



DRAFT.

This is for information and instruction. Do not file it.

# HOW TO DO A CITATION TO DISCOVER ASSETS TO A THIRD PARTY RESPONDENT



This form is not meant to be used for bank accounts or wage garnishment. **There are separate forms for the debtor's bank or employer.** You can find those forms at [ilcourts.info/collections-forms](http://ilcourts.info/collections-forms).

## 1

### FILL OUT AND FILE YOUR FORM.

A *Citation to Discover Assets to a Third Party Respondent* is a form that tells a third party to answer questions in court about a debtor's income or property. This form instructs a third party not to transfer any property of the debtor until a further order of the court. A third party is a person or a business entity that is not the debtor.

Anyone who won a money judgment against a person or business can file a *Citation to Discover Assets to a Third Party Respondent* to try to collect the money.

After you fill out the form, file it with the Circuit Clerk in the county where your case took place.

**Use these forms:**

- *Citation to Discover Assets to a Third Party Respondent*

## 2

### SEND A COPY OF YOUR FORM TO THE RESPONDENT AND THE DEBTOR.

After you file your form, you must notify the third party by having the form delivered to them. This is called "serving" the third party. You cannot serve this form yourself. You can give your form to the sheriff or private process server to serve the third party or mail the form. If you mail the form, you should use certified or registered mail, return receipt required.

You must also mail a copy of the form to the debtor. You can do this by regular first-class mail within 3 days after the third party has been served.

**Use these forms:**

- *Letter to the Sheriff (optional)*

OR

- *Letter to the Process Server (optional)*

## 3

### PREPARE AND GO TO YOUR COURT DATE.

Your court date may be in person, by phone, or by video.

Make notes for yourself about what you want to say to the judge. Bring any additional documents needed.

After court is over, you should send a copy of the court's order to the respondent.

Laws covering these forms: [735 ILCS 5/2-1402](#), Illinois Supreme Court Rule [277](#)



This packet is not legal advice. It provides general instructions on how to use these forms in your court case. It cannot and does not try to cover everything that might happen in your court case. Your use of the forms does not guarantee you will be successful in court.

How a judge handles a case can vary from county to county. **Your county may have special requirements that are not covered in these instructions.** Ask the Circuit Clerk's office if your county has local rules and, if so, where you can get a copy.



# STEP 1

## FILL OUT AND FILE YOUR FORM.

# ARE THESE FORMS FOR ME?

A *Citation to Discover Assets to a Third Party Respondent* can be used to find out if a person or business has property or information about the debtor's income or property. This information could be used to help get the judgment paid.

Do **not** use this form when:

- The judgment is for unpaid child support or maintenance.
- **You are seeking wage garnishment or bank garnishment. There are separate forms for the debtor's bank or employer.** You can find those forms at [ilcourts.info/collections-forms](http://ilcourts.info/collections-forms).

You may **use this form when**:

- You have a money judgment and are seeking information about the debtor's income or property from a person or business you think has property or information about the debtor's income or property.
- The person or business lives in or does business in Illinois.

**Forms required:**

- ***Citation to Discover Assets to a Third Party Respondent***: this form tells a person or business to come to court to answer questions about a debtor's property and income.

**Optional forms:**

- *Letter to Sheriff*: a letter that tells the sheriff the address of the third party to serve.
- *Letter to the Process Server*: a letter that tells the process server the address of the third party to serve.

You can find all of the statewide forms online at [ilcourts.info/forms](http://ilcourts.info/forms).

# IMPORTANT INFORMATION

**What is a *Citation to Discover Assets to a Third Party Respondent*?**

- A *Citation to Discover Assets to a Third Party Respondent* is a form asking a person or business if they have knowledge about a debtor's income or property.
  - The person who won the judgment is called the "creditor."
  - The person who owes the money is called the "debtor."
  - The third party is called the "respondent."

**Who can file a *Citation to Discover Assets to a Third Party Respondent*?**

- Anyone who has won a money judgment against a person or business can file a *Citation to Discover Assets to a Third Party Respondent* to try to collect the money.
- Using the *Citation*, the creditor can try to get the debtor's property or income to pay the judgment. However, some property or income may be protected by law.

**What if my judgment is over 7 years old?**

- If your judgment is over 7 years old, reach out to an attorney or legal aid provider.
- For more information about renewing (reviving) judgments, read here: [ilao.info/debt-judgment-coll-faq](http://ilao.info/debt-judgment-coll-faq).

## How do I calculate judgment interest?

- For more information about calculating judgment interest, read here: [ilao.info/prot-prop-from-debt-coll](http://ilao.info/prot-prop-from-debt-coll).



# COSTS AND FEES

There may be costs and fees to take part in a court case. This might include fees for filing court documents. Some case types have no fee for filing. Depending on the type of court case, there may be other costs and fees charged – for example, sheriff’s fees for serving documents on the other people in the case. If you cannot afford to pay costs and fees, you can ask the court to file for free or at a reduced cost by filing an *Application for Waiver of Court Fees*.

This is a separate form you can find at [ilcourts.info/fee-waiver-forms](http://ilcourts.info/fee-waiver-forms).



For more information about going to court, including how to fill out and file forms, **call or text Illinois Court Help** at 833-411-1121 or go to [ilcourthelp.gov](http://ilcourthelp.gov).

If there are any words or terms used in these instructions that you do not understand, please **visit Illinois Legal Aid Online** at [ilao.info/glossary](http://ilao.info/glossary). You may also find more information, resources, and the location of your local legal self-help center at [ilao.info/lshc-directory](http://ilao.info/lshc-directory).



# HOW TO FILE THE FORMS



## E-Filing

- After you fill out your court forms, file them with the Circuit Clerk. This is done by electronic filing, called “e-filing.” You do not have to e-file if:
  - You qualify for an exemption (see the Not E-filing section below) or
  - Your case involves a criminal matter or is filed under the Juvenile Court Act of 1987.
- There may be fees to file your forms. See the Costs & Fees section for more information.
- Most people e-file their forms using Odyssey eFileIL at [ilcourts.info/efile](http://ilcourts.info/efile).
- Follow step-by-step instructions and watch videos that walk you through the steps for e-filing at [ilcourts.info/efile-info](http://ilcourts.info/efile-info).
- E-filing is easier on a computer. It may not work on a cell phone or tablet.
- Original wills may not be e-filed.
- If you do not have access to a computer or if you need help e-filing, take your completed forms to a public library or a Circuit Clerk, Appellate Clerk, or Supreme Court Clerk’s office. These places offer public computers where you can e-file your forms.
  - Your courthouse may offer public computers with a scanner where you can turn your paper forms into electronic files.
  - Librarians and courthouse staff may be able to help you e-file, but they cannot provide legal advice.



## Not E-Filing

- Some people are not required to e-file, which means they can file paper forms at the courthouse or by mail. People who do not have to e-file are:
  - Inmates in prison or jail who do not have a lawyer.
  - People with a disability that keeps them from e-filing.
- You may also qualify for an exemption from e-filing if you:
  - Do not have internet or computer access in your home or can't meaningfully use it.
  - Do not have an email account.
  - Do not have a credit card, debit card, or bank account.
  - Have trouble reading, writing, or speaking English.
  - Tried to e-file your forms, but you were not able to because the equipment or help you needed was not available.
  - Are filing an emergency case as allowed by local rule or order.
- To ask for an exemption from e-filing, use the form at [ilcourts.info/exempt](http://ilcourts.info/exempt). If you cannot print this form, then ask for it at your local courthouse.
  - File your *Certification for Exemption from E-Filing* form along with your other court forms at the Circuit Clerk's office or by mail.
  - Bring or send your signed court forms and at least two copies of your forms to the Circuit Clerk's office. Ask them to stamp your copies and return them to you.
  - If you need to make copies of your forms, you can do that at the Circuit Clerk's office. They may charge you a fee to make copies.
- There may be fees to file your forms. See the Costs & Fees section for more information.
- If you mail your court forms to the Circuit Clerk's office, include a stamped envelope addressed to you. The Circuit Clerk will file your forms and then send your copies back to you in the envelope.



## WHAT'S NEXT



### STEP 2

### SEND A COPY OF YOUR FORM TO THE OTHER PARTY.

#### Who do I serve the *Citation* on?

- You must use the respondent's correct legal name. You may call the respondent and ask them their correct legal name. You may even ask where they prefer legal papers to be delivered. Do not tell them the name of your debtor.
- If the respondent is a person, you serve that person.
- If the respondent is a company, you serve an officer or registered agent of the company.
  - You can use the Secretary of State's website to find the officer or registered agent: [ilsos.gov/corporatellc/](http://ilsos.gov/corporatellc/).
- **Note:** You cannot use this form if the respondent does not live in or do business in Illinois.

### **Serve the Respondent a Copy of Your Form.**

- The *Citation to Discover Assets to a Third Party Respondent* must be served on the respondent. The judge will have no power to order the respondent to do anything if you do not serve the *Citation to Discover Assets to a Third Party Respondent*.
- You can use the sheriff, a private process server, certified mail, or anyone over the age of 18 who is not a party to the lawsuit to serve the respondent with the *Citation*.
  - **You cannot give the *Citation* to the respondent yourself.**
- The sheriff or the private process server will need the original *Citation* and 2 file-stamped copies.
- **If you use the sheriff to serve the respondent:**
  - Contact the sheriff's office in the county where the respondent is for more information about how to serve the *Citation* on the respondent.
  - If the sheriff wants the *Citation* in person:
    - Bring the file-stamped copies of your *Citation* to the sheriff's office.
    - Pay the sheriff's fees OR give the sheriff a copy of your *Order for Waiver of Court Fees* (if you have one) to not be charged a fee.
  - If the sheriff wants you to mail the *Citation* to the sheriff's office:
    - Mail copies of your *Citation* to the sheriff's office.
    - Include the *Letter to the Sheriff* found at [ilcourts.info/forms](http://ilcourts.info/forms).
    - Pay the sheriff's fees for each party OR mail the sheriff a copy of your *Order for Waiver of Court Fees* (if you have one) to not be charged a fee.
- **If you use a private process server to serve the respondent:**
  - You may also have the forms served by a private process server. Private process servers do not accept fee waivers.
- **If you use anyone over the age of 18 and not a party to the lawsuit:**
  - The person you use must be able to fill out a Proof of Service and send a copy of the *Citation* to the debtor within 3 business days after serving the forms.
  - You must not serve the *Citation* yourself.
- **If you use Certified Mail to serve the respondent:**
  - The *Citation* may also be served by Certified Mail, restricted delivery, return receipt requested.

### **Mail a Copy of the Form to the Debtor.**

- The person serving the *Citation* must send a copy to the debtor by first-class mail within three days of serving the respondent. If you use certified mail, you may mail it to the debtor at the same time.

### **Contact the sheriff or private process server to confirm they served your forms on the respondent.**

- Before court, you should check on whether the respondent was served. This is called the Proof of Service. You may be able to check this online. Find your local Circuit Clerk's website at: [ilcourts.info/clerks](http://ilcourts.info/clerks).
- If the respondent was served, make sure the Proof of Service is filed with the Circuit Clerk. You may have to file it yourself. The judge cannot do anything if the *Citation* is not served.
- If you sent the *Citation* by certified mail, you must have the green receipt card to prove that the respondent was served. Attach the green card to the original *Citation* and bring it to court. The clerk will put it into the court file.
- If the Proof of Service says "no service," this means that the sheriff's deputy tried to find the respondent but could not serve them. If this happens, you must start over. The fee is less on the second attempt.

- The second attempt is called an “alias” citation.
- **NOTE:** You should review the Proof of Service. If it says the respondent moved or is not located at the address you wrote down, you should find a new address for the respondent before seeking an “alias” citation.



## STEP 3

### PREPARE AND GO TO YOUR COURT DATE.



#### Make sure you know how to attend your court date.

Your court date could be in person, by phone, or by video. If it is by phone or video, it is called a “Remote Appearance.” Call the Circuit Clerk or visit their website for more information. To find the phone number for your Circuit Clerk, visit [ilcourts.info/clerks](http://ilcourts.info/clerks).

## Attend Your Court Date

### Your court date could be in person, by phone or by video.

- If your court date is in person:
  - Get to the courthouse at least 30 minutes early so you have enough time to get through security.
  - Go to the courtroom number listed on your court form.
  - If your forms do not have a courtroom number, look for a list of cases at the courthouse or ask someone at the Circuit Clerk’s office.
  - Check in with the courtroom staff and wait for your name and case number to be called.
- If your court date is by phone or video:
  - Make sure to have the call-in or login information for your court date and make sure your technology is working.
  - Follow the instructions on the court notice you received. Call the Circuit Clerk or Circuit Court, or visit their websites for specific technology instructions.
  - Start trying to log-in to your courtroom at least 15 minutes before the start time in case you have any problems with technology.
  - Follow these tips to attend court by phone or video: [ilcourts.info/remote-resources](http://ilcourts.info/remote-resources).
- When your case is called, introduce yourself to the judge. If you are attending by phone or video remember to unmute yourself.
- Have these items with you on your court date:
  - A copy of the *Citation to Discover Assets to a Third Party Respondent*;
  - A copy of the written judgment (if you have one);
  - Any receipts you have of your court costs, including any costs for the sheriff or private process server;
  - The Proof of Service showing that the *Citation to Discover Assets to a Third Party Respondent* was served on the respondent; AND
- Check with the Circuit Clerk for any other local requirements.

### If the Respondent Was Served But Does Not Appear in Court:

- The judge may enter a conditional judgment against the respondent for failure to appear in court. A conditional judgment requires the respondent to file an answer by the next court date. You must issue a Summons After Conditional Judgment and serve it on the respondent using the sheriff or

private process server. If the respondent does not answer, the court may enter a final judgment against the respondent for the balance due.

- The judge may issue a rule to show cause requiring the respondent to appear and explain why they did not answer. If the respondent does not file an answer or appear, the court may find them in contempt and may order their arrest.

#### **If the Respondent Files an Answer:**

- If the respondent's answer says that they have no property belonging to the debtor, then the *Citation to Discover Assets to a Third Party Respondent* may be dismissed.
- If the respondent answers that it has property belonging to the debtor, then you can seek a turn over order for this property.
- The debtor has certain exemptions that protect income and assets belonging to the debtor. Some examples are social security, disability, and child support.
- Sometimes property is in the name of both the debtor and another person, sometimes a spouse or a child. This will be shown on the respondent's answer. The other person may actually own the funds. When this happens, you will need to continue the case and send a notice of hearing to the other party (unless they are already in court).

#### **After Court**

- After court, send a copy of any order entered to the third party respondent.
- If there are funds to be turned over, make sure the order lists your current address.
- Send a copy of the court's order with the clerk's filing stamp on it to the respondent at the address shown on their answer. If the court orders the money to be turned over to you, you should send the respondent a letter telling them where to send you the money. Include the order with this letter.