# HOW TO DO A CITATION TO DISCOVER ASSETS TO DEBTOR

**NOTE:** If there are any words or terms used in these instructions that you do not understand, please visit Illinois Legal Aid Online at illinoislegalaid.org/lexicon/glossary. 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.

**What is a *Citation to Discover Assets to Debtor*?**
A *Citation to Discover Assets to Debtor* is a court document requiring the debtor to come to court and answer questions about their property and income. Then, the judgment creditor can try to get that property or income to pay the judgment, if it is not protected by law.

**Who can file a *Citation to Discover Assets to Debtor*?**

Anyone who has won a money judgment can file a *Citation to Discover Assets to Debtor* to try to collect the money.

- The person who won the judgment is called the "creditor."
- The other person is called the "debtor."

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

- If your judgment is over 7 years old, you will need to renew ("revive") your judgment before you can do a *Citation to Discover Assets to Debtor*. To start the process, file and serve a Petition for Revival**.**
- You can file to renew ("revive") a judgment only up to the 20th year from the date of your judgment.
- If your judgment is over 27 years old, you cannot enforce your judgment.

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

- If the debtor is a person, you serve that person.
- If the debtor is a company, you serve that company's representative.
- You can use the Secretary of State's website to find a company's representative: ilsos.gov/corporatellc/

**What forms do I need?**

- ***Citation to Discover Assets to Debtor*:** is the form that tells the debtor to come to court to answer questions about their property and income.
- ***Letter to the Sheriff (optional)*:** is a letter that tells the sheriff the addresses of the debtors to serve and how you will pay their service fee.
- **NOTE:** The email address (if you have one) and mailing address you put on the *Citation* is where important legal documents will be sent to you. You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.

**Where can I find the form I need?**

You can find the form at: illinoiscourts.gov/documents-and-forms/approved-forms.

**Does it cost to file a *Citation to Discover Assets to Debtor*?**

- Yes, there is a fee for filing a *Citation to Discover Assets to Debtor* with the Circuit Clerk.
- There will also be a fee for the sheriff or private process server.
- If you cannot afford to pay the filing fee, you can ask the court to file for free or at a reduced cost by filing the *Application for Waiver of Court Fees* which can be found at: illinoiscourts.gov/documents-and-forms/approved-forms.

**Fill out the *Citation to Discover Assets to Debtor* following the instructions on the form.** You will need the address where the debtor can be served. See **Step 2**.

**What do I do after I fill out the *Citation to Discover Assets to Debtor*?**

**Step 1: File your forms with the Circuit Clerk in the county where the court case is filed.**

- Call the Circuit Clerk for a court date, time, and courtroom number for your *Citation to Discover Assets to Debtor*. This is the time and place where the debtor will show up to answer the questions. If you can, wait 30 days after your judgment to file your *Citation*. The reason you should wait is because it becomes difficult for the debtor to challenge your judgment after 30 days.
- Write the courthouse address, court date, time, and courtroom number on the *Citation to Discover Assets to Debtor*.
- Ask the Circuit Clerk how much it will cost to file your form, and what types of payment (cash, check, credit, online) they take.
- You must file the *Citation* with the trial court by the filing deadline that applies to your case.
- You must electronically file (e-file) court documents unless (1) you are an inmate in a prison or jail and you do not have a lawyer, (2) you have a disability that keeps you from e-filing, or (3) you qualify for an exemption from e-filing.
  - You will qualify for an exemption if: (1) you do not have internet or computer access at home and it would be difficult for you to travel to a place where you could use a computer; (2) you have trouble reading or speaking in English, or

(3) you tried to e-file your documents, but you were unable to complete the process because the equipment or assistance you need is not available.

- If you qualify for an exemption, fill out a *Certification for Exemption from E-Filing* found here: illinoiscourts.gov/documents-and-forms/approved-forms/.
- File the original and 1 copy of your forms and the *Certification* with the trial court clerk's office in person or by mail.

- To e-file, create an account with an e-filing service provider.
  - Visit efile.illinoiscourts.gov/service-providers.htm to select a service provider. Some service providers are free while others charge a processing fee. For instructions on how to e-file for free with Odyssey eFileIL, see the self-help user guides here: illinoiscourts.gov/self-help/how-to-e-file/.
- If you do not have access to a computer or if you need help e-filing, take your form to the Circuit Clerk's office where you can use a public computer terminal to e-file your forms.
  - You can bring your form on paper or saved on a flash drive.
  - The terminal will have a scanner and computer that you can use to e-file your form.

**Step 2: Serve the debtor a copy of your form.**

- The *Citation to Discover Assets to Debtor* must be served on the debtor. The judge has no power to order the debtor to do anything if the *Citation to Discover Assets to Debtor* is not served.
- You can use the sheriff or a private process server to serve the debtor with the *Citation*. You cannot give the *Citation* to the debtor yourself.
- The sheriff or a private process server can serve the debtor in the following ways:
  - By Personal Service: this is when the *Citation* is given to the debtor personally. This can be done anywhere the debtor can be found.
  - By Substitute Service: this is when the *Citation* is given to someone who lives with the debtor or a family member. The person who is served must be 13 years old or older. This must be done where the debtor lives.
- If by the sheriff
  - You can ask the sheriff to serve the debtor by taking or mailing your form to the sheriff.
  - Take it to the sheriff 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).
  - Mail it to the sheriff
    - Mail copies of your *Citation* to the sheriff's office.
    - Include the *Letter to the Sheriff* found at: illinoiscourts.gov/documents-and-forms/approved-forms.
    - Include a self-addressed and stamped envelope for the sheriff to mail the Return/Affidavit of Service to you.
    - 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)
- If by private process server
  - You may also have the form served by a private process server. A private process server is anyone 18 or older and not a party to the lawsuit. They do not accept fee waivers.
- If the debtor does NOT live in the same county or state where the case was filed:
  - Call the sheriff in that county or state to find out:
    - The address where you should bring or mail your *Citation*;
    - The number of copies of your *Citation* to bring or send; AND
    - The sheriff's fees for service and if they will honor your *Order for Waiver of Court Fees* (if you have one).
  - **NOTE:** If you e-filed your *Citation*, contact your sheriff's office to ask if the sheriff will file the Return/Affidavit of Service or if you will have to e-file it. If you use a private process server, you or the process server will have to e-file the Return/Affidavit of Service when you receive it back.

**Step 3: Confirm the sheriff served your forms on the debtor.**

- Before you go to court, check on whether the debtor was served. This is called the Return/Affidavit of Service. You may be able to check this online. Find your local Circuit Clerk's website at: illinoiscourts.gov/courts/circuit-court/circuit-court-clerks/.
- If the debtor was served, make sure the Return/Affidavit of Service is filed with the Circuit Clerk. The judge has no power to do anything if the *Citation* is not served.
- If the Return/Affidavit of Service says "no service," this means that the sheriff's deputy tried to find the debtor, but could not serve the debtor. If this happens, you must start over. The fee is less on the second attempt.
- **NOTE:** You should review the Return/Affidavit of Service. If it says the debtor moved, or does not live at the address you wrote down, you should find a new address for the debtor before starting again.

**Step 4: Get ready for your court date.**

- Decide and write down:
  - The questions you want to ask the debtor about their property and income. You can refer to the

Income and Property Statement attached to the *Citation* to give you ideas of what kind of questions to ask.

- Any information you have regarding the debtor's income and assets.

**Step 5: Go to your court date.**

- Your court date, time and room number are listed on your *Citation to Discover Assets to Debtor*.
- Bring these items with you to court:
  - A copy of the *Citation to Discover Assets to Debtor*;
  - A copy of any written judgment (if you have one);
  - Any receipts you have of your court costs including any costs for the sheriff; AND
  - The filed Return/Affidavit of Service showing that the *Citation to Discover Assets to Debtor* was served on the debtor (if it is not already in the court file).
- Get to the courthouse at least 30 minutes early.
- Go to the courtroom number listed on your court form. If your form does not have a courtroom number, look for a list of cases at the courthouse, or ask the Circuit Clerk.
- 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.
  - Follow these recommendations to appear by phone or video: illinoiscourts.gov/self-help/court-by-phone-or-video

**Make sure you know how you are 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 illinoiscourts.gov/courts/circuit-court/circuit-court-clerks/

- **If the debtor was served, but does not appear in court:**
  - The judge may issue a *Rule to Show Cause* requiring the debtor to come to court and explain why the debtor failed to appear. A *Rule to Show Cause* is a court order requiring the debtor to appear in court at a set date and time. You must have the *Rule* served by the sheriff or private process server. You must also appear in court on the new date and time.
  - If the debtor fails to appear for the *Rule to Show Cause* hearing, the judge may find them in contempt, and issue a warrant for their arrest.
- **If the debtor appears:**
  - When the case is called, the clerk or the judge will have the debtor swear to tell the truth when answering your questions.
  - You will ask the debtor questions outside the presence of the judge. There is an Income and Property Statement form attached to the *Citation* that you can use to ask questions. The debtor may file that form before the court date or may bring it with them to court. You can also look at that. You can ask other questions besides the questions on the form. However, the form is a good place to start.
  - Please note that the debtor has certain exemptions that protect their income and property. The judge will not force the debtor to make payments of exempt funds. See paragraphs six and seven of the *Citation to Discover Assets to Debtor*.
  - When you have finished asking questions, you may want to ask the debtor if they will agree to a payment plan. If you reach an agreement, let the judge know when the case is called again. If the judge approves the agreement, it will become a Court Ordered Payment Plan.
  - If there is no agreement, tell the judge what you found out about the debtor's income and assets and ask the judge to order the debtor to give you the debtor's income and property if it is not exempt. The judge can also order the debtor to make payments to you from their income.
- What if someone else owns or controls the property (like a bank or an employer)?
  - If the judge finds that the debtor has property in someone else's possession, the judge may or may not order the debtor to turn over the property directly to you. You must then follow the process to get the money from the person who controls it. For more information about this process, see the *Citation to Discover Assets to Debtor's Employer* or *Citation to Discover Assets to Debtor's Bank* found here: illinoiscourts.gov/documents-and-forms/approved-forms
- The judge will dismiss the *Citation* if all the debtor's income and property are exempt.
- If you find out later that the debtor has more money, you may be able to file another *Citation*. Before you leave court, ask the judge for permission to do another *Citation to Discover Assets to Debtor*.



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