Enforcing a Judgement

Now that we know how defendants can be forced to pay in the civil court, it’s time to figure out HOW they will pay. Once a settlement has been awarded, it is up to the plaintiff to collect the money. At the end of a trail, the court does not simply provide a cheque for the amount recovered. The cheque must come from the defendant, who is usually called the “judgement debtor.” But what happens if the defendant does not have the money or does not want to pay? Fortunately, a few legal remedies are available to help the plaintiff obtain payment.

Here are ways that the court can intervene to ensure that the defendant starts paying his/her settlement amount to the plaintiff:

Examination of a Judgement Debtor:

If the defendant refuses to pay, he can be questioned under oath by a judge to determine what type of assets he/she has. Do they own a house, car, boat, motorcycle, etc? Bank accounts, stocks, bonds? Where does the debtor work, how much do they make, etc. This will give the court a strategy of coming up how they debtor can start making payments.

Garnishment:

The courts can order that a percentage of the wages earned by the judgement debtor by deducted and paid into the court on the plaintiff's behalf until the amount is paid. Bank accounts, money due on contracts, or money owed by a third party to the defendant can also be garnished.

Execution or Seizure:

As a last resort, the assets of the debtor can be seized and then sold to settle the judgement. Usually the debtor is given a notice stating that if the debt is not paid in X amount of time, then assets will be sold to cover the payment. This is not as easy as it sounds. Certain assets cannot be sold, such as clothing, furniture and tools a worker needs to earn a living. It may also be difficult to prove that the goods actually belong to the debtor.

Alternative Sources of Compensation

Motor Vehicle Liability Insurance:

In the case of personal injuries suffered in motor vehicle accidents, it may be possible to receive compensation from sources other than the defendant. The injured party may be able to recover money from the insurer of the defendant’s vehicle. All car owners are legally required to carry insurance.

Workers' Compensation:

* For workers who are injured on the job
* the employer pays into this fund, not the employee
* The employee can still collect this money even if they were at fault for the accident.
* If the employee is fatally injured, the employees dependents will receive the compensation
* Worker's Compensation will not award money for pain or suffering or loss of enjoyment of life
* To receive money for this fund, employees must apply to the Worker's Compensation Board. The board decides who will receive benefits, and how much and for how long they will be paid.
* Medical expenses are usually paid, but awards for lost wages are limited to a maximum percentage of the worker's average salary before the injury occurred.

Comprehension and Analysis Questions:

1. Which of the following remedies do you think is first provided to the “judgement debtor”, “examination of a judgement debtor” or “garnishment”? Justify your rationale.
2. Which challenges exist in ordering “execution or seizure” on a “judgement debtor”?
3. By inferring or accessing prior knowledge, suggest five potential challenges tied to insurance and worker’s compensation as alternative sources of compensation.