

INSTRUCTIONS FOR COMPLETING FORMS TO OBTAIN A PARTIAL JUDGMENT, ENFORCING AN EXISTING COURT ORDER

FLE INSTRUCTION 01

This procedure can be used to enforce an existing court order by allowing you to obtain a judgment for monies paid by you that the other party was ordered to pay in the courts previous Order or Decree. *These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. It is always advisable to talk to a lawyer about your problem before filing any documents.*

1. Call the courthouse where the case is filed and request a hearing date and time. **There must be at least 5 days (not counting weekends or holidays) between the date of the hearing and the date the other party receives notice of the hearing (allow three extra days for mailing).** *Ada County will require a full 20 days after the other party is served before you can have a hearing.
2. Prepare all documents following the instructions below.
3. Take or mail the original documents entitled: MOTION AND AFFIDAVIT FOR ENTRY OF PARTIAL JUDGMENT IN A SUM CERTAIN and NOTICE OF HEARING MOTION FOR ENTRY OF PARTIAL JUDGMENT IN A SUM CERTAIN to the courthouse where your original Order/Decree is filed. There should be no filing fee as you are taking action only to enforce a prior court order.
4. Serve the other party with a copy of these documents. (A third person over the age of 18 will have to serve the documents for an Ada County case, and complete an Affidavit of Service indicating when they personally delivered the documents. You will need to file the Affidavit of Service with the Court Clerk in Ada County.) Keep a copy of these documents for your records.
5. Prepare for the hearing. You will be required to provide proof that the expenses and costs were incurred, that the other party was properly notified of the expenses, (as required in your original order), and that you have paid the expenses and costs for which you are seeking reimbursement. If your order does not state how you should notify the other party, be sure you have notified the other party in writing and allowed a reasonable time for the other party to reimburse you.

Bring with you to the hearing:

- Three copies of the completed *Partial Sum Certain Judgment* form.
- A postage-paid envelope, addressed to the other party.

On the day of the hearing, make sure you go to the correct courtroom. Bring your copy of all the documents you filed with the court. Dress neatly and address the judge as "Your Honor." The judge will call the name and the number of your case. Go to the clerk's table by the judge's bench. Then the clerk will swear you in and you will take a seat at the witness stand to outline your proof. The judge may ask you questions. If the judge has no questions, you are finished. (For more information about court see Ci Instruction 2).

6. If the Judgment is signed and the other party does not pay the money in a reasonable period of time, you can obtain a *Writ of Execution* and proceed to collect the judgment. Contact an attorney or the Court Assistance Office for the procedure to collect the Judgment.

Instructions for completing the forms: Complete the forms with a typewriter or by printing legibly in **black ink**. Make a copy of the forms before you begin to write on them so you will have a clean copy to prepare your final draft for filing with the court.

At the top left-hand corner of page 1 fill in your name, mailing address and telephone number.

On every form, fill in the county and judicial district in the heading ***exactly like it is in the Order or Decree you are asking be enforced*** (for example, "In the District Court of the Seventh Judicial District in and for the County of Butte"; both the district number and the county should be in capital letters).

Print the plaintiff's name over the word "Plaintiff" and the defendant's name over the word "Defendant" ***exactly as they appear in the caption in the Order or Decree you are asking be enforced.***

Fill in the case number from the original case.

Motion and Affidavit for Entry of Partial Judgment in a Sum Certain.

Check the box and complete Section One if you are seeking reimbursement of health care or work-related child care expenses.

1. Check the box to indicate which expenses you want to collect and complete the percentages.
2. Write in the total amount of the expenses you have paid.
3. Fill in the name of the other party, the amount of reimbursement s/he owes you and the date of the last charge.

Check the box and complete Section Two if you are seeking reimbursement of payments to other types of creditors.

1. Fill in the name(s) of the accounts that your ex should have paid.
2. Fill in the total amount that you have paid.
3. Fill in the name of your ex, the amount of reimbursement s/he owes you and the date of your last payment.

Check the box and complete Section Three

1. Fill in the other party's name and your name, plus the total amount of the partial judgment you want, and check the box(es) indicating the type of payments.
2. Attach copies of your receipts showing your payments.
3. Fill in the date.
4. Fill in the name and address of the other party and check the box for how you are serving a copy on him/her.
5. Type or print your name, locate a Notary Public, Sign your name in front of the Notary and have the Notary complete the bottom of page 2.

Notice of Hearing Motion for Entry of Partial Judgment in a Sum Certain.

- Check whether you are the plaintiff or the defendant in this case.
- Fill in the day, month, year, and time the judge's clerk has given you for the hearing.
- Fill in the name of the county and the street address and city of the Courthouse.
- Write in the name of the judge assigned to this case.
- Write in the current date.
- Fill in the name and address of the other party, and check the box to indicate how you are serving a copy on him/her.
- Date the document.
- Sign your name.
- Type or print your name.

Make two more copies of the *MOTION AND AFFIDAVIT FOR ENTRY OF PARTIAL JUDGMENT IN A SUM CERTAIN* and *NOTICE OF HEARING MOTION FOR PARTIAL JUDGMENT IN A SUM CERTAIN*.

1. Original to the court
2. Copy to the other party
3. Copy for your own records

Affidavit of Service. (Required in Ada County)

- Complete the heading, caption and case number. *The person who serves the documents on the other party will complete the remainder of the form.*
 - Deliver or mail a copy of the *MOTION AND AFFIDAVIT FOR ENTRY OF PARTIAL JUDGMENT IN A SUM CERTAIN* and *NOTICE OF HEARING MOTION FOR PARTIAL JUDGMENT IN A SUM CERTAIN* and the original Affidavit of Service to a sheriff, professional process server or other person over 18 in the county where the other party lives, who will serve the papers.
 - If using the sheriff or a profession process server, call first to find out what they charge for serving papers and include a money order or check for the correct amount when you send the papers. It may be necessary to include a letter stating where the other party can be served, a description or photograph of him/her, a description of the vehicle s/he usually drives and any other information that may help the process server locate and identify the other party.
 - The person who serves the papers will send the signed and notarized **Affidavit of Service** back to you. You should make a copy of the **Affidavit of Service** for yourself.
 - The original **Affidavit of Service** must be filed with the Court before the time of the hearing.

Partial Sum Certain Judgment.

- Fill in the heading, the caption and case number just as you did in the other forms.
- Check whether you are the plaintiff or the defendant.
- Write in your current legal name.
- Check whether the other party is the plaintiff or the defendant.
- Write in the other party's current legal name.

- Write in the total amount of reimbursement you are requesting (the same amount you wrote in the Motion).
- Leave the date open.
- Leave the signature line open for the judge.
- **Clerk's Certificate of Service:**
 - Write in the plaintiff's name and mailing address.
 - Write in the defendant's name and mailing address.
 - Leave the date and the signature line for the judge's clerk to complete.

Make two more copies of the Judgment.