

Askee: Jackie

Date: March 2010

**QUESTION:** My employer wants me to ask the Association if I am able to get old judgments executed or if that is something, a lawyer needs to do? Frankly, I wouldn't even know how to track the individuals down myself other than court records, white pages, etc. and wouldn't know how to find out where they work either? If I can do that myself, are there procedures on what needs to happen? (Note: This member has a practice of going to small claims court for amounts owed and to obtain a judgment, a default in most cases.

**RESPONSE:** We (The Association) appreciate the opportunity to try to collect on those old judgments that you have been successful in obtaining. If no action is taken on them then you have assembled impressive but otherwise uncollected wall paper.

If the judgment that you've obtained is not paid by the debtor (voluntarily or otherwise), after we've skip traced or identified their whereabouts, your/our only other alternative is to try to liquidate the judgment by filing for an execution. This is a process that occurs if it is known that the debtor has possession of real or personal property that can be seized and liquidated. The execution is an order of the court that directs the sheriff or a Court Marshal to go get the property (hopefully cash in bank accounts) to satisfy the judgment.

If the Sheriff or Marshal takes possession of assets, this is known as a levy. Each time the Sheriff or Marshall take possession of some asset in the debtor's possession, not only can these assets be auctioned or turned into cash, but unfortunately, these efforts get very expensive. Creditor has to pay for the Sheriff's trips, whether they bare fruit or not.

If it is unknown what assets or what kind of assets may be available, the next step in the liquidation/collection of a judgment is the ORAPS Procedure. That stands for Order of Appearance Procedure. The debtor is required to appear and testify under oath relating to any property or assets available that should be turned over to the Sheriff or Marshal for your benefit. There are more steps that can occur before or if payment of the judgment ever occurs. In many cases it never does, especially if action to collect on the judgment did not occur within a short period of time after it was obtained.

It is my recommendation that after reasonable collection attempts have occurred, after you obtained a judgment, that we again assess collectability by determining if there are any assets. If there are assets,

we always recommend that you employ counsel to take the swift necessary legal steps to try to grab and liquidate assets we know about now. The fees associated with engaging counsel through our office are reasonable, collection still remains contingent, and creditors should know that any additional fees fronted are added to (capitalized) to your judgment and collectible if enough assets are seized to cover the amount owed to you.

This may be way more than you want to know about this. But it is a perfect example of "having a little bit of knowledge could be dangerous". For example, it is fine to do small claims court, but more and more complicated procedures need to occur in order to turn a judgment into cash. To put it in perspective; if you hurt your head, you can put a Band-Aid on it (small claims court). If nothing more is done and complications occur, I am sure your boss and you would agree it would be best to see an expert about the head injury (Creditor Counsel).