



STATE OF RHODE ISLAND JUDICIARY

SUPERIOR COURT

FREQUENTLY ASKED QUESTIONS

TEMPORARY RESTRAINING ORDERS (TRO)

Question: Does my TRO petition belong in the Superior Court?

Answer: The Superior Court may issue a TRO to protect against injury to person or property in accordance with Rule 65(b) of the Superior Court Rules of Civil Procedure. Your petition belongs in the Superior Court if the parties are (1) not related by blood or marriage, (2) not in or previously in a relationship, (3) neither is a minor, and (4) the petition is not about a landlord/tenant dispute.

A Superior Court TRO is considered a civil action. Therefore, violation of the TRO is not considered a criminal offense and a party cannot be arrested. If a party violates the TRO, your recourse is to return to court and appear before a judicial officer.

If you need to file a TRO for a landlord/tenant issue or against someone with whom you are in a relationship with or was previously, please file in the District Court. If you need to file a restraining order against a family member or a minor, please file in the Family Court.

Question: What is the cost of filing a TRO?

Answer: The filing fee is \$180.75. In addition to the filing fee, the Sheriff's Department charges \$45 to serve notice on the defendant of the TRO. If you are unable to afford the fees, you must file a [Motion, Affidavit, and Order to Proceed In Forma Pauperis](#) to request that the court waive the fees. The Clerk's Office will make the forms available to you upon request.

Question: For how long is the TRO in effect?

Answer: The TRO will remain in effect for ten (10) days. Next, both parties appear before a judicial officer for a hearing and a decision on the case.

JUDGMENT OF CIVIL LIABILITY - RESTITUTION

The Superior Court has jurisdiction in civil matters where the amount exceeds \$10,000. The court shares jurisdiction with the District Court in matters where the amount is between \$5,000 and \$10,000. Any matters under \$5,000 reside in the District Court.

Question: Which documents do I need to file a new case?

Answer: You will need to file a [Petition to Enforce Judgment of Civil Liability – Restitution](#) and a copy of your Judgment of Civil Liability - Restitution.

Question: Do I need a lawyer to file my case?

Answer: No, but the Superior Court always recommends contacting an attorney for advice. For information, call the Rhode Island Bar Association at (401) 421-5740.

Question: What is the cost of filing my restitution case?

Answer: The filing fee is \$180.75 and there is a \$75 fee for the issuance of a Writ of Execution and Citation in Supplementary Proceedings (see below for an explanation of this process). In addition to these fees, the Sheriff's Department charges \$45 to serve notice on the defendant of the case. If you are unable to afford the fees, you must file a [Motion, Affidavit, and Order to Proceed In Forma Pauperis](#) to request that the court waive the fees. The Clerk's Office will make the forms available to you upon request.

Question: What if I do not have a copy of my Judgment of Civil Liability - Restitution or I do not know the address of the defendant?

Answer: Upon your request, the Clerk's Office will provide you a copy of your Judgment of Civil Liability - Restitution and the last known address of the defendant if there is one on file.

Question: What is the importance of having an address for the defendant?

Answer: Locating the defendant to properly serve the Writ of Execution and Citation in Supplementary Proceedings is important to make the defendant aware you have filed a case against the defendant in Superior Court. Serving this document notifies the defendant to appear before the court.

The case cannot proceed if the defendant is unable to be served. The Clerk's Office will provide the last known address of the defendant. But if the defendant is no longer at that address, you have the responsibility to locate the defendant through research, private investigator, or other means.

Question: Now that I am trying to get paid the restitution owed to me by filing a civil lawsuit, who are the parties to the case?

Answer: In this case, there are two (2) party types. The first party is the petitioner, who was the victim in the original criminal case and to whom restitution (money) is owed. Sometimes the petitioner is referred to as the "judgment creditor."

The second party is the defendant. The defendant is the person who owes restitution to the petitioner. Sometimes the defendant is referred to as the “judgment debtor.”

Question: **What does the Writ of Execution and Citation in Supplementary Proceedings do?**

Answer: The Writ of Execution and Citation in Supplementary Proceedings demands payment from the defendant (Writ of Execution) and schedules a hearing date if full payment is not made (Citation in Supplementary Proceedings). The Writ of Execution may be recorded against the defendant’s real estate in the land evidence records of the city or town where that real estate is located. If you have recorded the Writ of Execution, the defendant will be unable to sell the real estate.

Question: **What is a supplementary proceedings hearing?**

Answer: A supplementary proceedings hearing is scheduled at the request of the petitioner. The defendant must appear before the court to explain why payment has not been made on the judgment. The judicial office can examine the defendant’s circumstances and ability to pay at this hearing.

Question: **What happens if the defendant does not appear in court?**

Answer: The plaintiff may request that a civil body attachment be issued. That means that the defendant may be arrested civilly and be brought before the court immediately. If the defendant is arrested civilly and brought to court, the plaintiff must be able and available to appear at that time.

Question: **What are some potential outcomes of a supplementary proceedings hearing?**

Answer: Supplementary proceedings are governed by Rule 69 of the Superior Court Rules of Civil Procedure. On the day of the hearing, the petitioner and the defendant may enter into an installment payment agreement. The payment amount and method of payment are memorialized in an order signed by the judicial officer presiding over the hearing.

If a payment agreement cannot be established between the parties, the judicial officer may ask about the defendant’s assets, income, and circumstances and the defendant’s financial ability to pay.

After the supplementary proceedings hearing, the plaintiff may file motions to attach bank accounts, the defendant’s personal estate, or attach wages in accordance with the Superior Court Rules of Civil Procedure, in particular Rule 69.

EXPUNGEMENTS

Question: When and how can I get my case expunged?

Answer: The summary below is for informational purposes only. We recommend you contact an attorney to discuss the procedure for filing such a motion in your particular case. This summary does not guarantee that your case will be expunged after a motion is filed.

Title 12, chapter 1.3 of the Rhode Island General Laws sets out a procedure for a first-time offender to file a motion to expunge a record of conviction for a felony or misdemeanor. “Expungement” is a legal procedure by which certain individuals can ask the court to seal a criminal record. Once sealed, the criminal record is no longer public. Some time limits apply before a motion to expunge a case can be filed. Anyone convicted or placed on probation on more than one occasion is not eligible for expungement.

The motion for expungement should be filed in the court in which the charge and/or conviction took place. Please click [here](#) for instructions on filing a motion to expunge a felony or click [here](#) for instructions to expunge a misdemeanor.

The filing party is required to give ten (10) days’ notice to the Office of the Attorney General and the arresting police department that the motion to expunge is being filed. There are offices of the Attorney General in all courthouses where you can drop off a copy of your motion.

The court Clerk’s Office will assign a hearing date at least ten (10) days from the date the motion for expungement was filed. There are separate motions for felony and misdemeanor cases.

Question: Is there a fee associated with my expungement?

Answer: There is no fee required during the expungement process.

COSTS, FINES, AND RESTITUTION

Question: Can I set up a payment plan for my court costs and restitution?

Answer: Yes, all Clerk’s Offices are prepared to assist you with payment arrangements.

Question: I cannot afford to pay my court costs, fines, and restitution. What can I do?

Answer: You can file a motion to remit court costs and fines with an accompanying [financial statement](#). A judicial officer will review your financial situation and decide on any remittance (cancellation of all or part of your costs and fines). Restitution is not

eligible for remittance. Please contact the Clerk's Office in the county where your case was heard to schedule a hearing

MOTION AND FORMAL SPECIAL CAUSE CALENDAR SCHEDULE

Question: **Where and when are the motion calendars in the Superior Court?**

Answer: Please see below for county and schedule.

Providence County:

Dispositive motions are heard on Wednesday.

Non-dispositive motions are heard on Thursday.

Formal and special cause matters are heard Monday through Friday.

Kent County:

Dispositive and non-dispositive motions are heard the 2nd and 4th Mondays of every month. If Monday is a holiday, they are heard on that Tuesday.

Formal and special cause matters are heard on Friday.

Washington County:

Dispositive and non-dispositive motions are heard the 3rd Monday of every month.

If the Monday is a holiday, they are heard on that Tuesday. There is no motion calendar for the month of July.

Formal and special cause matters are heard on Friday.

Newport County:

Dispositive motions are heard the first Tuesday of the month.

Non-dispositive motions are heard the 1st Monday of every month. If Monday is a holiday, they are heard on that Tuesday.

Formal and special cause matters are heard on Friday.

IN ALL COUNTIES, DISPOSITIVE MOTION DATES MUST BE APPROVED BY THE CALENDAR CLERK AND ALL NON-DISPOSITIVE MOTIONS ARE HEARD WITH TEN (10) DAYS AFTER NOTICE TO THE OPPOSING PARTY.