



New York State Archives

**New York State Supreme Court of Judicature (Geneva) Writs
of Execution J0025**

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Overview of the Records

Repository:	New York State Archives
Summary:	This series consists mostly of two types of writs of execution: writs of fieri facias command a sheriff to levy the amount of 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.
Creator:	New York (State). Supreme Court of Judicature (Geneva)
Title:	Writs of execution
Quantity:	24.1 cubic feet
Quantity:	57 boxes
Inclusive Date:	1829-1847
Series:	J0025

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Arrangement

Chronological by year, then alphabetical by attorney's last name.

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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 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.

Writs of execution were issued to sheriffs by the Supreme Court of Judicature under its seal. The writ of fieri facias (fi. fa.), commanding a sheriff to levy the amount of judgment from the moveable or real property of a judgment debtor, states the names of the debtor and the winning party, the amount and 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.), commanding a sheriff to take custody of a losing party and hold him for appearance in court to satisfy the judgment against him, 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.), issued in cases of ejection, ordered a sheriff to put the rightful owner in possession of real property awarded to him by a court judgment. The writ of *replevin* orders 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, ejection, 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 Constitution 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 extended this power of seizure to real property in the American colonies only.

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Related Information

Related Material

J0028Series J0028, New York State Supreme Court of Judicature (Geneva) Writs of *Capias ad Respondendum*, contains related records

J0226Series J0226, New York State Supreme Court of Judicature (Albany) Registers of Returns of Writs (by county), facilitates access to Series J0025

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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

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
- Writs
- Courts
- Judicial records
- Judgments
- Real property
- New York (State)
- Real property--Inventories
- New York (State). Court of Appeals
- New York (State). Supreme Court of Judicature