

So You Have A Judgment... Now What?

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Success in court can often lead to the entry of a monetary judgment in your favor. But the judgment itself is only a piece of paper establishing your right to payment. So, how do you collect?

The outcome of many civil lawsuits in North Carolina is, often, the entry of a judgment that establishes one party's right to collect payment of a certain amount of money from another party. Although it may be easy to view the entry of judgment as the conclusion of a claim, it typically is not. If you obtain a monetary judgment, chances are the person or business you sued will not

voluntarily pay the judgment upon its entry. So, how do you collect the money you are owed after entry of judgment?

How Can You Recover?

In North Carolina, the process of collecting a judgment – called "judgment execution" – is governed by statute. Once begun, the execution process can last for a period of up to 90 days. During that time, one or more Sheriff's Departments will be tasked with investigating whether or not the party liable on your judgment – the "judgment debtor" – owns property in that Sheriff's county. If property is located, and if it has enough value to justify further action, it can be seized and sold by the Sheriff to pay your judgment. Of course, there are a myriad of procedural rules and requirements that you must follow to see this process through to completion.

How Does Judgment Execution Start?

Before execution, you or your attorney must answer a number of questions.

- Is your judgment debtor an individual or a business entity?
- If your debtor is an individual, does the debtor reside in North Carolina?
- Are there multiple parties obligated to pay you?

Your right to collect – and the procedures that you must follow to collect – may differ based on the answer to these questions.

If your judgment debtor is an individual and a resident of North Carolina, your debtor is entitled by law to receive notice and the opportunity to claim certain "statutory exemptions." These exemptions are specifically defined by North Carolina statutes and allow the judgment debtor to place specified dollar amounts of certain types of property beyond your reach. For example, the debtor may be able to claim \$5,000.00 worth of household goods and furnishings as exempt from your collection efforts.

Until the required notice and opportunity to claim exemptions has been given, no execution efforts can be undertaken by you. However, if your judgment debtor does not claim the exemptions in a timely manner – within 20 days of the service of notice on your debtor – the exemptions are waived.

If your judgment debtor is a business entity or is an individual who is not a resident of North Carolina, your debtor is not entitled to claim statutory exemptions.

Where Do You Go From There?

Once the statutory exemptions have been finalized, waived, or determined to be inapplicable, the judgment execution process can continue forward. The Clerk of Court for the county in which your debtor's property is located will, upon request by you, issue a document entitled "Writ of Execution," which will direct the county Sheriff to search for assets owned by your judgment debtor. The Writ of Execution is valid and enforceable for up to 90 days from the date of its issuance.

If the Sheriff locates non-exempt property during that time, it can be seized and sold, with the proceeds used to satisfy your judgment in whole or in part. With some limitations, property that can be seized by the Sheriff includes cars, motorcycles, airplanes, boats, valuable jewelry, artwork, funds in bank accounts, corporate stock, and other real or personal property. Once seized, the property is typically sold by the Sheriff at an auction sale with the net proceeds paid to you.

What Can You Do If The Sheriff Does Not Find Any Property?

If the Sheriff is unable to locate property subject to execution, you have a variety of other tools to employ in order to investigate and recover on your judgment. Several options fall within a category of actions called "supplemental proceedings." Supplemental proceedings include, but are not limited to:

- Issuing written interrogatories that your judgment debtor must answer under oath;
- Conducting an in-person examination of your judgment debtor under oath to ask questions about the extent and location of your debtor's assets; and,
- Obtaining additional court orders that direct your judgment debtor or other parties who are in possession of your debtor's property to surrender that property to you.

Additionally, if your judgment debtor owns an interest in any limited liability company ("LLC"), you may be able to obtain a "charging order" against your debtor's interest in the LLC. This order subjects (or "charges") your debtor's interest in the LLC to pay your judgment. Although you cannot step into your debtor's shoes as a member and/or manager of the LLC, you do gain the right to receive your debtor's share of any distribution made by the LLC to its members.

Conclusion

The entry of a monetary judgment in your favor is not the end of your road in a lawsuit. Instead, more often than not, you must take additional affirmative steps to reduce your judgment to payment. Undoubtedly, twists and turns will arise during the judgment execution process. But, with diligence, patience, and knowledge of the law, you just might recover what you are owed.

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