Judgment Recovery - Judgment Writs of Execution by Pat O Connor

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A court judgment does not mean the debtor will pay you. However, there are a variety of court orders which can be obtained post-judgment to motivate the debtor to pay you. These include:

Writ of execution on real property,

Writ of execution on personal property,

Writ of garnishment (on bank accounts or other financial asset accounts)

Turnover motion to convey to you intangible personal property

Motion to compel responding to discovery (request for production, request for interrogatories, and deposition notice)

Motion for sanctions for not following court orders

Motion for contempt

Motion to jail debtor for contempt

Texas is generally considered a debtor-friendly state because of the unlimited homestead exemption and prohibition on garnishing wages. Many states have only a limited homestead exemption and do allow for wages to be garnished.

Writs of execution can be particularly compelling in persuading delinquent debtors to pay a judgment. A writ of execution is a court order for a sheriff to seize the debtorâ€™s property and sell it at a public auction. If the auction proceeds are not adequate to satisfy the judgment, the judgment holder can continue to issue writs of execution until the proceeds from the public sales have satisfied the judgment, including any additional legal fees and the costs of the execution.

After the judgment holder and/or his counsel complete the paperwork for a writ of execution, the next step is usually for the sheriff to contact the debtor to request payment. If the writ of execution is for personal property, the sheriff will usually appear in person and give the debtor two options: 1) pay the judgment and costs, or 2) a moving company will come and move the property to storage so it can be auctioned.

If the writ of execution is for real property, the sheriff will often contact the debtor by phone initially. If that is unsuccessful, the sheriff will contact the debtor by mail to request payment. If the debtor does not respond, or will not pay, the sheriff posts the real property for public sale. This often involves publishing public notice of the sale in a legal newspaper.

Judgment debtors almost always respond to the writs of execution by paying the judgment and costs. They realize the consequences of not paying their debt have changed. With limited exceptions, debtors who previously claimed to be destitute miraculously discover a means to pay their debts. Writs of execution are a superb method of collecting on a judgment.

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