

Surviving a Down Market

This column is the sixth in a series that will answer the most pressing questions we receive from members struggling to stay afloat.



Guest Columnist
David Linville
Linville Law Firm, LLC



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Last month I explained how you can win in small claims court without an attorney. But winning only marks the half-way point. *This month: Show Me the Money!*

A lawsuit, whether in small claims court or superior court, consists of two phases: getting your judgment and collecting on the judgment. Small claims court is a place to get your judgment, but it does not collect the judgment for you.

If you're lucky you can avoid the collections process. Talk to the defendant immediately after the judgment. Maybe he or she will pay you immediately or agree to a payment plan. You can also ask the judge to make a payment schedule part of the judgment.

If the defendant does not appeal the judgment and does not pay the judgment within 30 days, or the time set by the court in the payment plan, you can file a form with the court clerk (along with a \$20 fee) requesting that a transcript of the judgment be entered into the court's civil docket. At that time you may proceed with a method of collection such as garnishing the defendant's wages, bank accounts, or other monies or obtaining a writ of execution on his or her cars, boats, or other personal property.

Generally, collection on a judgment is best done by an attorney. The good news is that RCW 12.40.105 provides in part:

If the losing party fails to pay the judgment within thirty days or within the period otherwise ordered by the court, the judgment shall be increased by . . . any other costs incurred by the prevailing party to enforce

the judgment, including but not limited to reasonable attorneys' fees, without regard to the jurisdictional limits on the small claims department.

For example, let's suppose that you sue ABC Subcontractor, Inc. for \$4,500 in small claims court. You obtain a judgment. ABC does not pay within 30 days. You turn the judgment over to an attorney to collect. The attorney sends demand letters and garnishes the bank account of ABC and incurs \$1,000 in the process. The law permits the attorney to tack on his or her attorney fees and costs, so that \$5,500 can be collected from ABC and you are made whole.



If money is really tight, you can do your own leg work to file the judgment at the superior court in each county in which the debtor owns real estate. A certified copy of the judgment will cost around \$5 and the filing fee is \$15. Once the judgment is filed, it will show up as a lien on the defendant's real estate and prevent him or her from selling or refinancing, unless, of course, the judgment is paid prior to closing. Once filed, a judgment lasts ten years, although it can be renewed prior to expiration. 🏠