

**United States District Court
District of Utah**



Writ of Execution Packet

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**United States District Court
District of Utah**

Writ of Execution Procedures

A writ of execution is a post-judgment remedy to enforce a judgment for the payment of money in a civil case. Under the Federal Rules of Procedure (FRCP Rule 69) the process for obtaining a writ of execution is governed by the practices and procedures of the state in which the district court is located. Rule 64E of the Utah Rules of Civil Procedure outlines the procedure for obtaining this writ. There is no filing fee for a writ of execution.

In order for a writ of execution to be issued, certain requirements must be met. The conditions for this writ are: (1) the judgment finalized the case as it related to all parties, (2) 10 business days have lapsed since the entry of the judgment, (3) no stay or satisfaction of judgment has been filed. (If the judgment creditor has died, the writ of execution may be issued upon the affidavit of an authorized administrator, executor or a successor in interest.)

An application for writ of execution must be completed and filed with the clerk's office if these conditions have been met and the judgment creditor wishes to enforce the judgment with this writ. The application must contain (1) the amount of the judgment and the amount due on the judgment or order, (2) the nature, location, and estimated value of the property to be sold or delivered, (3) the name and address of any person known to the plaintiff to claim an interest in the property. (Form attached)

The writ must be completed and submitted to the clerk's office for issuance. Reference to the writ being issued out of the United States District Court, District of Utah must be on the writ. The clerk will issue the original writ and maintain a copy for the court's records. The United States Marshal's office will not serve writs of this kind. Service will need to be carried out by a constable.

The writ must be served with a Notice of Execution, Exemptions and Right to a Hearing form, and two (2) Requests for Hearing, each enclosed within this packet. This is to notify the judgment debtor that he/she must reply to the writ within 10 days of service and request a hearing on the execution. An officer may proceed with the sale or delivery of property if no reply is filed.

If the debtor does request a hearing the court will hold an evidentiary hearing to determine the appropriateness of the writ and if the property subject to the writ is exempt from seizure. If the court decides the writ was incorrectly obtained then it will order the seizing officer to release the property. But if the writ is found to be properly issued and the property is not exempt, then the court can enter an order instructing the officer to sell or deliver the property. No sale of property may take place until the court has ruled on the issues before it at the hearing. A notice of a rescheduled sale must be given if the date of the sale has passed. The remaining amounts for post-judgment costs, interest and cost of service for the writ are to be taxed as costs when the amounts on the writ of execution have been paid.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

_____ DIVISION

Plaintiff,

vs.

Defendant,

*
* **APPLICATION FOR**
* **WRIT OF EXECUTION**
*
*
* **Case No.**
*
*
*
*

The Plaintiff hereby applies for a writ of execution on the following grounds:

1. That judgment has been entered in the above-cited action requiring the payment of money in the amount of \$_____. The amount that remains due on the judgment is \$_____.
2. That the property to be seized consists of :

(If known, list the nature, location, account number and estimated value of the property)

held by:

(List name, address and phone number of the person holding the property)

3. That the following persons are known to claim an interest in property:

DATED this ____ day of _____, 20____.

Plaintiff/Attorney for Plaintiff

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

**NOTICE OF EXECUTION, EXEMPTIONS, AND
RIGHT TO A HEARING**

PLEASE READ THIS NOTICE CAREFULLY
YOUR PROPERTY, BENEFITS, OR INCOME MAY BE TAKEN
TO PAY A CREDITOR

The attached *Writ of Execution* has been issued by this Court at the request of a judgment creditor (the Plaintiff) who sued you and got a judgment against you. This means that land or personal property owned by you may be taken by the Plaintiff to pay the judgment against you.

The law provides that certain property cannot be taken to pay judgments. Such property is said to be exempt. The following is a partial list of property that is or may be exempt.

1. A homestead whose value does not exceed the amount allowed under the law. (See Section 78-23-4 of the Utah Code, Annotated regarding the proper procedure to declare and file a homestead)
2. A motor vehicle used in trade or business up to the amount allowed by law
3. Tools of the trade up to the amount allowed by law
4. Social Security Benefits
5. Supplemental Security Income Benefits (SSI)
6. Veteran's Benefits
7. Unemployment Benefits
8. Worker's Compensation Benefits
7. Public Assistance (Welfare)
8. Alimony and/or Child Support
11. Certain Pensions
12. Part or all of the wages or other earnings from personal services
13. Certain household furnishings and appliances,
14. Certain musical instruments
15. Certain heirlooms

This is a **partial list** and other various property exemptions may be available under federal law or the Utah Exemption Statute (Section 78-23 of the Utah Code) for other possible exemptions.

There is no exemption solely because you are having difficulty paying your debts.

The above exemptions may not apply to judgments for alimony, support, or maintenance or to state or local taxes or to allowable claims listed in Utah Code Ann. Section 78-23-10.

If there is a co-owner of the property taken, you or the co-owner should request a hearing.

IF THE PROPERTY DOES NOT BELONG TO YOU, OR IF YOU ARE AWARE OF OTHER REASONS WHY THIS PROPERTY SHOULD NOT BE TAKEN, YOU OR THE OWNER OF THE PROPERTY MAY WANT TO CONSULT AN ATTORNEY.

Because of the execution, the sheriff or constable has seized your property and will deliver it to the Plaintiff or sell it.

If you believe that the Writ of Execution was issued improperly or you are entitled to an exemption, DO THE FOLLOWING IMMEDIATELY. You have a deadline of ten(10) days from the date the Plaintiff mailed or delivered this notice to you.

1. Check the appropriate box(es) in paragraph one of the attached "Request for a Hearing."
2. Sign your name in the space indicated and write the address where the Court Clerk is to notify you of the hearing.
3. Mail or take the "Request for Hearing" to the Court Clerk and to the Plaintiff or the Plaintiff's attorney within ten (10) days from the date this notice was mailed or delivered to you. Keep a copy for your records. The Court will set the matter for hearing and notify you. You have the right to a hearing within ten (10) days from the date the Court Clerk receives your claim. At the hearing in Court, you will have to prove that your property is exempt or the Writ of Execution was not properly issued. You should bring any documents which may help to prove your claim.

A KNOWINGLY MADE FALSE STATEMENT ON THE FORM MAY SUBJECT YOU TO CRIMINAL PENALTIES.

You may want to consult an attorney for advice or assistance concerning the hearing. If you do not come to Court at the designated time and prove that the execution was issued improperly or that your property is exempt, you may lose some of your rights.

If you do not request a hearing within the time specified above, but believe that the execution was issued improperly or that you are entitled to an exemption, you should consult an attorney.

2. Complete this paragraph if you believe the Writ of Execution was improperly issued:

() I believe that the writ of execution was issued improperly. (Explain)

() I claim ownership of all or part of the property taken and I am not one of the persons against whom a judgment has been entered.

() I do not own the property taken.

I REQUEST THAT THIS MATTER BE SET FOR A HEARING.

THE STATEMENTS MADE IN THIS REQUEST ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Dated this ___ day of _____, 20__

Signature

Name (printed or typed)

Mailing Address

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - _____ DIVISION**

	:	
Plaintiff	:	REQUEST FOR HEARING
vs.	:	
Defendant	:	Civil No. _____
	:	

1. Complete this paragraph if you claim the property executed upon is exempt:

(a) The property which has been executed upon is exempt from execution because it is (Check the applicable box or boxes):

- Homestead up to the amount allowed by law
- A motor vehicle used in my trade or business and having a value below that allowed by law
- Tools of the trade
- Social Security Benefits
- Supplemental Security Income (SSI)
- Veterans' Benefits
- Unemployment Benefits
- Worker's Compensation
- Public Assistance (Welfare)
- Alimony or Child Support
- Pensions
- Wages or other earnings from personal services
- Owned by another person
- Only partly owned by me
- Certain tools of the trade below the value allowed by law
- Certain furniture and appliances
- Certain musical instruments
- Certain heirlooms
- Other (describe): _____

(b) Check if applicable: I have attached copies of the documents that show my property is exempt.

2. Complete this paragraph if you believe the Writ of Execution was improperly issued:

() I believe that the writ of execution was issued improperly. (Explain)

() I claim ownership of all or part of the property taken and I am not one of the persons against whom a judgment has been entered.

() I do not own the property taken.

I REQUEST THAT THIS MATTER BE SET FOR A HEARING.

THE STATEMENTS MADE IN THIS REQUEST ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Dated this ___ day of _____, 20__

Signature

Name (printed or typed)

Mailing Address

WRIT OF EXECUTION

United States District Court	DISTRICT _____
TO THE MARSHAL OF:	
YOU ARE HEREBY COMMANDED, that of the goods and chattels, lands and tenements in your district belonging to:	
NAME	
you cause to be made and levied as well a certain debt of:	
DOLLAR AMOUNT	DOLLAR AMOUNT
and	
in the United States District Court for the _____ District of _____, before the Judge of the said Court by the consideration of the same Judge lately recovered against the said,	
and also the costs that may accrue under this writ. And that you have above listed moneys at the place and date listed below; and that you bring this writ with you.	
PLACE	DISTRICT
CITY	DATE
Witness the Honorable _____ (United States Judge)	
DATE	CLERK OF COURT
	(BY) DEPUTY CLERK
RETURN	
DATE RECEIVED	DATE OF EXECUTION OF WRIT
This writ was received and executed.	
U.S. MARSHAL	(BY) DEPT MARSHAL