



New York State Archives

**New York State Supreme Court of Judicature (Albany) Writs
of Arrest and Execution J0024**

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Overview of the Records

Repository:	New York State Archives
Summary:	This series consists of writs of execution issued by the Supreme Court of Judicature, the majority of which conform to two types: the writ of fieri facias is a writ of execution commanding a sheriff to levy the amount of judgment from the moveable or real property of a judgment debtor; the writ of capias ad satisfaciendum is a writ of execution commanding a sheriff to take custody of a losing party and hold him for appearance in court to satisfy a judgment.
Creator:	New York (State). Supreme Court of Judicature (Albany)
Title:	Writs of arrest and execution
Quantity:	79.1 cubic feet
Quantity:	184 boxes
Inclusive Date:	1797-1847
Series:	J0024

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Arrangement

Chronological by year of filing, then alphabetical by name of plaintiff's attorney.

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Scope and Content Note

This series consists mostly of two types of writs of execution. Writs of fieri facias command a sheriff to levy the amount of a judgment from the judgment debtor. Writs of capias ad satisfaciendum command a sheriff to arrest a losing party for a court appearance. The series also includes various other writs.

This series consists of writs of execution issued to sheriffs by the Supreme Court of Judicature under its seal. The overwhelming majority of the writs are of two types. The writ of fieri facias (fi. fa.) is a writ of execution commanding a sheriff to levy the amount of judgment from the

moveable or real property of a judgment debtor. It states the names of the debtor and the winning party, the amount and the date of the judgment, the date for return of the writ, and the names of the justice, clerk, and plaintiff's attorney. On the dorso of the writ are found the names of the parties and the plaintiff's attorney, amount of judgment, a summary of the command to the sheriff, date of receipt of writ by sheriff, and his statement as to how the writ was executed. The latter may be his receipt for payment, or a list of property sold to satisfy the judgment, or a statement that "no goods" (nulla bona) were found for sale. The writ of *capias ad satisfaciendum* (ca. sa.) is a writ of execution commanding a sheriff to take custody of a losing party and hold him for appearance in court to satisfy the judgment against him. This writ could be issued only after a writ of *fieri facias* was returned unsatisfied. The information in the writ of ca. sa. is similar to that found in the writ of *fi. fa.*, including the identifying information on the dorso. The execution of the writ, whether by arrest of the judgment debtor ("cepi corpus"), satisfaction of judgment,

or failure to find him ("non est inventus" or "non est") is noted by the sheriff. The writ of *testatum fieri facias*, or *testatum capias ad satisfaciendum*, was a second writ issued to the sheriff of another county where the defendant was thought to be, or to have property, if a first writ did not succeed in its object. This series also contains a few other writs. The writ of *scire facias* is an order to the losing party in an action to show cause why he should not satisfy the judgment against him; it was often employed when one or the other of the parties to the original action was dead. The writ of *habere facias possessionem* (hab. fa.) is a writ of execution issued in cases of *ejectment* ordering a sheriff to put the rightful owner in possession of real property awarded to him by a court judgment. The writ of *replevin* is a writ of execution ordering a sheriff to deliver moveable goods taken unlawfully to their rightful owner. In each of these writs the type of common law action--case, *assumpsit*, debt, covenant, *replevin*, *ejectment*, *trover*, etc.--is usually stated on the dorso, along with the sheriff's statement of how the writ was executed. There is no statute specifically prescribing the form and use of these various writs; they were instruments developed in the common law of England, as continued in the new State of New York by the Constituion of 1777, Article 35. In England the writ of *fieri facias* empowered a sheriff to seize only moveable

property, but an act of Parliament in 1732 (5 George II, Chap. 7, Section 4) extended this power of seizure to real property in the American colonies only.

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Related Information

Related Material

J0153Series J0153, New York State Supreme Court of Judicature (Albany) Registers of Returns of Writs, 1818-1825

J1153Series J1153, New York State Supreme Court of Judicature (Albany) Returns of Writs of Execution, 1837-1854 and

J3130Series J3130, New York State Supreme Court of Judicature (Albany) Minutes of Return of Writs by Sheriffs, 1797-1799, contain related records

J0226Series J0226, New York State Supreme Court of Judicature (Albany) Registers of Returns of Writs (by County), can be used to access Series J0024

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Use of Records

Access Restrictions

There are no restrictions regarding access to or use of this material.

Administrative Information

Custodial History

Some Utica writs of execution were originally interfiled in this series. These were removed to series J0013, New York State Supreme Court of Judicature (Utica) Writs of Execution.

The Court of Appeals placed these records on deposit at the Historic Documents Collection, Queens College, from 1973-1982.

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Access Terms

- Adjudicating
- Debtor and creditor
- Executions
- Sheriffs
- Courts
- Judgments
- Real property

- New York (State)
- Real property--Inventories
- New York (State). Court of Appeals
- New York (State). Supreme Court of Judicature