



Outstanding Accounts Receivable? Obtaining a Judgment Against the Debtor Can Improve

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In today's economy, companies are more frequently faced with a dilemma over the best way to handle collection of outstanding account receivables. Obtaining a court judgment against an individual or company can significantly increase a company's likelihood of recovery on delinquent accounts.

Once an account is referred to an attorney for collection, the attorney will work to obtain a court judgment against the debtor in the amount of the balance owed. If the litigation is successful and a judgment is obtained, it will often include pre- or post-judgment interest at a rate determined by state law, and will also require the debtor to reimburse the creditor's court costs. Assuming the debtor has assets which can be collected, legal counsel can use the judgment to force the debtor to pay the sums owed by utilizing collection methods not otherwise available.

Generally, one of the best strategies for post-judgment collection is the filing of a bank garnishment. When garnishing a bank account, documents are filed with the court requesting that the debtor's bank debit the debtor's bank account up to the amount of the judgment. Therefore, the entire judgment could potentially be collected by garnishing the bank account of the debtor, assuming funds are available. Obviously without knowledge of the name of debtor's bank it is difficult to determine where to send the bank garnishment. Therefore it is advisable that copies of checks received from customers are retained so that the copies may be used in the event the customer becomes a debtor.

Where the debtor is an individual, a wage garnishment may also be utilized. A wage garnishment requires the employer of the judgment debtor to hold back a percentage of the debtor's wages which are then forwarded to the creditor to pay down the judgment balance. The wage garnishment will remain in effect until the earlier of the judgment being paid in full or the termination of debtor's employment.

An additional post-judgment collection remedy is the use of a judgment lien filed against any real estate owned by the debtor. The judgment lien will generally need to be recorded in the county where the real estate is located and will "attach" to the property behind previously filed liens but ahead of any liens (with the exception of certain tax liens such as property tax liens) that are recorded after the date the judgment lien is filed. If the real estate is later sold and there is sufficient equity in the property to pay not only the judgment lien but all prior liens the creditor will receive payment at the time of closing.

Finally, after obtaining a judgment, the judgment debtor may be subpoenaed to answer questions regarding assets available for collection. The exam, referred to as a "judgment debtor exam" may be particularly useful in obtaining information when the creditor does not have current banking, employment, or real estate information to be used for a garnishment or lien as discussed above.

Because the above remedies are not exhaustive, obtaining a judgment against a debtor provides additional remedies and can prove invaluable in collecting the delinquent account.