

**You have a judgment.
Now how do you collect?**

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Kevin E. Posen graduated from Loyola University of Chicago with a Bachelor of Arts Degree in 1983. He received his Juris Doctor degree in 1990 from The John Marshall Law School of Chicago. He was admitted to the Illinois State Bar in 1990 and subsequently to the Federal Trial Bar, United States District Court, Northern District of Illinois in 1991. He is an attorney and shareholder with the law firm of Teller Levit & Silvertrust, P.C. in Chicago, Illinois, which is one of the oldest and most respected commercial collection law firms in the country. He practices in the areas of Business Litigation involving insurance premium collection, transportation, construction and claims governed by the Uniform Commercial Code; Commercial Collection Litigation; Creditors' Rights; Commercial Landlord Representation on Breach of Lease and Eviction cases; and Post-Judgment Collection.

Mr. Posen has been a speaker and panel member, sharing his expertise in the following programs: How to Maximize your A/R Recoveries, NACM Midwest Credit Conference; The Legal Process of Commercial Collections with Caine & Weiner and Windham Professionals, Commercial Recovery Division; Legal Documents in the Transportation Industry, National Transportation Revenue Management Group Conference; Legal Practice Area Series on Commercial Law with The John Marshall Law School. Kevin E. Posen belongs to the following professional associations: Commercial Law League of America, (Creditors Rights Section); Associate Member of the Commercial Collection Agency Association; International Association of Commercial Collectors; Illinois Creditors Bar Association; The Chicago Bar Association (committee member of the Commercial Litigation, Civil Practice and Municipal Department Committees); DuPage County Bar Association and Illinois State Bar Association.

Collecting Judgments

Step One

- First things first/day one
 - Is it a good judgment?
 - Be careful
 - Verify service on default judgments
 - Properly prepared judgment order?
 - Is it a final judgment? Have all parties/causes of action been disposed of?
 - Check your costs situation and advise your client
 - Mail judgment order to debtor (even though not required); no secret judgments!
 - Record Memorandum in County of debtor's residence/business, even if a stay of execution; 735 ILCS 5/12-101
 - Effect of Memorandum: Lien on Real Property
 - Decide to wait 30 days for a 735 ILCS 5/2-1301 Motion or immediately execute?
 - Many factors to consider
 - Payment Order Default
 - Summary Judgment/Trial
 - Ordinary Default
 - Assets may disappear

Step Two

- Mine your file for valuable data
 - Call your judgment debtor to see if they are still in business
 - Check for a credit application
 - Any past payments on the file to your office; does your client have copies of checks?
 - Review other files in your office (open or closed)
 - Call and ask your client who the debtor does business with
 - All done in the search of bank, employer, customer or insurance information

Step Three

- Make a search using the Tools of the Internet
 - Google your judgment debtor
 - Do they have a website?
 - How do they get paid?
 - Who are their customers?
 - Testimonials
 - Current jobs performing

Step Four

- Procure asset and liability reports
 - Cyber Drive/Illinois Secretary of State
 - Name and home address for officers
 - Accurant Report
 - Lexis/Nexis Business/Person Summary Report
 - UCC and Tax Lien Search
 - Other Judgment information
 - Real property
 - DMV Search
 - Credit report

Step Five

- Call the debtor and make an oral demand for payment
 - He/she/they might actually pay it
 - Watch for restrictive endorsements

Step Six

- Come to believe that the legal process is needed to get this Judgment paid
 - No more debtors prisons
 - Can immediately execute
 - Armed with your information, develop a plan
 - Don't get over zealous; you don't want to force them out of business, into bankruptcy; or over the edge
 - Many remedies available (Illinois Creditor Friendly)
 - Bank Garnishment; 735 ILCS 5/12/701 et seq.
 - 15% of weekly wages
 - Wage Garnishment; 735 ILCS 5/12-801 et seq.
 - Priority given to child support orders
 - Citation on Merchant Accounts; AMEX, Discover
 - Other 3rd Party Citation opportunities to interfere with their source of income
 - Debtor's Accounts Receivable
 - Money due debtor from governmental entities
 - Source of commissions for 1099 situations
 - Turnover of rents
 - Land Trusts
 - Sell debtors beneficial interest

- Personal Property Levy
 - Valuable tool; but again be careful!
 - UCC Search
 - Seek sale of Inventory, Office Equipment, Vehicles, ect.
 - Goal is to get paid rather than go to sale; be reasonable; continue for payments
- Exemptions 735 ILCS 5/12-1001
 - \$4,000.00 wild card
 - \$15,000.00 homestead exemption

Step Seven

- Humbly ask the Debtor (or their spouse) for asset information
 - Serve the debtor with a Citation to Discover Assets; 735 ILCS 5/2-1402
 - Automatic lien on assets once served; preserves status quo.
 - Prohibition on transfer of assets
 - Even to a bankruptcy attorney?
 - Discover assets during examination and then get a discussion going on how to get the judgment paid
 - Possible Orders after citation complete
 - Voluntary payment vs. payment order; your judgment call
 - Reconveyance of interest in property
 - Continuing Lien Order
 - Document production
 - Compel delivery of property found directly to creditor
 - Sheriff's Sale of property discovered
 - Vehicles; jewelry, Country Club Membership
 - Shares of stock in closely held company
 - Revocation of Driving Privileges
 - Force to find job?
 - Require report to Court as to estimates/current contracts
 - Terminates six months after first appearance; unless extended by Court order

- Contempt Order: Failure to appear or failure to pay
- Writ of Body Attachment
 - Again be careful! Not all clients will allow
 - Bond amount set to obtain appearance not for collection (depends on the Judge)
 - Bond Turnover

Step Eight

- Extraordinary Methods Of Collection
 - Judgment foreclosure

Step Nine

- Pray for a resolution
 - If that does not work.....
 - Come back in six months to a year and start the process over again
 - Nine percent interest; great rate of return

Step Ten

- Having had a spiritual awakening as a result of these steps, celebrate your collection of the judgment or admit failure and close the file.