

INSTRUCTIONS: HOW TO REQUEST RELEASE OF FUNDS TO CREDITOR

Money seized under a Writ of Execution and held by the court cannot ordinarily be released to you (the creditor) until the court receives proof that the debtor has been served with notice of the levy (seizure) and notice of the debtor's right to claim exemptions.

If the court is holding such money in your case and you have not been able to show proof that the debtor has received these notices, Civil Rule 69(g)(5)(B) describes a method you can use to ask the court to release the funds to you. You may file a request for release of funds and an affidavit of diligent inquiry explaining what you have done to serve the debtor. If the judge decides you have made enough effort to notify the debtor, the judge may order the money released to you.

1. Ask the clerk's office for the following two forms:

CIV-546, *REQUEST TO RELEASE FUNDS TO CREDITOR*

CIV-547, *JUDGMENT CREDITOR'S AFFIDAVIT OF DILIGENT INQUIRY*

2. CIV-546. REQUEST

Fill out the caption at the top of the form (court location, plaintiff and defendant names and case number). Then, fill in the Request section (the first paragraph of the form) and date and sign it. Do not fill in the Order section.

3. CIV-547. AFFIDAVIT

Fill out the caption at the top of the form and everything else on the form. Your signature at the bottom of the form must be notarized because the statements you make in the affidavit must be made under oath. A court clerk can notarize your affidavit for you at no charge.

In section 3 of the form, you must explain the efforts you have made to serve the debtor. You must mail the packet both by certified mail and separately by first class mail. You may also arrange for personal service by process server.

In section 4 you will identify additional efforts you made to locate the debtor. Civil Rule 69(g)(5)(B) requires that you diligently inquire as to the debtor's whereabouts. You must explain to the court what you have done to satisfy this requirement. In completing section 4, check only those boxes that apply to your efforts.

For more information about how to do the searches listed in the boxes on the *Judgment Creditor's Affidavit of Diligent Inquiry*, see the *Judgment Creditor's Booklet*.