

So you Obtained a Judgment Now What?

At some point, you may find yourself or your business needing to collect on an account or debt owed to you. You go through the collection process and feel victorious because you are awarded a judgment against your debtor. Unfortunately, the battle is not won simply by obtaining a judgment. The battle rages on for many creditors, regardless of their size or means, as they attempt to actually collect on the judgment. The process of collecting a judgment is very technical and can be confusing. The information below discusses tips, tricks, and common pitfalls to judgment collection in Minnesota.

- **A conciliation court judgment cannot be enforced until it is transcribed to district court.** Winning a judgment in conciliation court is not the last step required before a creditor can utilize garnishments or orders for financial disclosure. Absent an appeal and after a statutory waiting period, the judgment must first be transcribed to district court and then entered and docketed before any collection attempts can be made. An additional fee and paperwork is required.
- **A judgment that is entered in district court must also be docketed.** Before any collection efforts can occur on the file, the judgment must be both entered and docketed in district court. This is often done in two steps, and having the judgment docketed typically requires filing of additional paperwork. Outright failure to have the judgment docketed can have consequences, such as the judgment not showing up on a public records or lien search of the debtor, which can lessen the likelihood of collecting the judgment down the road.
- **The Court is not a collection agency.** Once the judgment is entered and docketed, the court will not assist in locating assets of the debtor. Locating assets is the sole responsibility of the creditor. If the creditor does not have much information about the debtor's assets, free public records searches, an internet search or a social media search may lead to some information that could be helpful in conducting wage or bank garnishments. Alternatively, the creditor has the ability to conduct post-judgment discovery or serve an "Order for Disclosure" that requires the debtor to respond to the creditor by completing a Financial Disclosure form listing all non-exempt property and financial information within ten days. If the debtor fails to respond, the creditor may request a hearing requiring the debtor to appear, or risk being held in contempt of court.

- **The key to quick and effective judgment collection is information.** Creditors that are most successful at collecting on a judgment are those that obtain and maintain as much information about the debtor as possible. The most valuable information includes real and personal property information, current employment positions, and financial or banking institution information. Information such as this can be obtained from credit applications, contracts, copies of checks from the debtor or copies of deposited checks made payable to the debtor. Whenever opening accounts or entering into business transactions a potential creditor should try to capture as much information about the debtor's assets as possible and practicable.
- **A judgment can be enforced for ten years.** Even if the creditor is not able to collect on the judgment immediately, the judgment will follow the debtor for a substantial amount of time until it is satisfied. A Minnesota judgment can be enforced for up to ten years from the date of entry and it can be renewed for an additional ten years if the judgment has not been fully satisfied in that ten year period. If properly entered and docketed, the judgment will also create liens and show up on public records, which may prompt later opportunities for resolution. Sometimes judgment collection is a waiting game – and a creditor never knows when the debtor might need to sell his home or obtain a new financing that may prompt a settlement phone call.
- **Record or transcribe the judgment everywhere possible.** If a judgment is obtained against a debtor in Minnesota, and the creditor learns the debtor has moved to another state, the creditor should transcribe the judgment to the new jurisdiction. If the debtor has property in more than one county in Minnesota, record the lien wherever property exists.
- **Mechanic's liens can serve as a valuable collection tactic.** The Minnesota mechanic's lien statute provides an invaluable remedy for unpaid contractors, subcontractors and material suppliers. However, the statute sets forth very specific steps and strict time frames that must be complied with in order to preserve and perfect a mechanic's lien. The statute, in certain circumstances, requires a pre-lien notice and the recording of a mechanic's lien statement within 120 days after the last day of work or materials were supplied. It also allows for foreclosure on the mechanic's lien within one year after the last day of work or materials were supplied.

If you find yourself with a debt to pursue, or a judgment to collect, please contact our office. We would be happy to help.