
Judgment Enforcement

Overview

When monetary damages are awarded in a lawsuit, the plaintiff gets a “judgment.” The next step is actually collecting the money—which is not always easy—and is known as enforcing the judgment.

We’ve all heard of the plaintiff who “won a million dollars at trial.” But courts don’t award money; instead, they award a *judgment* of monetary damages. This is a crucial distinction—a piece of paper that says “judgment” is *not* money. At least not yet. To actually get the money owed, experienced counsel may need to investigate where the defendant has hidden assets. Then, diligent lawyers can find and seize bank accounts and other assets in order to actually collect on the judgment.

Talk to us

Contact our experienced asset recovery attorneys today at +1.646.290.7251 or Enforcement@PollockCohen.com to arrange a *free, confidential* consultation. You have already made it to judgment; now it’s time to actually be made whole. In many cases, we can offer creative and success-based fee arrangements so that we’re fully aligned with you.

Monetary Damages

Often, lawsuits are used to recover monies and make a plaintiff whole. Perhaps a business lost millions of dollars in a deal gone wrong. Or an entrepreneur has a falling out with her business partners. Or someone is injured in a serious car crash or act of terror.

Courts can help in these kinds of cases by awarding monetary damages. Courts award monetary judgments in a variety of situations, including:

- Jury verdict
- Default judgment
- Affirmative summary judgment
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Restitution

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Sanctions

But then what? What's the value of a piece of paper that says "judgment"? We can help transform that paper into actual money and assets.

Topics & Articles

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[Reaching your share: Enforcing judgments by levying on joint bank accounts and safety deposit boxes](#)

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[Judgment creditors in the house: creditor rights in solely and jointly owned residences](#)

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[Recognizing Foreign and Sister-State Judgments in New York](#)

Tools

New York has a robust set of asset investigation and judgment enforcement laws. We can send subpoenas, take depositions, garnish wages, freeze bank accounts, and more. And we can send a sheriff out to seize property.



New York state law is also applied to collect on judgments arising in federal cases. See FRCP 69(a)(1) ("The procedure on execution—and in proceedings supplementary to and in aid of judgment or execution—must accord with the procedure of the state where the court is located").

- **CPLR § 5201(b):** "A money judgment may be enforced against any property which could be assigned or transferred...." In other words, we can seize not only money, but property, stock, art, or almost anything else that could be sold to satisfy the judgment.

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- **CPLR § 5205:** A debtor in New York has certain personal property that's exempt from judgment. He can shield his stove, bible, church pew, wedding ring, and clothing. And a car, if it's up to \$4,550 in value. These exemptions are sensible and fair, but don't provide much protection to most debtors.
 - **CPLR § 5206 – homestead exemption:** We can generally seek to seize a debtor's home to pay for a judgment. And it's a fair prediction that the debtor will finally pay up before his home goes to auction...

In contrast to New York's law, many people have heard how, in Florida, a debtor's primary residence is entirely shielded. [OJ Simpson](#), for example, continued to live in a grand house in Florida even after being found liable for wrongful death for more than \$70 million. As headlines blared, "Florida rolls out the red carpet for people running from huge debts. It's a deadbeat's paradise."

But New York has a very limited homestead protection. Specifically, the homestead exemption is limited to homes with **\$170,825** in equity in New York City and the nearby counties; \$142,350 in the Albany area; and \$84,400 in the rest of the state. And, as one might imagine, it's not hard to find a home in New York City with more than \$150,000 in value.

- **CPLR § 5222 – restraining notice:** New York has a very powerful "restraining notice" statute, which is used to freeze property held by the debtor *or third parties*.

Once served with a restraining order, the debtor "is forbidden to make or suffer any sale, assignment, transfer or interference with any property in which he or she has an interest...." But so what? Won't the debtor just ignore the restraining order?

The real power of the restraining order comes in serving *third parties*. We can restrain bank accounts, brokerage accounts, accounts receivable, and rents. These are all assets owned by the debtor that should be redirected and used to pay you, the judgment creditor.

- **CPLR § 5223; CPLR 5224 – discovery:** We can take a broad range of discovery to investigate and trace assets. We can send a subpoena for books and records; demand sworn answers to interrogatories; and take depositions.

Notably, unlike "regular" discovery, we are not required to notify the judgment debtor that we're taking such discovery. See, e.g., *Salvan v. Lewis*, 50 Misc 3d 1211(A) (Civ. Ct., N.Y. Cty. 2015) ("Unlike pre-trial disclosure or disclosure in a pending civil judicial proceeding, which specifically requires that a third-party subpoena be served on all parties, disclosure in a supplementary proceeding under CPLR 5223 or 5224 has no such requirement.").

- **CPLR § 5231: We can garnish up to 25% of a debtor's paycheck.**
- **CPLR §§ 5232, 5233:** We can execute on the debtor's personal property held by another. For example, in one case, we demanded the turnover of the debtor's

interest in a closely held LLC so that the shares could be sold to satisfy the debt:
“The interest of the judgment debtor in personal property obtained by a sheriff
pursuant to execution or order ... shall be sold by the sheriff at public auction....”

Victim Restitution

Under New York criminal law, a court can order the defendant to pay restitution to the victims. See [Penal Law § 60.27](#). A victim can then enforce the restitution order like any other judgment against a debtor. See [Crim. Proc. Law § 420.10\(6\)\(a\)](#).

Similarly, under federal criminal law, a court can order restitution to the victims. See [18 U.S.C. §§ 3663, 3663A](#). A victim can then request that the restitution order be converted into a monetary judgment. See [18 U.S.C. § 3664\(m\)\(1\)\(B\)](#). Once docketed with the New York state clerk, the judgment serves as a lien and can be enforced like any other judgment against a debtor.

Domesticating a judgment

When a judgment is obtained in another state or abroad, but assets are located in New York, the judgment must be “domesticated”.

Generally, a judgment from another state can be domesticated in New York following a simple, expedited procedure. See [CPLR § 5402](#). These out-of-state judgments are known as “foreign judgments” (here, foreign just means another state) and can be rapidly enforced (unless an appeal is pending in that state).

In cases of default judgments and confessions of judgment, however, we must utilize New York’s expedited summary judgment procedure. See [CPLR § 3213](#) (“When an action is based upon an instrument for the payment of money only or *upon any judgment*, the plaintiff may serve with the summons a notice of motion for summary judgment and the supporting papers in lieu of a complaint.”).

For judgments obtained abroad, we also use New York’s expedited summary judgment procedure. See [CPLR §§ 5303, 3213](#). There are, however, a variety of grounds on which a foreign country judgment may not be recognizable, including: impartiality; due process; personal jurisdiction; subject matter jurisdiction; fraud; being “repugnant” to the public policy of New York; and certain defamation judgments.

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