



# Enforcement: Post-Judgment Proceedings & Collections

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Litigation Basics

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# Meet the Faculty

## Panelists

[Timothy Anzenberger](#) - Adams and Reese LLP

[Scott Bernstein](#) - Law Offices of Scott H. Bernstein LLC

[Jeff Leon](#) - Karon LLC

## Moderator

[Steven Reingold](#) - Saul Ewing LLP

## About This Webinar

# Enforcement: Post-Judgment Proceedings & Collections

Obtaining a final and enforceable judgment is often just the first phase of the civil litigation process; without effective enforcement and collection, a judgment is merely a piece of paper (or electronic docket entry). This webinar provides an overview of the technical, procedural, and strategic considerations necessary to monetize judgments and make litigation worthwhile.

## About This Series

# Litigation Basics

This series is designed specifically for attorneys who are just starting to get involved in civil litigation or who could use a refresher on litigation fundamentals. The purpose is to introduce different components and phases of litigation, from motions for injunctive relief to dispositive motions, through discovery and trial, and on to appeal and post-judgment collection.

# Episodes In This Series

1. TROs and Preliminary Injunctions  
*Premiere date: 1/28/25*
2. Dispositive Motions  
*Premiere date: 2/25/25*
3. Discovery Practice  
*Premiere date: 3/25/25*
4. Anatomy of a Trial  
*Premiere date: 4/22/25*
5. Enforcement: Post-Judgment Proceedings & Collections  
*Premiere date: 7/8/25*
6. Appellate Practice  
*Premiere date: 7/21/25*

# Episode #5

## Enforcement: Post-Judgment Proceedings & Collections

Each Financial Poise Webinar is delivered in Plain English, understandable to investors, business owners, & executives without much background in these areas, yet is of primary value to attorneys, accountants, & other seasoned professionals. Each episode brings you into engaging, sometimes humorous, conversations designed to entertain as it teaches. Each episode in the series is designed to be viewed independently of the other episodes so that participants will enhance their knowledge of this area whether they attend one, some, or all episodes.

# Topics



- Final and Valid Judgment
- Wage Deduction Proceeding
- NonWage Garnishment
- Citation to Discover Assets
- Charging Orders
- Levies Against Personal and Real Property

# Introductory Notes



While statutory post-judgment enforcement and collection laws and practices may vary by state, the tools used are generally consistent.

# Final and Valid Judgment

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- To be enforceable, judgment must be final and valid
- Partial final judgment may be obtained against one or more defendants even though claims remain pending against other defendants
- Consult FRCP Rule 54(b) and equivalent state law

# Domesticating Foreign Judgments

- Creditor must domesticate an out-of-state judgment before enforcing
- Once domesticated, judgment will have the same effect as other judgments in that jurisdiction
- Most states have adopted the Uniform Enforcement of Foreign Judgments Act – allows creditor to obtain an effective judgment in different state by filing proof of judgment (certified or exemplified copy), providing last known address of the debtor and creditor, and paying filing fees

# Wage Deduction Proceeding

- Statutory proceeding for payment of judgments by wage earners
  - Non-exempt wages paid over to creditor by order of the court
  - Wage deduction order has the same force and effect as a judgment
- Under Illinois law, for instance, creditor may garnish 15% of gross wages or the amount by which disposable earnings for a week exceed 45 times the greater of the federal and Illinois minimum wage

# Wage Deduction Proceeding *(cont'd)*

- Due process applies to wage deduction proceedings because judgment debtor is being separated from his or her property
- Due process related issues:
  - Is there a proper final and enforceable judgment order?
  - Did the defendant receive a proper statutory wage deduction notice?
  - Are the judgment creditor's calculations of court costs, interest, and balance due correct?
  - Is the employer's calculation of sums to be paid over to the judgment creditor correct?

# Wage Deduction Proceeding *(cont'd)*

- Service of a wage deduction summons creates a lien on debtor's wages from moment of service on the employer
- Priorities:
  - Spouse and child support deduction orders may have priority over all wage deduction orders
  - Multiple wage deductions: honored in the order in which employers receives them
  - State and federal liens have no particular priority over a wage deduction proceeding – critical dates are dates of service on employer and dates tax liens were recorded
    - ✓ IRS tax lien, for instance, is considered perfected on the date the lien is filed with the county recorder

# Nonwage Garnishment

- Procedures that enable the creditor, or garnishor, to stand in the debtor's shoes and recover assets of debtor in the hands of another, the garnishee.
- Two classes of assets:
  - A debt owed to garnishee
    - ✓ Debt must be presently due – cannot be debts that are contingent or that become due in the future
  - Property belonging to the judgment debtor in the possession of garnishee
    - ✓ Property sought to be garnished must be of legal, and not equitable (i.e., intangible property), character.

# Nonwage Garnishment *(cont'd)*

## Other notes:

- Garnishment does not permit a judgment creditor to go on a fishing expedition
- Garnishment cannot be converted into a citation proceeding
- Garnishment lien extends only to those funds in the hands of the garnishee at the time of service of the garnishment.
- Creditors often prefer using citations to discover assets as opposed to nonwage garnishments, particularly for payments due to independent contractors

# Nonwage Garnishment *(cont'd)*

## Two outcomes on the garnishment return date:

- Garnishee has answered the garnishment
- Garnishee fails to answer the garnishment
  - If garnishee fails to answer, a conditional judgment may be entered against the garnishee. Creditor then issues a summons on garnishee to give them another opportunity to respond. If no response prior to the summons' return date, a final judgment will be entered against garnishee for the unpaid judgment balance

# Charging Orders

- A charging order is a mechanism employed to enforce a judgment against a member's distributive interest
- A charging order is made on the debtor's distributive interest in the entity
- It does not reach other payments to the debtor by way of a salary, commissions, or reimbursements
- Generally, charging order entered after the service of a citation by another creditor has priority over the citation lien as to the debtor's distributive interest

# Charging Orders *(cont'd)*

## Enforcing a charging order:

- Once obtained, a charging order must be enforced by foreclosing on the debtor's distributive interest
- Purchaser's rights are determined by the entity's operating agreement which may or may not have detrimental provisions such as tax or capital call consequences
- Attorneys often use both charging orders and citations due to the limitations of the lien of the charging over and the expansive lien of the citation to discover assets

# Levies Against Personal and Real Property

- A levy authorizes the sale of debtor's property to satisfy a judgment
- Essentially, the sheriff is ordered to seize and sell debtor's property and account for the proceeds to the creditor
- Recording a memorandum of judgment with the county recorder establishes a lien against all real property of the debtor in the county
- A creditor cannot establish a lien on personal property of debtor until certified copy of judgment is delivered to sheriff

# Levies Against Personal and Real Property *(cont'd)*

## **Personal property:**

- To direct a personal property levy, judgment creditor needs two documents: (1) certified copy of the judgment order, and (2) a completed indemnifying bond with corporate surety (typically in twice the amount of the judgment and the costs)
- The judgment creditor must inform the sheriff where to levy and what to levy on
- Date for the sale of levied personal property is set at the sheriff's office, and the debtor's and creditor's attorneys are given notice by mail

# Levies Against Personal and Real Property *(cont'd)*

- Satisfaction or release of levy – possible returns of service:
  - Judgment debtor not found, no property found, released, no part satisfied
  - Judgment debtor served, no property found, released, no part satisfied
  - Debtor served, property levied, satisfied in part
  - Debtor served, property levied, satisfied in full
  - Defendant served, no property found, returned at order of judgment creditor, no part satisfied

# Levies Against Personal and Real Property *(cont'd)*

## Real property:

- Record a certified final judgment or a memorandum of judgment with the county recorder in the county where the debtor is believed to own property
- Determine whether documents evidence debtor's ownership of property
- Determine whether debtor has equity in the property
- Proceed with the levy sale (note: most real property levies never go to sale as the parties normally settle before the sale date)

# Levies Against Personal and Real Property *(cont'd)*

## Real property:

- Acts necessary to effect levy and sale:
  - Judgment creditor's counsel prepares a direction to levy and notice of the levy with sufficient copies for service and delivers them to the sheriff of the county where the property is located
  - Levy must also be served on the judgment debtor
  - Notice must be served on the judgment debtor stating he or she must pay the surplus over and above \$15,000 (IL homestead exemption) on the judgment amount within 60 days, or the premises will be sold
  - If judgment debtor pays the balance of the claim, he or she will retain the property and the sale will be cancelled

# Levies Against Personal and Real Property *(cont'd)*

## Real property :

- Bidding procedures:
  - Judgment creditor has a right to bid whatever portion of the judgment is appropriate
  - Generally, judgment creditor will also submit a separate bid to cover the homestead exemption
  - For example, if the judgment amount was \$5,000 and there was only one homestead, the judgment creditor would bid \$5,000, plus \$15,000 for the homestead, for a total of \$20,000
- At the sale, a certificate of sale will be given to the successful bidder

# Questions or Comments?

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# Meet The Faculty

## Timothy Anzenberger - [Tim.Anzenberger@arlaw.com](mailto:Tim.Anzenberger@arlaw.com)



Tim Anzenberger is a commercial and bankruptcy litigator, pursuing the interests of financial institutions and other creditors in bankruptcy cases and litigating on their behalf in state and federal courts. Tim is also an experienced appellate litigator in financial-services cases, handling all stages of an appeal—from post-trial motions through oral argument.

His experience includes representing lenders in commercial restructuring and bankruptcy cases; defending preference actions; defending lender-liability claims; prosecuting objections to discharge; pursuing fraudulent transfers; and defending creditors in adversary proceedings.

Tim is an active member of the American Bankruptcy Institute and frequently writes for the ABI Journal and its committee newsletters. He currently serves as Co-Chair of the ABI's Business Reorganization Committee and sits on the Advisory Board for the ABI Southeast Bankruptcy Workshop.

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## Scott H. Bernstein - [scott@scottbernsteinlaw.com](mailto:scott@scottbernsteinlaw.com)



Scott handles all types of litigation and creditors' rights matters. His civil litigation practice entails a wide variety of commercial collection, post-judgment collection, and commercial litigation matters in Pennsylvania, New Jersey, New York, and Connecticut including those pertaining to construction law, closely-held corporate entities and other types of contract disputes. Scott has significant experience in bankruptcy, reorganization, foreclosure and insolvency matters.

Scott's legal career commenced as a law clerk to the Honorable Robert E. Gerber of the United States Bankruptcy Court for the Southern District of New York. Prior to starting his own law firm, he was affiliated with national and regional law firms, including McCarter & English, LLP, Stradley Ronon Stevens & Young, LLP, Hunton & Williams, LLP, and Kasowitz Benson Torres & Friedman, LLP. He has authored articles pertaining to litigation, bankruptcy, consumer finance, tax lien law and real estate law, and has lectured on those topics. [Read More](#)

## Jeff Leon - [jleon@karonllc.com](mailto:jleon@karonllc.com)



A veteran trial attorney with decades of experience handling complex litigation matters, Mr. Leon has specialized knowledge in the areas of antitrust, class actions and international litigation, including claims against foreign sovereigns under the Foreign Sovereign Immunities Act. He has deep experience handling shareholder suits, non-competition clause litigation, breach of contract, trademark infringement litigation and various types of employment disputes. In addition, he has litigated some of the largest-ever consumer class action lawsuits, obtaining settlements totaling nearly \$1 billion. He both prosecutes class actions and defends companies against class action lawsuits.

Mr. Leon has written and spoken extensively. He has lectured on antitrust law at the Kellogg School of Business at Northwestern and has guest lectured at Columbia University's School of Law and at IIT Chicago Kent School of Law. He has published several articles on antitrust law and, during his five-year tenure as co-chair of the Class Action Committee of the ABA Section of Litigation, helped organize the largest annual class action conference in the country.

## Steven Reingold – Steven.Reingold@saul.com



Steven Reingold represents companies and their owners, executives, directors, and officers in complex disputes involving a wide variety of different industries.

Drawing on more than two decades of experience as a litigator in cases across the country, Steven handles claims involving contracts and loan documents and has deep experience with shareholder litigation and partnership disputes. Clients also look to Steven for assistance with matters involving breaches of fiduciary duty. Steven is an experienced bankruptcy litigator and regularly represents liquidating trustees and litigation trustees, as well as other parties, in Chapter 11 cases.

While Steven is a veteran in the courtroom, he is mindful that litigation is not the only way a client may wish to resolve a dispute. He is equally experienced at bringing matters to a conclusion through negotiation, mediation and arbitration. He also counsels clients on avoiding and managing litigation risks that may arise in their businesses. [Read More](#)

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