

---

**5.05.01 – Writ of Seizure and Sale**

---

**General Information***Last Modified: January 2024*

For a summary of this procedure, and any related materials, see its [highlight page](#).

*'Ctrl+Click' within the below table to jump to the desired section!*

**Table of Contents**

General Information .....	1
Policy .....	3
Enforcement Office Jurisdiction .....	4
Property Address.....	4
Name(s) .....	5
Amount owed.....	5
Alternate Enforcement .....	5
Writ Numbers.....	6
Withdrawing a Writ .....	6
SP is Bankrupt .....	6
Stay of Enforcement .....	6
Pension Assets.....	7
Criteria for Filing a Writ .....	8
Procedure .....	8
Requesting a Writ.....	8
Validate Case Information .....	8
Initiating a Writ .....	9
Multi Party Orders .....	10
Withdrawing a Writ .....	10

---

Withdrawing a Writ on MECA Closed Case .....	12
Issuing a Statutory Declaration .....	12
Issue Arrears Update (used only to update arrears balance) .....	13
Rejections .....	14
Cancelling a new Writ request, Statutory Declaration or Writ withdrawal .....	14
Adding a Property Asset (including a pension asset) .....	15
Executing a Writ .....	16

## Policy

A writ of seizure and sale (writ) is filed by the Family Responsibility Office (FRO) pursuant to [Section 44 of Family Responsibility Support and Arrears Enforcement Act \(FRSAEA\)](#). A writ is filed when there are arrears owed on a issued and entered support order(s), Support Deduction Order (SDO), or domestic contract FRO is enforcing.

A writ allows FRO to:

- Affect the ability of a support payor (SP) to sell, purchase and/or finance real property (property that cannot be moved and is anything attached to land) in the SP's name.
- Share in the distribution of proceeds when real estate or refinancing transactions occur, or to allow for the seizure and sale of the SP's personal assets, such as a vehicle or Registered Retirement Savings Plan (RRSP).
- Request that the Sheriff's Office seize and sell goods, or to seize rental income, etc.
- Share in the distribution of funds should another creditor execute a writ against the SP and claim statutory priority for support under [s.2\(3\) of the Creditors' Relief Act, 2010 \(CRA\)](#), as applicable.

This policy includes how to:

- Add a property or pension asset to FCMS
- File a writ with the appropriate Enforcement Office and Land Titles/Registry Office(s) when we have information that the SP has land or other assets, which are subject to seizure.
- Update a writ by filing a 'Statutory Declaration to Sheriff FLR 28B' with the right Enforcement Office and Land Titles/Registry office(s). This is needed when:
  - The SP's name has changed from what is shown in the support order [including a domestic contract or paternity agreement filed with an Ontario court, or a Notice of Child Support Calculation (NOC) or a Notice of Child Support Recalculation (NOR)]
  - Additional Name Types including AKAs have been updated since the writ was filed
- Update a writ by filing an 'Issue Arrears Update' with the right Enforcement Office and Land Titles/Registry office(s):

- This is used to update the amount of the arrears owed since the writ was filed
- Remove a writ from the relevant Enforcement Office and Land Titles/Registry Office(s) when the arrears are paid in full or upon receipt of a solicitor's undertaking to pay the arrears in full or to a lesser amount as agreed upon by FRO.

- A writ is valid only for the name(s), or alias, of the SP shown on the writ and/or Statutory Declaration, and for the amount specified
- Writs have no expiry date as per Family Law Rules 28(4)
- A writ may be filed for cases with outstanding administrative fees only (refer to policy 14.01 – Collection of Outstanding Fees for details)

## **Enforcement Office Jurisdiction**

Per [Rule 5\(5\)\(c and d\) of the Family Law Rules](#), a writ should be filed where the SP resides or believed to have assets. If jurisdictional boundaries are in doubt, case contacts should file a writ in all possible jurisdictions. For example, if the property is on the border of Peel Region and Halton Region, case contact will issue a writ in both of those regions.

SPs and SRs are required to report any changes to their information to FRO within 10 days of the change as per [s.19 of Family Responsibility and Support Arrears Enforcement Act \(FRSAEA\)](#). This permits FRO to demand information about the home, work or mailing address of SPs and Support Recipients (SR) if information on file is confirmed inaccurate.

Case contacts should also ensure that FRO has the most recent SP address using the trace and locate databases available. Refer to policy [8.01 – Trace and Locate Overview](#) for more information.

## **Property Address**

If the SP's address is a Rural Route (RR) or Post Office Box number, the correct municipal address (property location) must be found using the methods available. The location of a Rural Route or Post Office Box address is not the location of a property. The SP's property and their mailing address may be in a different Sheriff's Enforcement Office jurisdiction.

In addition, the property found in different Sheriff's Enforcement Office jurisdictions may be in different SP names. To confirm, the case contact may conduct this search using MPAC

(Municipal Property Assessment Corporation). For more information refer to policy [8.11 Municipal Property Assessment Corporation \(MPAC\)](#).

If you do not have access to this tool, please see your Team Lead.

If MPAC results are unsuccessful then use Teraview to conduct a search. Teranet access has been granted to designated Case Administration Workers (CAW) to verify property information. The case contact can send a Service Request to COBENF to request the search. For more information refer to policy [5.14.01 Requesting Electronic Property Searches and Section 42 FRSAEA Charge Registrations through Teraview](#).

Information about the location of SP's property, may be found from review of the SR's Welcome Package or an SP's sworn financial statement.

### **Name(s)**

The original writ is valid only for the name(s) of the SP provided in the court documents and any alias(es) that have been entered into the Identity History tab. However, if new aliases or spelling variations are provided while the writ is active, the case contact must update the name(s) used by the SP with the Enforcement Office by filing a Statutory Declaration. When a Statutory Declaration is filed, the writ is amended to specify the SP's name(s), alias or spelling variation of any name or alias as noted on the Statutory Declaration.

If there is the slightest typographical error in the SP's name, or the property is registered or bought under an alias or variation of the SP's name (for example, 'J. Paul Smith' versus 'John Smith'), it is possible that the writ may not be applied. Further details are below in the [To Issue a Statutory Declaration](#) section.

### **Amount owed**

A writ is valid only for the arrears amount specified; however, case contacts may report a revised arrears amount with the Enforcement Office by filing an Issue Arrears Update. When an Issue Arrears Update is filed, the writ is amended to specify the current amount owing. Further details are below in the [To Issue Arrears Update](#) section.

### **Alternate Enforcement**

Case contacts may consider registration of a [section 42 FRSAEA](#) charge against the SP's real property/land where there is an imminent SP transaction or sale of the property expected, which may occur prior to the writ being put in place, or if there is an indication that the SP may soon become bankrupt (refer to policies [5.14.01 – Requesting Electronic Property Searches and Section 42 FRSAEA Charge Registrations through Teraview](#) and [18.01 – Bankruptcy of the Support Payor](#) for details).

## **Writ Numbers**

Writ numbers are 10 digits long, beginning with the last 2 digits of the year the writ was filed, then a dash (-) followed by a seven-digit number. Prior to the launch of E-writs, FRO used to receive and enter truncated versions of the writ number that excluded the zeros (0s) from the seven-digit sequence number. For example, '22-789'. These should have all been corrected to reflect the correct number formatting – for example, '22-0000789'. Errors in writ number formatting must be corrected prior to proceeding with any writ action.

## **Withdrawing a Writ**

A writ must be withdrawn when the arrears are paid in full or upon receipt of a solicitor's undertaking to pay the arrears in full. (refer to policy [5.05.02 Negotiating withdrawal of Writ – Solicitor's Undertaking](#) for details).

Writ Number and Writ Filing Date field must be populated before a writ can be withdrawn.

If the fields are blank the interface will populate the information in the fields within 24 hours-48 hours. At which time withdrawal of the writ can proceed.

## **SP is Bankrupt**

If the SP has made an Assignment in Bankruptcy and is not discharged (refer to policy [18.01 – Bankruptcy of the SP](#) for details) and FRO is notified by the Trustee in Bankruptcy of a pending sale of property (affected by a FRO writ); FRO must withdraw its writ to allow the sale to be completed in compliance with the federal Bankruptcy and Insolvency Act (BIA). Case contacts need to consult with their team lead/manager and may need to consult with FRO Legal Counsel to confirm next steps.

## **Stay of Enforcement**

A stay of enforcement order does not require the writ to be removed unless the order specifically orders FRO to remove it.

A 'Hold All' payment alert should be put on the case where there is an order staying enforcement and should be reviewed periodically. If a stay of enforcement order has been made, and a later request to remove the writ is made, Team Lead/manager and FRO Legal Counsel should be consulted.

In extenuating circumstances where you cannot wait the 24-48 hours then a fax can be provided to the Enforcement Office and to the SP's lawyer advising of the writ withdrawal. FCMS record will still require updating to reflect the writ withdrawal once the Writ Number and Writ Filing date have been populated. Any documents sent by fax will require uploading to the case.

## **Pension Assets**

- When dealing with the SP's pension assets (such as, RRSP, Guaranteed Investment Certificate (GIC), Locked-In Retirement Account (LIRA), etc.) the status of the pension account and its location (must be within Ontario) determines what enforcement mechanism can be brought, if any.
- If the pension account is not locked-in, it may be seized under Writ of Seizure and Sale at 100 percent rate by providing Direction to the Sheriff's Office to do so.
- If the pension account is currently "in pay" (for example, SP is receiving regular payments), a Support Deduction Notices (SDN) should be served on the income source/pension administrator, as per [s.1\(1\) of the Family Responsibility and Support Arrears Enforcement Act \(FRSAEA\)](#) and is subject to 50 percent remittance rate. The income source/pension administrator must be within Ontario (refer to policy [5.01 – Support Deduction Orders \(SDO\) & Support Deduction Notices \(SDN\)](#) for details).

If the pension account is locked in and not in pay, FRO cannot enforce against it at that time and despite order terms which may suggest otherwise (refer to [s.66 of the Pension Benefit Act](#)). In such cases, it is FRO's "best practice" to serve an SDN on the income source/pension administrator to require diversion to FRO at such future date that pension monies start flowing to the SP and which will be at 50 percent remittance rate. The income source/pension administrator must be within Ontario.

## Criteria for Filing a Writ

- SP's address/land/asset must be in Ontario
- Order/Agreement/NOC/NOR/SDO Status = 'Enforceable'
- case at least one (1) month in arrears (minimum of ongoing support + \$50.00)
- active SP address or property asset
- no 'Active' Court ordered Arrears Payment Schedule (CAPS) (breached CAPS only)
- 'Indigenous' is not in the Special Handling field
  - If field is 'Indigenous,' consult the Special Handling CMO for next steps

Writ may be issued when the case has an enforceable SDO under extenuating circumstances. For example, information about the sale of a property is approaching and the court has advised there is a delay in issuing and entering the support order. Service Request to the manager or Team Lead is required for approval prior to issuing the writ with only the SDO.

## Procedure

### Requesting a Writ

#### Validate Case Information

##### Case Contact

1. Ensure the SP address is 'Active' and the SP address is a complete residential address. If the address is a P.O. Box or Rural Route, see [Property Address](#) for more information.
2. Navigate to the Court Orders tab. Ensure that only the active order(s) are in 'Enforceable' status.
3. Ensure the SP's name from the most current enforceable support order *style of cause* in the Court Order Contacts is entered and correct.



If the SP's name includes an aka name or suffix in the 'style of cause' of the support order, ensure the aka name(s) are also entered in the Identity History tab of the SP's contact profile. Please ensure you select the correct 'Name Type' – for example, if the SP has a nickname such as "King of Hearts", enter these as 'Nickname' or 'Other'. These name types are not added to the writ as they are not applicable.

4. Review case financials to ensure all information is current and correct including:

- Case should be at least one (1) month in arrears (minimum of ongoing support + \$50.00)
- No 'Active' CAPS exists

### Initiating a Writ

5. Navigate to the '*Writ Enforcement*' tab.

6. Scroll down to the '*Writ Form*' view and select the '+' button to create a new writ.

7. FCMS will open a new record and auto populate six mandatory fields:

- SP address
- SP Court Order Name
- SP AKA Name (if applicable)
- SR Court Order Name
- Enforcement Office \*\*\*
- the Court Orders field with all enforceable support orders

\*\*\* FMCS auto-populates the Enforcement Office based on the payors current address. If you are filing a writ for property located in a different jurisdiction, you can select the query button next to this field to open a picklist of Enforcement Offices and choose the applicable office. See [Adding a Property Asset](#) for steps on updating the SP contact profile.

FCMS will generate a pop-up message alerting the user to review and correct any missing or incorrect information.

8. Ctrl + S to save

9. Select 'Submit'

10. Update case notes with applicable information related to actions taken

FCMS will:

- Update the writ enforcement Status to 'In Progress,' Sub Status to 'Writ request to be sent', Writ Requested Date to today's date and auto populate the Initial Arrears Reported and the Updated SP Names (if applicable (names other than the court order))
- Update Date sent to Writ System, Sub Status to 'Writ sent' once the batch is sent to Teranet
- Auto populate the Writ Number, Writ Filing Date, Writ Confirmed Date and Sub Status update to 'Writ confirmed' once FCMS receives confirmation through the interface the writ has been filed
- Create two Activities in closed status. The first Activity will include Comment 'Writ enforcement requested.' The second Activity will include the writ details (name(s), arrears, enforcement office) in the Comment field

If there is a imminent transaction or sale on SP's property, a Section 42 FRSAEA charge should also be considered, refer to [5.14.01 – Requesting Electronic Property Searches and Section 42 FRSAEA Charge Registrations through Teraview](#) for more information.

## **Multi Party Orders**

When requesting a writ with a Multi Party Order the case contact needs to ensure that *only* the applicable support payor is listed under the Court Order Contacts tab. If the writ is requested with multiple support payor names the writ will be filed as such which can increase FRO's risk of liability. The temporary workaround is for users is to remove the second party from the SP Court Order Contacts tab. Issue the writ for the applicable SP and then enter back the second party name into the Court Order Contacts tab. This will ensure that other enforcement such as Bank Garnishment and Default Hearing will not be affected.

## **Withdrawing a Writ**

If you are unsure if a writ should be withdrawn, see [Withdrawing a Writ](#) section above for more information. Case contact will:

1. Navigate to the Writ Form View
2. Locate the applicable writ record to be withdrawn
3. Update the following fields:
  - Writ Action: Withdraw Writ
  - Withdrawal Reason: Select the reason for withdrawal from list of values
4. Ctrl + S to save
5. Select the 'Submit' button
6. Select the 'Execute Query' icon
7. Create a case note detailing the reason the writ was withdrawn

If validation is successful, FCMS will:

- Populate the Withdrawal Date and Withdrawal Request Date to current day's date
- Update writ enforcement action Sub Status to 'Writ Withdrawal to be sent'
- Generates closed Activity with Comments 'Writ withdrawal requested'

If validation is unsuccessful, FCMS will alert the user of the reason. Errors must be corrected prior to the withdrawal process continuing.

- If the [Writ Number](#), and/or Filing Date fields are flagging with errors, users will need to send a Service Request to their manager to enter or correct the information before continuing with the writ withdrawal.

If the writ withdrawal is successful FCMS will update the following fields in the Writ Form view:

- 'Date Sent to Writ System' and 'Withdrawal Confirmed Date'
- Generate an Activity in Closed status with details in the comments field

If the writ withdrawal is not successful:

- An error message will display notifying the user the Writ Number is missing or to correct the writ number format in the Writ Number field or
- An error message will display notifying the user the Writ Filing Date is missing

## **Withdrawing a Writ on MECA Closed Case**

1. Verify that the writ information on the case matches the information provided by the lawyer and/or client.
2. Confirm using the [MASTER WRIT LIST FOR FRO](#) (which can be found in Policies & Procedures SharePoint site, [Chapter 05 Enforcement Action](#)) if the Writ is still active.
3. If the information matches, email [AskWrits@ontario.ca](mailto:AskWrits@ontario.ca). MECA Writ withdrawals require manual withdrawal by MAG.

In the email, cc Team Lead and include the following info:

- i. Writ file number, SP Name, and Enforcement Office
  - ii. “Record is housed within a MECA closed case and cannot be withdrawn electronically.”
4. MAG will withdraw the writ within 1-3 business days. No letters will be generated in FCMS, advise lawyer and/or client to check Teranet database in 1-3 business days to confirm Writ has been withdrawn.
  5. Using the [How to Retrieve MECA notes and record new](#) job aid, upload any pertinent documents and record case note to the MECA case as a Service Request.

## **Issuing a Statutory Declaration**

For updating any SP name(s)/aka’s after writ is in place

Case contact will:

1. Create Identity History record in SP’s Contact profile to reflect Name Type such as aka.
2. Navigate to the Writ Form view.
3. Ensure the Writ Number field is populated.
4. Select Refresh Arrears from the Writ Action list of values.
5. Ctrl +S to save then select the Submit button.

6. Select the Execute Query icon.

FCMS will automatically:

- Update the Enforceable Arrears field to current arrears balance owing
  - Auto populate the Updated SP Names field
7. Ensure SP name(s) that were added to Identity History is displayed in the Updated SP Names field.
  8. Select Issue Statutory Declaration from the Writ Action list of values.
  9. Ctrl + S to save, then select the Submit button.
  10. Select the Execute Query icon.

FCMS will automatically:

- Update the Writ Enforcement Sub Status to 'Stat Declaration to be sent'
- Auto populate the Statutory Declaration Requested Date
- Auto populate the Updated Arrears Amount Reported
- Auto populate the Updated Arrears Requested Date
- Generate an Activity in Closed status with details in the comments field

Once the Statutory Declaration is successfully updated with Teranet, under the Statutory Declaration and Arrears Update sections, FCMS will auto populate:

- Date sent to Writ System
- Statutory Declaration Confirmed Date
- Arrears Reported Confirmed Date
- Generate an Activity in Closed status with details in the comments field

### **Issue Arrears Update (used only to update arrears balance)**

If a writ requires an arrears balance update:

1. Select Refresh Arrears from the Writ Action field

2. Ctrl + S to save, select Submit, select Execute Query – this will update the Enforceable Arrears field
3. Select Issue Arrears Update from the Writ Action field
4. Ctrl + S to save, select Submit, select Execute Query – this will issue the Arrears update to Teranet

Under the Arrears Update section FCMS will:

- Update Sub Status to Arrears Update to be sent
- Auto populate Updated Arrears Amount Reported
- Auto populate Updated Arrears Requested Date

Once the Arrears Update is successfully updated with Teranet, FCMS will auto populate:

- Date Sent to Writ System
- Arrears Reported Confirmed Date

## **Rejections**

If Teranet rejects any of the writ actions requested, FCMS will generate an Activity in Open status. User can refer to the comments field for details on the rejection reason and make the necessary updates/correction before reattempting the writ action.

For Writs that have rejection reason 'Writs Already Withdrawn' the Activity will generate in Closed status and the enforcement record will be closed by FCMS.

## **Cancelling a new Writ request, Statutory Declaration or Writ withdrawal**

### **Same Day Only**

Issued writs, Statutory Declarations and writ withdrawals can be cancelled on the day they were initiated by selecting the '**Undo Writ Request**' button. FCMS will then cancel the action, close the enforcement record, update Status to Closed and update the Sub Status to 'Writ Cancelled.'

Any action required after the date of initiation will need to follow the standard update and withdrawal processes below.

## **Adding a Property Asset (including a pension asset)**

When adding a **property (real estate)** as an asset, the property address is required.

- This step is needed only if you are requesting a writ against a property other than the residential and/or mailing address of the SP, such as a rental property, cottage, etc.

When adding a **pension account** as an asset the location and pension administrator, as applicable, is needed.

Case contact:

1. Open the SP Contact Record
2. Select the 'Assets' tab
3. Select the 'New' button
4. If the asset has an identifying number, such as, bank account number, serial number, enter it in the Asset Number field
5. Select the drop-down in the Asset Type field and select the applicable value
6. Select the drop-down in the Asset Sub Type and select the applicable value
7. If an address for a property is listed, first query for it in the Address field:
  - a) Select the pick list icon in the Address field and perform the query. If the address does exist, enter the full address in the Description field (for example, 'Cottage - 555 Maple Rd, Part Lot 1, Conc.2, Bala ON K0K 1K1, first left after the bridge').
8. Add all applicable information provided in the Description field. For example:
  - a) If a car, add the vehicle type, model, year, colour, license plate number, Vehicle Identification Number (VIN) and ownership
  - b) If a property, include the ownership
9. If the asset is a bank account, add the Financial Institution as follows:
  - a) From the Financial Institution field select search and a pick list will appear
  - b) From the Find drop-down menu, select 'Institution Number'
  - c) Enter the financial institution number in the Starting with field

- d) Select the Go button
  - e) You will return to the previous screen and the Financial Institution field will auto populate
10. Enter the date provided or today's date in the Start Date field
11. Ctrl + S to save

### **Executing a Writ**

Before executing a writ, review the last information recorded on the writ:

- Validate all court order contact names and names in Identity History including AKAs, Given, MTO etc. are correct and added
- Writ Action: select Refresh Arrears
  - Ctrl +S to Save, select Submit then,
- Writ Action: select Issue Execute Writ

If an arrears balance update is required, an Issue Arrears Update will need to be filed in order to update the arrears balance after executing the writ:

- Writ Action: select Issue Arrears Update

To update names, a Statutory Declaration will need to be filed in order to ensure any name changes have been updated after executing the writ. This will also update the arrears balance.

- Writ Action: select Issue Statutory Declaration

See steps above for [Issue Arrears Update](#) or [Issue a Statutory Declaration](#).

Refer to policy [5.05.03 Seizure of Assets](#) for more details.