

LawClips

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Topic for the Month

A Sound Judgement

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Collecting on a Judgement

What is a Judgment?

A judgment is an order issued by the court stating that the creditor has won a lawsuit and is entitled to a certain amount of money. Once the creditor has a judgment against the debtor for a certain amount of money, the creditor can employ a host of methods to collect money that is unavailable without a judgment.

How to collect on a Judgment?

Often individuals and businesses will take the necessary steps to obtain a judgment against a debtor. After obtaining the judgment, the creditor finds itself wondering how it will receive payment on the judgment. The Wisconsin Statutes provide a variety of avenues to pursue the collection of a judgment.

The first and most important step in the collection process, after obtaining a judgment, is to pay the docketing fee to the Clerk of Courts' office. By docketing the judgment, the judgment becomes a 10 year lien against any real estate owned by the defendant in the county in which the judgment is rendered. Currently, the docketing fee is \$5 per defendant. It also is possible to have the judgment docketed in other counties in which the defendant owns real estate, which requires additional documentation and fees.

The most common forms of collection are earning garnishments and bank garnishments. Earning garnishments, for private employees, deduct payments directly from a debtor's paycheck and last a period of 13 weeks after they are issued. At the expiration of the 13 weeks, a new earning garnishment must be filed. If more than one earning garnishment is in effect against the employee, the employer must provide payment to the first earning garnishment filed for a period of 13 weeks. At the conclusion of the first earning garnishment, the second earning garnishment begins for a period of 13 weeks. During the earning garnishment, a creditor is entitled to 20% of the employee's disposable income after taxes and social security. A debtor may file an objection with the court to stop the earning garnishment under limited grounds, which include but are not limited to: a bankruptcy filing, the debtor is below the

poverty guidelines, or the debtor is receiving state assistance such as food stamps.

Unlike an earning garnishment, a bank garnishment is a one-time garnishment payment per filing. After a bank garnishment is filed and served upon the bank, the bank will freeze the bank accounts of the debtor up to the amount listed on the bank garnishment forms. The Court may then issue an order releasing the funds to the creditor, or may conduct a hearing if there is an objection from the debtor. The current exemption on an individual's bank account is \$5,000.00. There is no statutory exemption available for business accounts.

Lastly, aside from earning and bank garnishments, there are other statutory methods for the collection of a debt. It is permissible to pursue the seizure of personal property, such as tools, furnishings, etc., as well as for the seizure of real estate. There also are means for the collection of a business' accounts receivables, till garnishments for restaurants and bars, and the appointment of a receiver, in given circumstances. While these are possible means for the collection of a debt, it is recommended to consult with counsel as there are multiple factors that need to be considered to be successful.

While not all judgments can be immediately collected due to the financial circumstances of the debtor, it is important to keep in mind that a judgment remains collectable until 20 years after the judgment was issued, subject to bankruptcy law. It also is important to keep in mind that some debtors may be agreeable to voluntary payment terms, such as a wage assignment or a payment plan, if reasonably approached.

This article is a cursory overview of collection law. If you have questions about the collection of a debt, please contact one of our collections attorneys: Christina L. Peterson, Terence J. Bouressa and Mark A. Bartels.



New Shareholder – *John P. D'Angelo*

Stellpflug Law, S.C. is pleased to announce John P. D'Angelo has become a shareholder in the firm.

John graduated with a Bachelor of Science degree in Business Administration from Creighton University, Omaha, Nebraska, 2001, Cum Laude and received his law degree from Creighton University Law School, 2004, Cum Laude. He has been selected for inclusion as a Wisconsin Rising Star by Super Lawyers for the last three years.

John's main focus is in criminal defense and family law. He has also practiced in real estate, business/corporate, wills & estates and landlord/tenant practice areas. He has been active in the community with Golden House, Bay Area Humane Society, Leadership Green Bay and High School Mock Trial.

He will also play a key role in helping the firm achieve its vision of being the best Wisconsin law firm at building substantial and enduring relationships with its clients. Congratulations, John.

