

ATTACHMENT AND EXECUTION

The statutes concerning writs of execution protect certain property of the debtor from execution, but contain no suggestion that other creditors can obtain rights superior to that of the judgment creditor in property covered by a writ of execution. Bank of Guam v. Island Hardware, Inc., 2 FSM R. 281, 285 (Pon. 1986).

While the statute authorizing execution against "the personal property of the person against whom the judgment has been rendered" contains no exceptions for third party creditors, neither does it purport to sweep away pre-existing property rights, including security interests, of such creditors, nor does the statute authorize the sale of property owned by others which happens to be in possession of the debtor at the time of execution. 6 F.S.M.C. 1407. Bank of Guam v. Island Hardware, Inc., 2 FSM R. 281, 285 (Pon. 1986).

Attachment and seizure create statutory and possessory lien rights which will be unaffected by subsequent writs of execution, but will be subject to national government's wage and salary tax lien claims under 54 F.S.M.C. 135(2), to wage claims of low level employees and laborers, and to pre-existing national government lien rights under 54 F.S.M.C. 153. In re Mid-Pacific Constr. Co., 3 FSM R. 292, 303 (Pon. 1988).

An execution creditor holds a more powerful position than a mere judgment creditor. In re Mid-Pacific Constr. Co., 3 FSM R. 292, 306 (Pon. 1988).

Writs of execution will not be granted on an automatic basis, but only when it has been shown that judgment creditors have seriously explored the possibility of satisfying the judgment through other means, in order to avoid bankruptcies or economic hardships. In re Mid-Pacific Constr. Co., 3 FSM R. 292, 306 (Pon. 1988).

Where it becomes apparent that claims or creditors will outstrip the value of debtor's assets, the approach is to give all creditors an opportunity to submit claims, and distribute any available proceeds on an equitable basis. In re Mid-Pacific Constr. Co., 3 FSM R. 292, 306 (Pon. 1988).

Where purchasers at a judicial sale are not served by summons and complaint pursuant to FSM Civil Rule 3 but receive notice of a motion seeking confirmation of the sale and made by a creditor of the party whose property was sold, and where the purchasers do not object to the motion, confirmation of the sale is effective and binding on the purchasers and is not violative of their rights of due process. Sets v. Island Hardware, 3 FSM R. 365, 368 (Pon. 1988).

Creditors with judgments more than 10 days old are entitled to writs of execution upon request. In re Pacific Islands Distrib. Co., 3 FSM R. 575, 582 (Pon. 1988).

Absent specific legislative authority the Chuuk State Judiciary Act properly bars the state court from attaching, executing, or garnishment of public property. Billimon v. Chuuk, 5 FSM R. 130, 136 (Chk. S. Ct. Tr. 1991).

The statutory right of a judgment creditor to obtain immediate issuance of a writ of execution implies as well a legislative intent that holders of writs be paid on the basis of a first-in-right rule according to the dates of the individual parties' writs. In re Island Hardware, Inc., 5 FSM R. 170, 173 (App. 1991).

Among execution creditors the claims of those whose writs are dated earliest have priority to an insolvent's assets over those whose writs are dated later. Individual writ-holders are to be paid on the basis of first-in-time, first-in-right rule according to the dates of their writs. Western Sales Trading Co. v. Ponape Federation of Coop. Ass'ns, 6 FSM R. 592, 593 (Pon. 1994).

A writ of attachment is a process by which property is seized and held to satisfy an established debt or prospective judgment and may only issue against the property of a defendant debtor. The property of a third party, to which the debtor has no possessory rights, may not be seized, held, and eventually sold to satisfy the obligations of the debtor. Pan Oceania Maritime Servs. (Guam) Ltd. v. Micronesia Shipping, 7 FSM R. 37, 38 (Pon. 1995).

That a defendant debtor is a shareholder of a corporation that might receive a favorable settlement in the future and might pay a dividend to its shareholders does not entitle creditors to attach that corporation's assets. Pan Oceania Maritime Servs. (Guam) Ltd. v. Micronesia Shipping, 7 FSM R. 37, 39 (Pon. 1995).

A writ of execution may issue without seriously exploring other possible means of satisfying the judgment. House of Travel v. Neth, 7 FSM R. 228, 229 (Pon. 1995).

Execution may be had against a judgment debtor's non-exempt personal property, not against his interests in land. House of Travel v. Neth, 7 FSM R. 228, 229 (Pon. 1995).

Property may not be taken by the government, even in aid of a judgment, without due process of law. In executing the writ, due process of law may be assured by directing the executing officer to comply strictly with the statutory provisions for levying a writ of execution. House of Travel v. Neth, 7 FSM R. 228, 229-30 (Pon. 1995).

The right to prejudgment seizure must exist by the law of the state in which the action is pending. In the absence of state law, no remedy is available under Rule 64. Bank of Hawaii v. Kolonia Consumer Coop. Ass'n, 7 FSM R. 659, 662 (Pon. 1996).

Under Pohnpei law a court may issue writs of attachment, for special cause shown, supported by a statement under oath. Bank of Hawaii v. Kolonia Consumer Coop. Ass'n, 7 FSM R. 659, 662 (Pon. 1996).

Attachment is an extraordinary, prejudgment remedy, which is purely ancillary to the main suit, has nothing to do with the merits, and is a summary, anticipatory method of impounding defendant's assets to facilitate collection of the judgment against him, if and when one is obtained. Attachment did not exist at common law, and is created by statute. Bank of Hawaii v. Kolonia Consumer Coop. Ass'n, 7 FSM R. 659, 662 (Pon. 1996).

Statutes authorizing attachment must be construed strictly. In general, attachment is available only in certain kinds of actions and then only upon a showing of special grounds. Bank of Hawaii v. Kolonia Consumer Coop. Ass'n, 7 FSM R. 659, 662 (Pon. 1996).

Under Pohnpei law attachment appears to be available in any suit for collection of money, but not available in judgments affecting land, and the statute requires only that "special cause" be shown for the issuance of a writ of attachment. Bank of Hawaii v. Kolonia Consumer Coop.

Ass=n, 7 FSM R. 659, 662 (Pon. 1996).

The existence of a sale of some of a debtor's assets is not special cause sufficient to grant a request for attachment. Bank of Hawaii v. Kolonia Consumer Coop. Ass=n, 7 FSM R. 659, 663 (Pon. 1996).

Under the Chuuk Constitution, statutory authorization is required as a predicate to expenditure of state funds, and the Chuuk state court does not have the power to issue an execution order against state property. Louis v. Kutta, 8 FSM R. 208, 210 (Chk. 1997).

Process to enforce payment of a money judgment is by writ of execution, in accordance with the practice and procedure of the state in which the court is held, except that an FSM statute governs to the extent it is applicable. Louis v. Kutta, 8 FSM R. 208, 210-11 (Chk. 1997).

A state may not use its own constitution to defeat enforcement of a judgment entered on a civil rights claim brought pursuant to the mandate of the national constitution and statutes. Thus, a state constitutional provision will not prevent a civil rights plaintiff from using national execution procedures to obtain satisfaction of his judgment. Louis v. Kutta, 8 FSM R. 208, 213 (Chk. 1997).

A non-party is deprived of due process of law when a case is started against it without notice or it having been made a party, when an order in aid of judgment has been issued against the non-party without a judgment and a hearing held following notice, and when a writ of execution has been issued against a non-party and without notice or hearing to determine the amount to be executed upon. Bank of Guam v. O'Sonis, 8 FSM R. 301, 304 (Chk. 1998).

A writ of execution issued in violation of statute, against the property of a non-party in a case for which no judgment has been issued and in which the judge should have recused himself is a wrongfully-issued writ. Bank of Guam v. O'Sonis, 8 FSM R. 301, 305 (Chk. 1998).

FSM Civil Rule 70 provides for five different remedies, one of which is a writ of attachment. Garnishment exists in the FSM through judicial interpretation of the FSM attachment statute, 6 F.S.M.C. 1405(2), and because attachment is an available remedy under Rule 70, it follows that garnishment is also. Louis v. Kutta, 8 FSM R. 312, 314 n.1 (Chk. 1998).

Chuuk state courts have the power to issue all writs for equitable and legal relief, except the power of attachment, execution and garnishment of public property. Kama v. Chuuk, 9 FSM R. 496, 497 (Chk. S. Ct. Tr. 1999).

The only purpose of statutes authorizing orders in aid of judgment is to force the payment of a judgment and to provide means to collect a money judgment, which is the same as proceedings for attachment, garnishment or execution. Kama v. Chuuk, 9 FSM R. 496, 498 (Chk. S. Ct. Tr. 1999).

The Trust Territory Code provisions for orders in aid of judgment are not available against Chuuk because, when it barred the courts' power of attachment, execution and garnishment of public property, the clear legislative intent was to supersede or repeal all provisions of the Trust Territory Code, Title 8 insofar as they allowed seizure of Chuuk state property. Kama v. Chuuk, 9 FSM R. 496, 498 (Chk. S. Ct. Tr. 1999).

Historically, orders in aid of judgment and orders in aid of execution serve the same purpose and the terms are used interchangeably. Their purpose is to provide a means of discovery to inquire into the assets and ability of a judgment debtor to pay a judgment. Kama v. Chuuk, 9 FSM R. 496, 498 (Chk. S. Ct. Tr. 1999).

Proceedings in aid of a judgment are supplementary proceedings to enforce a judgment, the same as attachment, execution and garnishment, and as against Chuuk State public property, are prohibited by ' 4 of the Chuuk Judiciary Act. Kama v. Chuuk, 9 FSM R. 496, 498 (Chk. S. Ct. Tr. 1999).

There is no provision in FSM law that makes a judgment dormant or that extinguishes a judgment-creditor's right to execution before the twenty-year statute of limitations has run. A dormant judgment is one upon which the statute of limitations has not yet run but which, because of lapse of time during which no enforcement action has been taken, may not be enforced unless certain steps are taken by the judgment holder to revive the judgment. Walter v. Chuuk, 10 FSM R. 312, 316 (Chk. 2001).

Although under FSM law once an application for an order in aid of judgment has been filed no writ of execution may issue except under an order in aid of judgment or by special order of the court, it is uncertain what effect, if any, this (or the Chuuk state law prohibiting attachment, execution, or garnishment of Chuuk public property) would have on courts in jurisdictions outside the Federated States of Micronesia. Walter v. Chuuk, 10 FSM R. 312, 317 (Chk. 2001).

The attempt to execute a judgment on the judgment debtor's bank accounts constitutes a garnishment, since it is a debt owed by a third party to the judgment debtor. This remedy is recognized in the FSM, and should go forward as a separate proceeding. The writ of execution will issue upon the court's receipt of a simplified form of writ that conforms with 6 F.S.M.C. 1407. Amayo v. MJ Co., 10 FSM R. 371, 386 (Pon. 2001).

In the usual case, a full supersedeas bond is required in order to stay execution of a judgment. The bond's amount is calculated to include the judgment's whole amount, costs on appeal, interest, and damages for delay. Courts in the exercise of their discretion have permitted a form of security other than a bond so long as that security is adequate and the judgment creditor's recovery is not at risk. Amayo v. MJ Co., 10 FSM R. 427, 429 (Pon. 2001).

In the absence of a supersedeas bond, a judgment creditor generally has, within specified statutory limits, a right to a writ of execution upon entry of judgment. Amayo v. MJ Co., 10 FSM R. 433, 434 (Pon. 2001).

Section 4 of the Chuuk Judiciary Act of 1990 denies courts the power of attachment, execution and garnishment of public property. Thus, a court may issue an order in aid of judgment addressed to the state, but is barred from issuing any order in aid of judgment that acts as an attachment, execution and garnishment of public property. Kama v. Chuuk, 10 FSM R. 593, 600 (Chk. S. Ct. App. 2002).

When the appellant has yet to offer a supersedeas bond, and the court has yet to approve the bond, the stay has yet to become effective. Until such time as the appellant offers a supersedeas bond acceptable to the court, there is no stay in effect, and the plaintiff is free to

execute on the judgment. Konman v. Esa, 11 FSM R. 291, 296 (Chk. S. Ct. Tr. 2002).

When a bank's chattel mortgage purchase money liens are not enforceable against third parties who have had no notice of them and are therefore not enforceable against and do not have priority over an execution lien, even if the bank were permitted to intervene, it could not prevail. Since that is so, the bank does not have an interest in the litigation that would be impaired if it were not allowed to intervene and therefore does not satisfy the elements required to intervene of right. UNK Wholesale, Inc. v. Robinson, 11 FSM R. 361, 365-66 (Chk. 2003).

A judgment holder is entitled to a writ of execution. UNK Wholesale, Inc. v. Robinson, 11 FSM R. 361, 366 (Chk. 2003).

Social Security benefits are not subject to execution, attachment, or garnishment and are not assignable except as provided in the FSM Social Security Act. Rodriguez v. Bank of the FSM, 11 FSM R. 367, 377 (App. 2003).

Both execution and attachment are legal processes carried out by writ. Likewise, garnishment is carried out by writ. Rodriguez v. Bank of the FSM, 11 FSM R. 367, 378 (App. 2003).

The current practice that where a judgment creditor who holds a national court judgment wants national police officers to execute on the judgment, he must bear the transportation and per diem costs of bringing national police personnel to Yap to execute on the writ since Yap has no resident national law enforcement officer. While this involves substantial up-front costs to the judgment creditor, those costs are recoverable from the judgment debtor under 6 F.S.M.C. 1408. Parkinson v. Island Dev. Co., 11 FSM R. 451, 453 (Yap 2003).

The court is reluctant to opine on 6 F.S.M.C. 1408's constitutionality when the judgment creditor has an enforcement remedy, if not an ideal one, notwithstanding any constitutional adjudication which this court might render on the division of powers issue that Yap raised regarding a writ of execution directed to the Yap chief of police. Parkinson v. Island Dev. Co., 11 FSM R. 451, 453 (Yap 2003).

When the judgment creditor has an execution remedy apart from a writ of execution directed to the state police, the court is reluctant to unnecessarily consider the constitutional issue raised when doing so could be viewed in any light as hampering voluntary cooperation between state and national law enforcement as a matter of comity, an important concern given the geographical configuration of our country and the limited law enforcement resources of both the state and national governments. Parkinson v. Island Dev. Co., 11 FSM R. 451, 453 (Yap 2003).

When the judgment creditor has made the necessary arrangements through the FSM Department of Justice to bring national police officers to Yap, he should so advise the court which will then issue the writ of execution designating the appropriate individuals. Parkinson v. Island Dev. Co., 11 FSM R. 451, 453-54 (Yap 2003).

Among judgment creditors, those with a writ of execution have priority over those who do not. In re Engichy, 11 FSM R. 520, 527 (Chk. 2003).

One reason writ-holders are granted a higher priority is that the judgment creditor who has

taken the effort and exhibited the diligence to move to the status of execution creditor deserves to be treated differently on that basis. In re Engichy, 11 FSM R. 520, 527 (Chk. 2003).

A judgment-creditor's right to the issuance of a writ of execution is provided for by statute, as is the right to obtain an order in aid of judgment. In re Engichy, 11 FSM R. 520, 527 (Chk. 2003).

By statute, a party recovering a civil judgment for money is entitled to a prompt, immediate issuance of a writ of execution. In re Engichy, 11 FSM R. 520, 527 (Chk. 2003).

The court's procedural rules stay a writ of execution's issuance until ten days after entry of judgment. The purpose behind this automatic ten-day stay is to permit a judgment-debtor to determine what course of action to follow. In re Engichy, 11 FSM R. 520, 527 (Chk. 2003).

Because of the automatic ten-day stay on the issuance of a writ of execution, a money judgment, upon entry of judgment, is final for the purposes of appeal, even though it is not yet final for the purposes of execution. In re Engichy, 11 FSM R. 520, 528 (Chk. 2003).

An FSM judgment-debtor can, if he so chooses, prevent the issuance of a writ of execution because any party, either the judgment-creditor or the judgment-debtor may apply for an order in aid of judgment and once a party has applied for an order in aid of judgment, the judgment-creditor is statutorily barred from obtaining a writ of execution except as part of an order in aid of judgment or by special order of the court for cause shown. In re Engichy, 11 FSM R. 520, 528 (Chk. 2003).

A judgment-creditor who has obtained an order in aid of judgment should be accorded the same status as a judgment creditor who has obtained a writ of execution because both methods of enforcing a money judgment are provided for by statute and both methods show that the judgment creditor has taken the effort and exhibited diligence greater than that of a mere judgment-creditor. In re Engichy, 11 FSM R. 520, 528 (Chk. 2003).

A judgment-creditor's statutory right to obtain immediate issuance of a writ of execution implies as well a legislative intent that holders of writs be paid on the basis of a first-in-time, first-in-right rule according to the dates of each party's writ. In re Engichy, 11 FSM R. 520, 528 (Chk. 2003).

Judgment-creditors with execution creditor status are to be paid on the basis of a first-in-time, first-in-right rule according to the dates of the individual parties' writs. The pro rata payment basis is the rule for unsecured judgment-creditors who do not hold execution creditor status or a statutory lien priority. Because holders of orders in aid of judgment are accorded the status of execution creditors, those judgment-creditors will be paid in order according to the date of either their first writ of execution or their first order in aid of judgment. In re Engichy, 11 FSM R. 520, 528-29 (Chk. 2003).

If a judgment-creditor were to attempt to execute against a piece of land for which there was a certificate of title and that certificate showed an outstanding mortgage on the land, or if there was no certificate of title for the land but a mortgage had been duly and properly recorded at the Land Commission so that anyone searching the records there should necessarily find it, then that would be a security interest that was not a secret lien and therefore valid against third parties. In re Engichy, 11 FSM R. 520, 530 (Chk. 2003).

Any judgment-creditor with a writ of execution may elect not to use it, and try some other method to satisfy its judgment. In re Engichy, 11 FSM R. 520, 532 (Chk. 2003).

An execution sale does not require judicial confirmation or allow claims of other creditors. In re Engichy, 11 FSM R. 520, 532 (Chk. 2003).

An execution creditor who has levied on its writ may, with the debtors' consent, postpone the execution sale. In re Engichy, 11 FSM R. 520, 532 (Chk. 2003).

Courts have the power to issue all writs for equitable and legal relief, except the power of attachment, execution and garnishment of public property. This statutory prohibition has been held to prohibit the issuance of an order in aid of judgment against Chuuk. Ben v. Chuuk, 11 FSM R. 649, 651 (Chk. S. Ct. Tr. 2003).

The statutory prohibition on issuing writs against public property is jurisdictional. Since the statute deprives a court of jurisdiction to issue any such writ, the parties may not by agreement confer jurisdiction upon a court when a statute affirmatively deprives the court of jurisdiction. Ben v. Chuuk, 11 FSM R. 649, 651 (Chk. S. Ct. Tr. 2003).

Any party recovering a civil judgment for money is entitled to a prompt, immediate issuance of a writ of execution anytime after ten days after the entry of judgment, and a writ of execution, if levied upon, requires immediate payment of the judgment in full. In re Engichy, 12 FSM R. 58, 66 (Chk. 2003).

An order in aid of judgment, unlike a writ of execution, may only be obtained after application and notice to the other party and a hearing instead of the prompt issuance possible for a writ of execution. In re Engichy, 12 FSM R. 58, 66 (Chk. 2003).

A judgment-creditor (or its attorney) must evaluate which method (writ of execution or order in aid of judgment) is most likely to best satisfy its judgment unless the judgment-debtor has already foreclosed that choice by applying for an order in aid of judgment. In re Engichy, 12 FSM R. 58, 66-67 (Chk. 2003).

Process to enforce a judgment for the payment of money will be a writ of execution, unless the court directs otherwise. The procedure on execution will be in accordance with the practice and procedure of the state in which the court is held, existing at the time the remedy is sought, except that any FSM statute governs to the extent that it is applicable. Barrett v. Chuuk, 12 FSM R. 558, 560 (Chk. 2004).

Rule 69, which governs procedure on execution, is meant to benefit a judgment creditor, not a judgment debtor. It was intended to establish an effective and efficient means of securing the execution of judgments. As part of the process, it provides for the securing of information relating to the judgment-debtor's assets. Adams v. Island Homes Constr., Inc., 12 FSM R. 644, 646 (Pon. 2004).

Judgment creditors have a statutory right to obtain the immediate issuance of a writ of execution unless a motion for an order in aid of judgment is pending. This statutory right is automatically stayed for ten days by court rule, and may be stayed by the court pending an appeal. People of Rull ex rel. Ruepong v. M/V Kyowa Violet, 14 FSM R. 501, 503 (Yap 2006).

A supersedeas bond provides absolute security to the party who is affected by the appeal. It also protects the judgment debtor from levy while the appeal takes its course. People of Rull ex rel. Ruepong v. M/V Kyowa Violet, 14 FSM R. 501, 503-04 (Yap 2006).

Generally, state property cannot be attached, executed upon, or garnished. Barrett v. Chuuk, 14 FSM R. 509, 511 (Chk. 2006).

The trial court will not extend the right to a writ of garnishment against the state beyond that affirmed by the appellate division in Chuuk v. Davis and will therefore deny a judgment-creditor's request to seize local revenues by the only means logical, a writ of garnishment directed to the FSM national government, when his damages are strictly economic in nature. The suggested alternative, a more drastic step of an order seizing and auctioning the state legislative officers' new vehicles will also be denied. Barrett v. Chuuk, 14 FSM R. 509, 511 (Chk. 2006).

Section 4 of the Chuuk Judiciary Act of 1990 denies courts the power of attachment, execution and garnishment of public property. Thus, a court may issue an order in aid of judgment addressed to a governmental body, but is barred from issuing any order in aid of judgment that acts as an attachment, execution and garnishment of public property. Albert v. O=Sonis, 15 FSM R. 226, 232 (Chk. S. Ct. App. 2007).

The process to enforce a judgment for the payment of money may be a writ of execution or an order in aid of judgment. Salik v. U Corp., 15 FSM R. 534, 537 (Pon. 2008).

Judgments can be enforced in any manner known to American common law or common in American courts. Salik v. U Corp., 15 FSM R. 534, 538 (Pon. 2008).

A trial court's decision to enter or not enter a writ of execution or garnishment is discretionary. Barrett v. Chuuk, 16 FSM R. 229, 232 (App. 2009).

Although a compelling state interest exists in protecting the state from garnishment and execution of its funds as governments cannot effectively administrate essential public services with litigants constantly raiding their coffers, but since Congress has created a statutorily-based action for civil rights violations as these violations are particularly egregious in that they infringe upon what we commonly recognize as unalienable human rights, what must be struck is an adequate balance between protecting a government's ability to maintain sufficient funds to operate and the ability to hold the government accountable for violating its citizens' most basic rights. Barrett v. Chuuk, 16 FSM R. 229, 234 (App. 2009).

Process to enforce a judgment for the payment of money may be a writ of execution or an order in aid of judgment. Barrett v. Chuuk, 16 FSM R. 229, 234 (App. 2009).

None of the FSM Code statutory exemptions to garnishment and execution provide an exception to execution or garnishment when the debtor is a state government. Barrett v. Chuuk, 16 FSM R. 229, 234 (App. 2009).

Requests for writs of execution or garnishment demand consideration of many factors, including the nature of the judgment, whether or not the debtor has acted in good or bad faith in

its attempts to satisfy the judgment, the length of time the judgment has gone unsatisfied, etc. These factors are best weighed by the trial court. Barrett v. Chuuk, 16 FSM R. 229, 235 (App. 2009).

Under the FSM national law regarding enforcement of judgments, the exemption for necessities for trade or occupation is defined as tools, implements, utensils, two work animals, and equipment necessary to enable the person to carry on his usual occupation. By a plain reading of the statute's language, a rental house, and by extension, the land on which it stands, is not such a necessity. FSM Dev. Bank v. Jonah, 17 FSM R. 318, 323 (Kos. 2011).

A writ of execution levied on an account in the Bank of Guam, Pohnpei branch, was directed toward funds held in a local bank, authorized to conduct banking transactions under FSM law, and did not assign, garnish, attach, execute, or levy on U.S. Social Security or military retirement benefits, but executed on funds on deposit in the FSM. Bank of Hawaii v. Dison, 18 FSM R. 161, 164 (Pon. 2012).

Under a writ of execution's terms and the applicable law, a return is required. The funds executed upon must be accounted for and credited toward the judgment. Saimon v. Wainit, 18 FSM R. 211, 213 (Chk. 2012).

When a judgment-creditor has requested a writ and no motion for an order in aid of judgment is pending, he is entitled to a writ of execution against the judgment-debtor's non-exempt personal property. Personal property is property other than land or interests in land. Saimon v. Wainit, 18 FSM R. 211, 214 (Chk. 2012).

Interests in land are not subject to a writ of execution, but any interest in land owned solely by a judgment debtor, in his own right, may be ordered sold or transferred under an order in aid of judgment if the court making the order deems that justice so requires and finds as a fact that after the sale or transfer, the debtor will have sufficient land remaining to support himself and those persons directly dependent on him according to recognized local custom and FSM law. Saimon v. Wainit, 18 FSM R. 211, 214 (Chk. 2012).

Since homes and lands are not personal property, a writ of execution cannot be used to force their sale or rental to satisfy a judgment. A judgment-creditor must proceed through an order in aid of judgment to reach such assets. An evidentiary hearing under 6 F.S.M.C. 1410(1) is a necessary step of that process. Saimon v. Wainit, 18 FSM R. 211, 214 (Chk. 2012).

Execution may be had against a judgment debtor's non-exempt personal property, but not against his interests in land. Saimon v. Wainit, 18 FSM R. 211, 215 (Chk. 2012).

Since property may not be taken by the government, even in aid of a judgment, without due process of law, due process of law in executing the writ may be assured by directing the executing officer to strictly comply with the statutory provisions for levying a writ of execution. Saimon v. Wainit, 18 FSM R. 211, 215 (Chk. 2012).

The court cannot issue a writ of execution to seize a non-party's assets. Saimon v. Wainit, 18 FSM R. 211, 215 (Chk. 2012).

If a judgment creditor seeks to attach and sell any land personally owned by a judgment debtor in his own right, the judgment creditor must seek an order in aid of judgment and at the 6

F.S.M.C. 1410(1) order in aid of judgment hearing must produce sufficient evidence that the court can deem that justice so requires and can find as a fact that after the sale, the judgment debtor will have sufficient land remaining to support himself and any those persons directly dependent on him. Saimon v. Wainit, 18 FSM R. 211, 215 (Chk. 2012).

The Chuuk State Judiciary Act gives each Chuuk court the power to issue all writs for equitable an legal relief; except the power of attachment, execution and garnishment of public property. Kama v. Chuuk, 18 FSM R. 326, 334 (Chk. S. Ct. Tr. 2012).

By rule, a judgment is automatically stayed for only ten days. Once that ten days has passed, the judgment holder is free to execute on or to enforce the judgment unless a supersedeas bond has been posted and approved by the court or a stay sought and granted. FSM Dev. Bank v. Ehsa, 19 FSM R. 128, 130 (Pon. 2013).

In the absence of a stay obtained in accordance with Rule 62(d), the pendency of an appeal does not prevent the judgment creditor from acting to enforce the judgment. FSM Dev. Bank v. Ehsa, 19 FSM R. 128, 130 (Pon. 2013).

An appeal from a final judgment does not affect the judgment holder's right to execute upon the judgment. FSM Dev. Bank v. Ehsa, 19 FSM R. 128, 130 (Pon. 2013).

An appeal from a final judgment does not affect the judgment holder's right to enforce the judgment unless a supersedeas bond is posted or a stay of enforcement is ordered by the court. FSM Dev. Bank v. Ehsa, 19 FSM R. 128, 130 (Pon. 2013).

Generally, the filing of a notice of a appeal divests the trial court of jurisdiction over the appealed case. Notwithstanding the general effect of the filing of a notice of appeal, the trial court retains jurisdiction to determine matters collateral or incidental to the judgment, and may act in aid of the appeal. For example, because the mere filing of a notice of appeal does not affect the validity of a judgment, the trial court retains jurisdiction to enforce the judgment. FSM Dev. Bank v. Ehsa, 19 FSM R. 128, 130 (Pon. 2013).

Since the trial court retains jurisdiction to enforce a judgment even though it has been appealed, a judgment holder may, in the absence of a stay, seek to enforce its judgment, and a hearing to enforce or modify existing orders in aid of the existing judgment will proceed as scheduled because Congress has, by statute, has authorized judgment holders to use these methods to enforce valid money judgments. FSM Dev. Bank v. Ehsa, 19 FSM R. 128, 130 (Pon. 2013).

The purpose of an order-in-aid-of-judgment hearing is for the trial court to examine the question of the judgment debtor's ability to pay and determine the fastest way in which the judgment debtor can reasonably satisfy the judgment. A writ of execution (or garnishment or attachment) can issue as part of an order in aid of judgment. George v. Sigrah, 19 FSM R. 210, 220 (App. 2013).

The execution statute, 6 F.S.M.C. 1407, requires issuance of a writ of execution upon request, subject to the Rule 62(a) limitation that no execution shall issue upon a judgment until the expiration of 10 days after the entry of that judgment. FSM Social Sec. Admin. v. Reyes, 20 FSM R. 276, 277 (Pon. 2015).

When the issuance of a writ of execution was not only based on statutory law, but the court had also afforded the judgment debtor and her counsel ample time to confer and respond to the motion for a writ of execution, the issuance of the writ was appropriate. FSM Social Sec. Admin. v. Reyes, 20 FSM R. 276, 278 (Pon. 2015).

A writ of execution applies to all the judgment debtor's business assets and personal property under 53 F.S.M.C. 607. FSM Social Sec. Admin. v. Reyes, 20 FSM R. 276, 278 (Pon. 2015).

In the absence of a stay obtained in accordance with Rule 62(d), the pendency of an appeal does not prevent the judgment-creditor from acting to enforce the judgment. FSM Dev. Bank v. Setik, 20 FSM R. 315, 318 (Pon. 2016).

Notwithstanding a notice of appeal's general effect, the trial court retains jurisdiction to determine matters collateral or incidental to the judgment and may act in aid of the appeal. Because the mere filing of a notice of appeal does not affect the judgment's validity, the trial court retains jurisdiction to enforce the judgment. FSM Dev. Bank v. Setik, 20 FSM R. 315, 318 (Pon. 2016).

Chuuk State Law No. 190-08, ' 4 does not bar the issuance of an order in aid of judgment addressed to the state, but does bar the issuance of any order in aid of judgment that acts as an attachment, execution, or garnishment of public property. The general rule is that statutes (and case law) barring the issuance of such writs against public property are a constitutionally valid expression of the separation of powers doctrine recognizing the legislative branch's power to appropriate funds and the judicial branch's lack of power to appropriate funds. Kama v. Chuuk, 20 FSM R. 522, 531 (Chk. S. Ct. App. 2016).

When Chuuk not only has not expressly waived its sovereign immunity to writs of attachment, execution, and garnishment, but has also gone further and affirmatively enacted legislation emphatically notifying the public and potential litigants that it has not waived its immunity to those writs, that statute is a valid expression of the separation of powers doctrine enshrined in the Chuuk Constitution. Kama v. Chuuk, 20 FSM R. 522, 532 (Chk. S. Ct. App. 2016).

Under Rule 69, the judgment creditor, in aid of the judgment or execution, may obtain discovery from any person, including the judgment debtor. Rule 69 was intended to establish an effective and efficient means of securing the execution of judgments. As part of the process, it provides for securing information relating to the judgment-debtor's assets. FSM Dev. Bank v. Carl, 20 FSM R. 592, 594-95 (Pon. 2016).

When the issue of a bank releasing funds under 54 F.S.M.C. 153 is a matter of first impression, the court may look to case law of other jurisdictions, particularly the United States, for comparison and guidance. Fuji Enterprises v. Jacob, 21 FSM R. 355, 361 (App. 2017).

Under 54 F.S.M.C. 153, a delinquent taxpayer will have a lien placed on his property, and the lien will be collected in the similar manner as an execution, meaning it may be seized and sold to satisfy the taxes owed. Fuji Enterprises v. Jacob, 21 FSM R. 355, 361 (App. 2017).

Execution is the judicial enforcement of a money judgment, usually by seizing and selling the judgment debtor's property. Fuji Enterprises v. Jacob, 21 FSM R. 355, 361 n.6 (App. 2017).

The statutory scheme of 54 F.S.M.C. 153, in using the language "in the same manner as a levy of an execution," does not mean that a court-issued writ of execution is required before a levy. Fuji Enterprises v. Jacob, 21 FSM R. 355, 361 (App. 2017).

Attachment and execution are products of litigation. Estate of Gallen v. Governor, 21 FSM R. 457, 461 (Pon. 2018).

An action on a judgment is a new and independent action, and not merely a means of enforcing a judgment, as is a writ of execution. FSM Dev. Bank v. Carl, 22 FSM R. 365, 372 (Pon. 2019).

A judgment for the plaintiff awarding him a sum of money creates a debt in that amount in his favor. The plaintiff may maintain proceedings by way of execution for enforcement of the judgment, the plaintiff may also be able to maintain an action upon the judgment. Ordinarily no useful purpose is served by bringing an action in the same state upon the judgment instead of executing upon it, but if the statute of limitations period has almost run, the plaintiff can bring an action upon the judgment and obtain a new judgment upon which the limitations period will run again. FSM Dev. Bank v. Carl, 22 FSM R. 365, 375 (Pon. 2019).

– Garnishment

Although there is no provision for garnishment in Pohnpei state law nor any national statute explicitly providing for garnishment, garnishment of wages is an acceptable means for enforcing an unpaid judgment, pursuant to the FSM Supreme Court's statutory "general powers," its power to enforce judgments in any manner common in courts in the United States, and its power to issue writs of attachment. Bank of Guam v. Elwise, 4 FSM R. 150, 152 (Pon. 1989).

Although technically attachment and garnishment are distinct processes, attachment applying to assets in the defendant's possession and garnishment involving assets in the possession of a third party, the statutory language regarding attachment would seem to apply to both cases. Bank of Guam v. Elwise, 4 FSM R. 150, 152 (Pon. 1989).

The requirements and procedures for issuing a writ of garnishment should be the same as those applied to attachment proceedings. Bank of Guam v. Elwise, 4 FSM R. 150, 152 (Pon. 1989).

The FSM Supreme Court's power to issue writs of garnishment is clearly discretionary. Bank of Guam v. Elwise, 4 FSM R. 150, 152 (Pon. 1989).

Where garnishment is warranted, then anything beyond what is reasonably necessary for the defendant to support himself and his dependents can be garnished. Bank of Guam v. Elwise, 4 FSM R. 150, 153 (Pon. 1989).

Absent specific legislative authority the Chuuk State Judiciary Act properly bars the state court from attaching, executing, or garnishment of public property. Billimon v. Chuuk, 5 FSM R. 130, 136 (Chk. S. Ct. Tr. 1991).

FSM Civil Rule 70 provides for five different remedies, one of which is a writ of attachment.

Garnishment exists in the FSM through judicial interpretation of the FSM attachment statute, 6 F.S.M.C. 1405(2), and because attachment is an available remedy under Rule 70, it follows that garnishment is also. Louis v. Kutta, 8 FSM R. 312, 314 n.1 (Chk. 1998).

Garnishment exists as a remedy available in the FSM to a judgment creditor. Louis v. Kutta, 8 FSM R. 312, 319 (Chk. 1998).

Creation of a doctrine of sovereign immunity of the FSM from garnishment should be left to the specific, unambiguous, and explicit action of Congress. The court will not create such a doctrine by judicial action. Louis v. Kutta, 8 FSM R. 312, 321 (Chk. 1998).

Hypothetical administrative difficulties do not justify holding that garnishment does not apply to the national government. Louis v. Kutta, 8 FSM R. 312, 321 (Chk. 1998).

FSM Civil Rule 69 expressly authorizes the court to issue process other than a writ of execution in the course of enforcing a judgment. Louis v. Kutta, 8 FSM R. 312, 322 (Chk. 1998).

The provision that money judgments against the FSM shall be paid from funds appropriated by Congress is not implicated when the FSM is a mere garnishee because garnishment is directed toward the property of the judgment debtor held by the FSM, not toward property of the FSM itself. Louis v. Kutta, 8 FSM R. 312, 322 (Chk. 1998).

It is unlikely that in paying the judgment an appellant would waive its appeal, so long as payment was made under protest. In holding that the right to appeal was not precluded by payment, the courts have sometimes noted that payment had been made under protest; conversely, in holding that the right to appeal was barred by payment, the courts have sometimes noted that payment had not been made under protest. Louis v. Kutta, 8 FSM R. 460, 461 (Chk. 1998).

There is no persuasive authority that should a garnishee pay a judgment pursuant to a garnishment order, that the garnishee would waive its rights to appeal. Louis v. Kutta, 8 FSM R. 460, 462 (Chk. 1998).

Chuuk state courts have the power to issue all writs for equitable and legal relief, except the power of attachment, execution and garnishment of public property. Kama v. Chuuk, 9 FSM R. 496, 497 (Chk. S. Ct. Tr. 1999).

The attempt to execute a judgment on the judgment debtor's bank accounts constitutes a garnishment, since it is a debt owed by a third party to the judgment debtor. This remedy is recognized in the FSM, and should go forward as a separate proceeding. The writ of execution will issue upon the court's receipt of a simplified form of writ that conforms with 6 F.S.M.C. 1407. Amayo v. MJ Co., 10 FSM R. 371, 386 (Pon. 2001).

A writ of garnishment is the equivalent of a writ of execution in terms of the end sought, which is satisfaction of the judgment. Amayo v. MJ Co., 10 FSM R. 433, 435 (Pon. 2001).

In the event that judgment creditors wish to execute on any bank accounts or other debts owed to the judgment debtor, they should present the court with a form of writ of garnishment directed to the garnishee debt-holder, which will specify that 1) upon receipt of the writ, the

garnishee will freeze payment of all accounts, debts, or other money owed to the judgment debtor pending further order of court; and 2) that within three days of the writ's service, the garnishee will file with the court a response showing what debts it owes to the judgment debtor. Upon review of the response, the court will then issue a turnover order if appropriate, after determining any competing claims that the garnishee may have to those accounts. Amayo v. MJ Co., 10 FSM R. 433, 435-36 (Pon. 2001).

Section 4 of the Chuuk Judiciary Act of 1990 denies courts the power of attachment, execution and garnishment of public property. Thus, a court may issue an order in aid of judgment addressed to the state, but is barred from issuing any order in aid of judgment that acts as an attachment, execution and garnishment of public property. Kama v. Chuuk, 10 FSM R. 593, 600 (Chk. S. Ct. App. 2002).

Social Security benefits are not subject to execution, attachment, or garnishment and are not assignable except as provided in the FSM Social Security Act. Rodriguez v. Bank of the FSM, 11 FSM R. 367, 377 (App. 2003).

Both execution and attachment are legal processes carried out by writ. Likewise, garnishment is carried out by writ. Rodriguez v. Bank of the FSM, 11 FSM R. 367, 378 (App. 2003).

By statute, the national government is not subject to writ of garnishment or other judicial process to apply funds or other assets owed by it to a state to satisfy a state's obligation to a third person. Estate of Mori v. Chuuk, 11 FSM R. 535, 540-41 (Chk. 2003).

When the only reasonably effective means by which to obtain payment of a civil rights judgment against the state is through an order of garnishment directed to the national government, the anti-garnishment statute is unconstitutional to the extent that it precludes a garnishment order to pay a judgment that is based in material part on civil rights claims under 11 F.S.M.C. 701. Estate of Mori v. Chuuk, 11 FSM R. 535, 541 (Chk. 2003).

A court finding that 6 F.S.M.C. 707 is unconstitutional to the extent that it prevents satisfaction of a judgment based on a violation of constitutional rights is limited to the facts before the court and applies only to a judgment against the state that is based on civil rights claims under the national civil rights statute, which confers a cause of action for violation of rights guaranteed by the FSM Constitution. Estate of Mori v. Chuuk, 11 FSM R. 535, 541 (Chk. 2003).

A garnishment order against the national government will issue to pay a civil rights judgment against Chuuk when the sum is less by at least an order of magnitude than the sums that Chuuk receives on a drawdown basis from the FSM when Chuuk accordingly has the ability to pay the judgment and when, based on the case's history, a garnishment order is the only means by which payment can reasonably be made. Estate of Mori v. Chuuk, 11 FSM R. 535, 542 (Chk. 2003).

When the drawdown amounts that Chuuk receives from the FSM national government are greater by more than an order of magnitude than the judgment amount remaining and when, looking to the case's more than six and a half year post-judgment history, the anti-garnishment statute deprives the judgment creditor of the only reasonably expeditious means of obtaining satisfaction of her judgment. Thus the fastest manner in which the debtor can reasonably pay

the judgment under 6 F.S.M.C. 1409 is by an order of garnishment directed to the national government. Davis v. Kutta, 11 FSM R. 545, 549 (Chk. 2003).

The trial court has jurisdiction to entertain the motions to stay enforcement of the writs of garnishment. Ordinarily the applicant must first seek a stay from the court appealed from; if the court denies the motion, the applicant may then seek a stay from the appellate division. Estate of Mori v. Chuuk, 12 FSM R. 3, 7 (Pon. 2003).

When writs of garnishment that formally designated the FSM as a "garnishee/defendant" were entered before the notices of appeal, the FSM was already a party and its motion to intervene is therefore moot. Estate of Mori v. Chuuk, 12 FSM R. 3, 8 (Chk. 2003).

The finding of unconstitutionality of 6 F.S.M.C. 707 (the anti-garnishment statute) applies only to the facts of cases which involve judgments based on violation of constitutional rights guaranteed under the FSM Constitution's Declaration of Rights, and for which a cause of action is expressly conferred by national civil rights statute. Estate of Mori v. Chuuk, 12 FSM R. 3, 9 (Chk. 2003).

A garnishment order directs the garnishee, which is the person or entity holding money for the benefit of the judgment creditor, to pay sufficient money to the judgment creditor to discharge the judgment. Before this can occur, the garnishee must determine if and how much money it holds for the judgment debtor, and then pay the judgment amount. This will involve administrative steps by the garnishee. Estate of Mori v. Chuuk, 12 FSM R. 3, 10 (Chk. 2003).

In a garnishment matter, a significant administrative burden would be offset by the substantially greater weight of the fundamental human rights guaranteed by the FSM's Constitution's Declaration of Rights. In such a case, a mere administrative burden may not be interposed as an obstacle to the vindication of those rights. Estate of Mori v. Chuuk, 12 FSM R. 3, 10 (Chk. 2003).

A garnishment order will not circumvent any state plan to pay judgments when there has been no plan although legislation had required that one be developed. Estate of Mori v. Chuuk, 12 FSM R. 3, 10 (Chk. 2003).

When writs of garnishment are left in place which require the FSM to pay the judgments and attorney's fees awards, the FSM may pay the judgments under protest and still preserve its grounds for appeal. Estate of Mori v. Chuuk, 12 FSM R. 3, 12 (Chk. 2003).

The court has granted writs of garnishment against funds held by the national government for the benefit of the State of Chuuk only in one instance, and that is where a judgment was entered against the state for violations of 11 F.S.M.C. 701 *et seq.*, the national civil rights statute. Barrett v. Chuuk, 12 FSM R. 558, 560 (Chk. 2004).

The FSM Congress has specifically acted to confer a cause of action for violation of civil rights, 11 F.S.M.C. 701 *et seq.*, and it is for judgments based on such claims that the court has issued writs of garnishment against the state. Barrett v. Chuuk, 12 FSM R. 558, 561 (Chk. 2004).

The remedy of garnishment exists in the FSM, and does so on the basis that 6 F.S.M.C. 1404 provides that judgments may be enforced "in any . . . manner known to American common

law or common in courts in the United States." FSM Social Sec. Admin. v. Lelu Town, 13 FSM R. 60, 61 (Kos. 2004).

At common law, garnishment did not exist as a remedy where the judgment debtor was a municipality because it is generally held that the funds or credits of a municipality or other public body exercising governmental functions, acquired by it in its governmental capacity, may not be reached by its creditors by garnishment served upon the debtor or depository of the municipality. FSM Social Sec. Admin. v. Lelu Town, 13 FSM R. 60, 62 (Kos. 2004).

The FSM Supreme Court has issued writs of garnishment directed toward the assets of a state government where the underlying cause of action is based on a violation of the national civil rights statute. The rationale for those writs was the Supremacy Article of the FSM Constitution, which must control regardless of a state constitutional provision, or national law, to the contrary. It has declined to issue a writ of garnishment where the judgment debtor was a state government and the judgment was based on ordinary breach of contract. FSM Social Sec. Admin. v. Lelu Town, 13 FSM R. 60, 62 (Kos. 2004).

Although preserving the integrity of the FSM social security system is a matter of concern to all FSM citizens, when Social Security has offered no argument why the court should depart from the general rule that municipal entities are immune from garnishment, a motion for issuance of a writ of garnishment directed toward the assets of a municipality will be denied. FSM Social Sec. Admin. v. Lelu Town, 13 FSM R. 60, 62 (Kos. 2004).

When issuing a writ of garnishment becomes necessary to satisfy a civil rights judgment, the judiciary is clearly empowered to do so. The fact that the garnished is a state within this federation (and the garnishee is the national government) does not change the analysis because the FSM Constitution guarantees this nation's citizens certain protections, and Congress has passed laws allowing its citizens to sue for damages where those rights have been violated. It is not for one state to roll back those rights and privileges afforded by the national government, and the court would be derelict in our duty to allow it to do so. The trial court's action case was thus appropriate and within the bounds of its authority. Chuuk v. Davis, 13 FSM R. 178, 186 (App. 2005).

When, only after repeated attempts to satisfy those judgments by less drastic measures, writs of garnishment were issued in a civil rights case after over six and a half years had elapsed since judgment and in another civil rights case, in which a writ of garnishment was issued at the same time, after over two years since judgment, but when in the present case, it has only been about four months since the first payment on the consent judgment was due, and since legislative appropriation can be a time-consuming process, the state must be given a reasonable time and opportunity to complete the process and given further opportunity to meet its obligation in some other manner before the plaintiffs can resort to a writ of garnishment. Tipingeni v. Chuuk, 14 FSM R. 539, 543 (Chk. 2007).

A statute is unconstitutional to the extent that it prohibits garnishment of state funds to satisfy a civil rights judgment, including civil rights judgments involving purely economic damages as well as those involving physical injury damages. Barrett v. Chuuk, 16 FSM R. 229, 234 (App. 2009).

The FSM Supreme Court's power to issue writs of garnishment is clearly discretionary. Stephen v. Chuuk, 17 FSM R. 453, 458 (App. 2011).

Since the trial court can, on application, endeavor to find a workable way in which to eventually pay the judgment as quickly as reasonably possible and issue writs for less than the full judgment amount, the court will issue a writ of garnishment for compensation for the taking of the plaintiff=s retained property during two years, and if no further payments are made on the judgment within the next six months, the plaintiff may then apply for another writ of garnishment. Stephen v. Chuuk, 18 FSM R. 22, 26 (Chk. 2011).

The FSM Supreme Court’s power to issue writs of garnishments is based in 6 F.S.M.C. 1404 and supported by case authority. FSM Social Sec. Admin. v. Yamada, 18 FSM R. 88, 89 (Pon. 2011).

A garnishment order directs the garnishee, which is the person or entity holding money for the judgment debtor’s benefit, to pay sufficient money to the judgment creditor to discharge the judgment. The garnishee must determine if and how much money it holds for the judgment debtor and then pay the judgment amount. FSM Social Sec. Admin. v. Yamada, 18 FSM R. 88, 89 (Pon. 2011).

The writ of garnishment is to be used completely at the court’s discretion and should only garnish funds beyond what the defendant reasonably needs to support herself. Although it is in the best interest of all parties to have the judgment paid as soon as possible, the court must be cautious in issuing writs of garnishment, and it must be precise in directing the garnishee and mindful of how the garnishment will affect the defendant. FSM Social Sec. Admin. v. Yamada, 18 FSM R. 88, 89 (Pon. 2011).

Before garnishing tenants’ rental payments to pay the lessor’s tax liens, the court should be provided with information concerning the building, including current interests in the building, current leases, and any other facts that the court might require to rule on the garnishment request and any information on the defendant’s dependence on the monthly rental income and other income at her disposal so that the court may order with particularity a writ of garnishment. FSM Social Sec. Admin. v. Yamada, 18 FSM R. 88, 89-90 (Pon. 2011).

The FSM Supreme Court has issued writs of garnishment directed toward the assets of a state government when the underlying cause of action is based on a violation of the national civil rights statute, but it has declined to issue a writ of garnishment where the judgment debtor was a state government and the judgment was based on ordinary breach of contract. The rationale for the issued writs was the FSM Constitution’s Supremacy Clause, which must control regardless of a state constitutional provision, or national law, to the contrary. Kama v. Chuuk, 18 FSM R. 326, 334 (Chk. S. Ct. Tr. 2012).

In civil rights cases, the FSM Supreme Court has ordered garnishment of civil rights judgments from state funds held by the national government when civil rights judgments have gone unpaid for a long period of time. Alexander v. Pohnpei, 19 FSM R. 133, 135 (Pon. 2013).

The usual first step for an order in aid of judgment against a state when there are no appropriated funds available for that purpose is to order the state executive to submit an appropriation bill, and since legislative appropriation can be a time-consuming process, the state must be given a reasonable time and opportunity to complete the process and be given further opportunity to meet its obligation in some other manner before a plaintiff can resort to a writ of garnishment. Alexander v. Pohnpei, 19 FSM R. 133, 136 (Pon. 2013).

When the \$50 monthly payments barely cover the monthly interest plus some of the accrued interest, if some of the rental payments to the judgment debtor can be garnished while complying with Kosrae Code ' 6.2409(1) that allows debtors to retain property and income to provide reasonable living requirements, the trial court must do so unless there is an even faster way to satisfy the judgment. This is for the trial court to determine at a hearing where the parties present the necessary evidence for a determination. George v. Sigrah, 19 FSM R. 210, 220 (App. 2013).

A writ of garnishment directing rent payments to the judgment creditor from the debtor corporation's commercial tenant, constitutes a proper exercise of the court's authority under the order-in-aid-judgment statute. FSM Dev. Bank v. Christopher Corp., 20 FSM R. 98, 104 (Chk. 2015).

The remedy of garnishment exists in the FSM, and does so on the basis that 6 F.S.M.C. 1404 provides that judgments may be enforced in any manner known to American common law or common in courts in the United States. FSM Dev. Bank v. Carl, 20 FSM R. 592, 594 (Pon. 2016).

Upon application of either party and notice to the other, the court may modify an order in aid of judgment at any time, but the debtor's attorney cannot simply direct her other client, the garnishee, to stop payments in violation of a lawful court order and writ of garnishment, without going through the proper legal process of having the order and writ modified. In re Contempt of Fujita, 21 FSM R. 634, 638 (Pon. 2018).

A garnishee's payment of the monthly rent to the debtor or to his attorney does not excuse his non-compliance with the writ of garnishment, because clients are held accountable for their attorney's acts or omissions. In re Contempt of Fujita, 21 FSM R. 634, 638-39 (Pon. 2018).

A garnishee's attorney, as an officer of the court, is obligated to advise her garnishee client to comply with the writ of garnishment, and to transmit the garnishee's monthly payments to the creditor and not to her other clients, who were not entitled to receive those funds. In re Contempt of Fujita, 21 FSM R. 634, 639 (Pon. 2018).

Any intentional disobedience or resistance to the court's lawful order is contempt of court, and a non-party may be in contempt of a court order. Thus, a garnishee who deliberately disobeys a court order may be held in contempt of court. In re Contempt of Fujita, 21 FSM R. 634, 639 (Pon. 2018).

A garnishee is in contempt of court for intentional disobedience of the writ of garnishment when he had assistance of counsel, had notice and knowledge of the writ of garnishment requiring payments to the creditor, and had the ability to comply with the writ because he gave the full amount of the monthly rent payments to other persons. In re Contempt of Fujita, 21 FSM R. 634, 639 (Pon. 2018).