

Collecting on a JUDGMENT

Most people believe filing a lawsuit and obtaining judgment is the most difficult part of their legal case; however, sometimes this is incorrect. The party awarded judgment is known as the creditor and the party who the judgment is against is known as the debtor. Yes, obtaining judgment is difficult, but actually collecting payment on the judgment can be much more difficult because the debtor may not be working, have any money in their accounts, or own any property. Even worse, if the debtor declares bankruptcy your judgment may be discharged (deleted). So, how do you know if collecting is going to be difficult? We suggest you make a demand in writing (certified mail and regular mail) for payment as stated in the judgment (attach a copy of the judgment) and request a specific date and time that payment should be made. Typically, it is suggested to use a date and time which is 10-20 days from when the letter is sent before proceeding forward to enforce the judgment. This letter should be factual and written without any demeaning or harassing tone/language. After the creditor makes the demand there are a series of questions that should be answered before proceeding forward. The following information pertains only to Superior Court judgments. Check mohavecourts.com or wmlaw.com for more helpful information.

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Can I hire someone to collect the debt?

Yes. You can hire a debt collection agency or an attorney. It is important to understand your options and collection tools available to your case before signing any contracts to collect the debt. Depending on the circumstances of your case, you may be throwing good money after bad. Conversely, if the debtor has money, you may be paying a debt collector to do a job you could do. Make sure you understand how this debt collector will obtain payment.

What if I have a judgment from another state (foreign judgment)?

Arizona sets forth specific steps to enforce a foreign judgment. The process is commonly known as domesticating a foreign judgment. See Arizona Revised Statute (A.R.S.) §12-1701, *et seq.*

How long is my judgment good for?

In Arizona, a judgment is initially effective for five (5) years from the date of its entry by the Clerk of the Court. The judgment must be renewed before it expires.

What are the steps after obtaining a judgment?

You should request two (2) certified copies of the judgment from the Court. Then, you should file a certified copy of the judgment with the County Recorder where the judgment was obtained and/or where the debtor lives (currently or may live in the future). Read A.R.S. Chapter 12, Title 9.

What do I need to know about the debtor before attempting to collect a judgment?

Is the debtor a person or other legal entity like a corporation? Do they have any other alias names? What is their date of birth? Is this person married?

Have they filed any type of bankruptcy? Where do

they work, live, bank, etc. Do they own any real property (land/house)? What personal property do they own (vehicle, boat, personal watercraft, UTV, trailer, RV, etc.)? If you do not know the answers, your first step may be performing a Debtor Examination. Additionally, you may consider hiring a private investigator.

How do I collect a judgment?
There are several potential

methods to collect: 1. Debtor Examination allows you to ask questions of the debtor under oath to determine pertinent information. 2. Special Writ of Execution directs the Sheriff or Constable to seize and sell specific non-exempt personal property and non-exempt real property of the debtor to satisfy the judgment. 3. General Writ of Execution directs the Sheriff or Constable to seize and sell ANY non-exempt personal property of the debtor to satisfy the judgment. 4. Writ of Garnishment for earnings directs the employer to determine by formula if wages/compensation is subject to garnishment and withhold same for later transfer to the creditor. 5. Writ of Garnishment for non-earnings (Bank accounts, money owed the debtor or property of the debtor in possession of a third party) directs a holder of assets to transfer those assets to the creditor or to hold property for service of a Writ of Special Execution.

What if the debtor has real property?

One of the best ways you can collect unsatisfied judgments is recording/attaching a property lien on the debtor's property. A property lien is public notice attached to the property letting

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the world know the property has a judgment attached to it. In order for the property to be sold or refinanced, the judgment will need to be satisfied (paid). Attaching a judgment to real property is the most common way to obtain payment in full.

Should I hire an attorney?

This article references several methods/tools to assist in collecting a judgment; however, all of them take time and money. You are entitled to the judgment, but often a creditor may never get paid. Making an appointment for a consultation with an attorney should give you an idea of the pros and cons of your case before you start collecting on a judgment. An attorney will provide you with an analysis in an attempt to avoid throwing good money after bad.

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