

COLLECTING YOUR SMALL CLAIMS JUDGMENT

WHAT IS A JUDGMENT?

The Judgment entered by the Court is a legal determination that another person owes you a certain sum of money and court costs.

Your judgment has been recorded and is valid for 10 years and can be renewed. It is a lien on any real property in this county owned by the debtor now or in the future. For it to be a lien on real property in another county in this state, a certified copy of the judgment must be recorded in that county.

Collecting the judgment is your responsibility. The length of time it will take to collect will depend upon both your diligence and the debtor's ability to pay.

If payments are made to the Clerk's Office, neither that office nor the Court will monitor payment, but you may call the Clerk's Office to ask about payment.

COLLECTING THE JUDGMENT

When the judgment was entered, the Court may have ordered payment in full or by installments. If payment is not made, you have several legal methods of collection.

Filing a Proceedings Supplemental is the first step. When a Proceedings Supplemental is filed, the debtor is ordered to appear in Court and answer questions under oath about his/her ability to pay-his income, assets, liabilities, family size, etc. If you know the debtor has a job and know the address of the employer, you may ask the Clerk to issue Interrogatories to the employer when you file the Proceedings Supplemental. The Court can determine from the answers to the Interrogatories whether the debtor is garnishable.

You must realize that the first \$100 of wages earned by the debtor is exempt, or untouchable. After \$127.50, you can garnish up to 25% of the debtors net income each pay period. The debtor may be garnished only once from any source at any given time period. If the debtor changes jobs, you will have to ask for a new garnishment order.

At the hearing, you will have the opportunity to ask the debtor, or inform the Court, about the debtor's ability to pay. You do not have to be present at the hearing, but it is strongly advised. Should a debtor falsify his/her testimony on any income, it may be your knowledge of the true facts to so advise the Court.

At the Proceedings Supplemental Hearing, the Court may order any of the following:

- the defendant to pay the judgment in full or in installments (the installments may be modified at any time in the future);
- the defendant supply the Court with current information regarding his/her employment status, and address;
- the defendant to reappear sometime in the future to provide additional information;
- a garnishment of the debtor's earnings;
- execution against the debtor's personal property.

At any time in the future that the debtor fails to follow a court order, if you have reason to believe his/her ability to pay has improved, you may ask that the debtor be ordered to reappear.

Execution against personal property means that certain personal property can be attached and sold at public auction and the proceeds given to you. This means of collection is strictly controlled by statute and subject to many exemptions (some property is untouchable, i.e. up to \$4000 of furniture or household possessions, \$100 in a bank account; social security disability earnings, etc.). For that reason, it is advisable that you consult with an attorney if you think you can execute against personal property.

If the debtor dies, you may file a claim against his/her estate.

If the debtor files bankruptcy, and your debt or judgment is listed on his/her bankruptcy petition, this Court is required by federal bankruptcy law to “freeze” all proceedings. That is called a “stay”. In that case, your only remedy is in Bankruptcy Court.

Sadly enough, in these economic times it is becoming increasingly difficult to collect on a judgment. But oftentimes, a little investigation into the debtor’s finances and income can help you in court.

I hope that this information is of assistance to you.

Porter County Small Claims Court
Porter County Superior Court #4
Judge David L. Chidester