

A small claims judgment may require lots of work to collect it

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Q: My son won a judgment in Small Claims Court against a painter who refused to pay for considerable damage to his property.

Now the painter refuses to honor the award.

How can you win a case and not be able to collect damages?

Joseph Botto

A: This is a common frustration among those who win in Small Claims Court. It happens because the court is responsible for only the judgment itself, not its enforcement.

Debtors can't be put in jail if they don't pay. But you can have the sheriff seize the debtor's personal property and sell it to pay you.

If there is no property to seize, the judgment may be worthless.

The first step, once a judgment is made in your favor, is to file a judgment lien certificate with the Department of State.

You'll need the lien so you can obtain a writ of execution for the sheriff's department to actually take the property. The writ must clearly state which property is to be seized.

It's then sold at auction to fulfill the judgment.

Homesteaded property is exempt from seizure, as is up to \$1,000 worth of personal property and a car worth up to \$1,000.

The logical question becomes, how does the average citizen identify someone's personal property?

The Pinellas County Clerk of the Court's office couldn't tell me. But its Web site, www.clerk.co.pinellas.fl.us, mentioned a book called *How to Win in Small Claims Court in Florida* by Mark Warda.

So I went to the library.

Warda's book includes an entire chapter about collecting an award.

After you've received a judgment, and assuming you're not using an attorney, you can force the debtor to bring his financial records to court for you and the judge to review. It's called a "hearing in aid of execution" and is provided for under Rule 7.221 of the Florida Small Claims Rules. You can read the 2008 edition of the rules at www.floridabar.org.

Listing one's assets and liabilities and being compelled to show tax returns and deeds can be embarrassing. The debtor may pay off the judgment just to avoid this, according to Warda.

If he doesn't, and you wish to proceed with your seizure, call the sheriff's office to find out if there are other writs it is waiting to execute against the debtor.

If so, those judgments will be paid off first, and you'll get only what's left over. And the sheriff's office must be paid for its services too.

It can fill you in on the costs for it to execute the writ and how to obtain the necessary forms.

As you can see, receiving a judgment in your favor may satisfy only the spirit of your lawsuit.

Financial satisfaction can take a lot more work.

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