



MidPenn Legal Services



JUDGMENT EXECUTION

A person (or company) who files and wins a law suit gets a "judgment" against the loser. After a person has obtained a judgment, he/she may seek to collect that judgment. The procedures they can use depend on whether the judgment is a **Magisterial District Judge judgment** or a **Court of Common Pleas judgment**. The person who won the suit is the judgment creditor. The person who owes the judgment is the judgment debtor. The judgment creditor may execute, that is, try to collect the money, on the judgment if the judgment is not paid in full and the appeal period (usually 30 days) has passed.

EXECUTION OF A DISTRICT JUDGE JUDGMENT

What Can Be Sold?

The judgment debtor's actual personal property can be sold. Examples are cars, t.v.s, vcrs, appliances and furniture.

When Can the Property Be Sold?

Anytime after 30 days following the judgment date up to 5 years after the judgment date.

What Are the Procedures for the Sale?

1. The judgment creditor must request an Order of Execution from the District Judge. Because there is a filing fee for every law suit filed, he/she must pay fees for the constable or sheriff at this time. Those fees are added on to the amount of the judgment. After the sale is held, this additional amount is paid to the judgment creditor.
2. After the Order of Execution is obtained, the constable or sheriff will go to the judgment debtor's home and list the items of property that will be sold. A dollar value will be assigned to each item. Those items cannot be sold or otherwise disposed of by the debtor before the sale. This procedure is called a levy. Property so listed is said to have been levied upon. A sale must be held within 6 months or the levy expires.
3. A sale of the levied property is scheduled. At least **6 days notice of the sale must be given to the debtor.**

Can Another Sale Be Held?

If the first sale does not produce enough money to pay the judgment, additional sales may be held.

Can Some Property Be Exempt from Sale?

There is a \$300 exemption per judgment debtor per sale. Property worth that much can be set aside and not sold. The judgment debtor can inform the sheriff or constable which property he/she wishes to set aside. The sheriff or constable will decide the value of the property and, if it is within the exemption level, set it aside. The judgment debtor can probably claim the exemption in cash from the proceeds of the sale. **The exemption must be established before the sale.** Some items of personal property can be specifically exempted. These are primarily clothing, Bibles and school books. However, the value of these items is deducted from the general \$300 exemption.

When both a husband and wife are judgment debtors, each can probably claim a \$300 exemption. However, the law is unclear. In such a case, the judgment debtors should attempt to claim exemptions for both spouses.

When to Claim the Exemption:

The judgment debtor can claim the exemption anytime before the date of the sale by going to the District Judge.

Immunities:

If the property levied upon is not owned by the judgment debtor, the owner of the property may file a **third party claim** with the District Judge before the sale. The filing of the claim stops the sale and **a hearing on the claim must be held in the Court of Common Pleas within 5 days.** In a case when the judgment debtor is married and his/her spouse is not a judgment debtor, the spouse may file a claim on the property under the doctrine of tenants by the entireties.

EXECUTION OF A COURT OF COMMON PLEAS JUDGMENT

What Can Be Sold?

The personal and real property of the debtor can be sold. Property held by a third party (checking accounts etc.) can be frozen and taken to satisfy the judgment.

When Can the Property Be Sold?

The property can be sold any time 30 days after the judgment date and up to 5 years after that date. If the judgment creditor files the appropriate papers every 5 years, the debt can be executed on up to 20 years after the judgment is entered.

What Are the Procedures for the Sale?

1. The judgment creditor must request a writ of execution. He/she must pay fees for the sheriff at this time. Those fees are added to the amount of the judgment, and paid the judgment creditor at the sale.
2. The sheriff will go to the judgment debtor's home and levy on real or personal property. He/she will list items of property to be sold. Those items cannot be sold or otherwise disposed of before the sale.

OTHER POSSIBLE PROCEDURES TO COLLECT A COURT OF COMMON PLEAS JUDGMENT

Wage Garnishment:

Wages may be garnished to collect a judgment for support, board for less than four weeks, some debts to landlords and student loans.

Revocation of a Driver's License:

When the judgment is the result of an automobile accident, the judgment creditor may request the Department of Motor Vehicles to revoke the judgment debtor's driver's license until the judgment is satisfied.

MidPenn Legal Services (MPLS) is providing information which is appropriate for some sheriff sale situations. MPLS, in providing this information, is in no way agreeing or implying that it will represent individuals who use the enclosed information. Although this information is believed accurate at the time of preparation, MPLS assumes no responsibility for the accuracy of this information. Individual situations require individual analysis and you may need to consult a lawyer in your situation.