

update

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Friday Facts: Enforcement of a judgment

Quite often, once you have obtained a judgment in a civil proceeding, you will need to take steps to enforce the judgment in order to get payment because for whatever reason the judgment debtor has not paid the judgment sum.

What is often not realised is that there are number of ways to enforce a judgment. What needs to be determined is what is the most appropriate method of enforcement in the factual circumstances. That will depend upon the information you have about the judgment debtor and what you can find out.

If you know that the judgment debtor has property whether it be personal or real property then you could seek to enforce the judgment debt by issuing a warrant of seizure and sale. The warrant once issued by the Court is forwarded to the Sheriff's Office for execution against personal property. If the Sheriff is unable to seize any property because it is unavailable then the warrant will be returned with a report of the execution. This process can then be employed to make application for a certificate to enable notice of the warrant to be given to the Registrar of Titles so that the judgment debtor's real property can be sold by the Sheriff at public auction.

Another way that the judgment can be enforced is by applying for an order for attachment of earnings. The judgment debt is then able to be deducted from the judgment debtor's weekly earnings by his/her employer.

Similarly an attachment to debts can be obtained in order for the judgment amount to be attached to any bank account deposit moneys, current account debts, trading account debts or rent going to the debtor.

Sometimes the most appropriate and effective course is to serve a bankruptcy notice (in the case of an individual) or a creditor's statutory demand (in the case of a company) in order to get a more immediate response to payment.

Finally all is not lost if you have no information about the assets of a judgment debtor. That is a case in which a summons for oral examination is prudent in order to collect information and assess how best to enforce the judgment. Failure by the judgment debtor to attend Court on the return of the summons can result in a warrant being issued for their arrest and the best result that can be achieved is payment in full to prevent incarceration!

For more information

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