original and one copy of the issued Writ of Execution form.
- Completed U.S. Marshals Service Form USM-285.

This package will be returned to the judgment creditor to make arrangements with the United States Marshal's Office for execution of the property.

JUDGMENT AGAINST A CORPORATION

If a judgment is to be executed in this district, the judgment creditor may proceed with a Writ of Execution ten (10) days after the judgment is entered. The proposed Writ of Execution form should be submitted for issuance to the Clerk of Court. The Writ should be accompanied by the following:

- Two (2) certified copies of the judgment.
- Original and one copy of the issued Writ of Execution form.
- Completed U.S. Marshals Service Form USM-285.

This package will be returned to the judgment creditor to make arrangements with the United States Marshal's Office for execution of the property.

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

File No.

Name And Address Of Plaintiff

WRIT OF EXECUTION

VERSUS

G.S. 1-313(1); 1C, Art. 16

Name And Address Of Defendant 1

Name And Address Of Defendant 2

To The United States Marshal:

Judgment in favor of the _____ was rendered in this case against the _____. By terms of that judgment the following sums are now due:

Principal Due As Of Today.....

\$ _____

Plus Dollar Amount Of Interest Due As Of Today.....

\$ _____

Plus Court Cost Due As Of Today.....

\$ _____

Plus Other.....

\$ _____

Total Due As Of Today.....

\$ _____

Plus, interest on the principal at the rate set out below shall be due from the date shown below. U.S. Marshal's fee occasioned by this writ, see 28 U.S. C. Section 1921. Post-judgment interest is computed on the principal at the legal rate from the date shown below:

Date From Which Interest Due	Date Of Judgment	County To Which Issued	File No.
Rate Of Interest	Contract Rate Legal Rate	Daily Interest Rate	Date And Time Of Docketing

You are commanded to satisfy the judgment:

out of the personal property of the defendant, and if sufficient personal property cannot be found, then out of the real property belonging to the defendant on the day the judgment was entered on the docket of this court as shown above or any time after that date.

except as to property of the defendant set off as exempt (a list of which is attached) out of the personal property of the defendant within your district, and if sufficient personal property cannot be found, then out of the real property belonging to the defendant on the day the judgment was docketed in this court as shown above or any time after that date.

Additional Order For Satisfying Judgment

This Writ Must Be Returned Within 90 Days After Date of Issue.

Date Issued

Name And Address Of Creditor's Attorney

Signature

Deputy Clerk

(Over)

RETURN OF EXECUTION

This Writ Of Execution was served as follows:

by collecting the amount owed.

by levying on and selling the property of the defendant described below and returning to the court the balance shown below.

<i>Date Of Levy</i>	<i>Description Of Property Levied On And Sold</i>

<i>Total Sum Collected</i>	<i>Amount Retained As Commission</i>	<i>Amount Retained For Expenses</i>	<i>Balance Returned</i>
\$	\$	\$	\$

I did not serve this Writ Of Execution because:

I did not locate property on which to levy.

Other: *(specify)*

<i>Service Fee Paid</i>	<i>Date Received</i>	<i>Name of U.S. Marshal</i>
\$		
<i>Paid By</i>	<i>Date Executed</i>	<i>County</i>
	<i>Date Of Return</i>	<i>U.S. Deputy Marshal Making Return</i>