

(a) In General. (1) Money Judgment; Applicable Procedure. A money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution and in proceedings supplementary to and in aid of judgment or execution must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies.

Every execution shall be made returnable, within 60 days after its receipt by the officer, to the clerk of the court from which it issued but if the officer has levied upon property previous to the expiration of the 60 days the officer may retain such execution until the officer has sold the property. When the execution is against the property of the judgment debtor, the execution may be issued to the sheriff of any county where the judgment is entered in the judgment and lien docket. When the execution requires the delivery of real or personal property, the execution shall be issued to the sheriff of the county where the property or some part of the property is situated. Executions may be issued at the same time to different counties. Upon receipt of any execution the sheriff or other officer shall endorse thereon the year, month, day and hour of the day when the sheriff or other officer received the same. If the action be one in which the defendant might have been arrested, as provided in ch. When any order or judgment is for the delivery of possession of property real or personal the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the clerk. The following are special provisions for writs of execution or assistance: If such judgment be against such deceased debtor and others jointly execution may issue against surviving judgment debtors without delay. The clerk shall also enter at the foot of the judgment, in the judgment record, the fact of the death of the judgment creditor and the name and date of appointment of the personal representative. This section shall be construed to secure its full benefit to debtors and to advance the humane purpose of preserving to debtors and their dependents the means of obtaining a livelihood, the enjoyment of property necessary to sustain life and the opportunity to avoid becoming public charges. If the debtor does not claim an exemption under subd. All sums paid as state aid under s. All moneys received or receivable by a person as federal disability insurance benefits under 42 USC to For a period of 2 years after the date of receipt, insurance proceeds on exempt property payable to and received by the debtor, if the exempt property has been destroyed or damaged by fire or casualty of any nature. All money paid or ordered to be paid to any member of any fire or police department or to the surviving spouse or guardian of the minor child or children of a deceased or retired member of any such department, which money has been paid or ordered to be paid to any such person as a pension on account of the service of any person in any such department in any city in this state whose population exceeds , All fire engines, apparatus and equipment, including hose, hose carts and hooks and ladders, belonging to or which may hereafter belong to any town, city or village in this state, and which are or may be kept and used for the protection of property in such town, city or village from fire, together with the engine houses and hooks and ladder houses for the protection of the same, and the lot or lots on which such engine and hook and ladder houses may be situated, when owned by any such town, city or village; and any lot or lots owned, used and occupied by any such town, city or village for corporate purposes. The date on which the exemption is claimed. The date, if any, that the cause of action was filed that resulted in the judgment with respect to which the execution order was issued. Except as provided in subd. Any unused amount of the aggregate value from par. Any of the following payments: Any property traceable to payments under subd. Assets held or amounts payable under any retirement, pension, disability, death benefit, stock bonus, profit sharing plan, annuity, individual retirement account, individual retirement annuity, Keogh, K or similar plan or contract providing benefits by reason of age, illness, disability, death or length of service and payments made to the debtor therefrom. The plan or contract must meet one of the following requirements: The plan or contract complies with the provisions of the internal revenue code. The employer created the plan or contract for the exclusive benefit of the employer, if self-employed, or of some or all of the employees, or their dependents or beneficiaries and that plan or contract requires the employer or employees or both to make contributions for the purpose of distributing to the employer, if self-employed, the employees, or their

dependents or beneficiaries, the earnings or the principal or both of a trust, annuity, insurance or other benefit created under the plan or contract and makes it impossible, at any time prior to the satisfaction of all liabilities with respect to beneficiaries under a trust created by the plan or contract, for any part of the principal or income of the trust to be used for or diverted to purposes other than for the exclusive benefit of those beneficiaries. The plan or contract may permit the income created from personal property held in a trust created under the plan or contract to accumulate in accordance with the terms of the trust. The trust may continue until it accomplishes its purposes. The trust is not invalid as violating the rule against perpetuities or any law against perpetuities or the suspension of the power of alienation of title to property. This exemption does not apply to an order of a court concerning child support, family support or maintenance payments, or to any judgment of annulment, divorce or legal separation. For purposes of this definition, the accrued benefits or account of an owner-employee under a plan or contract shall include the accrued benefits or account of the spouse, any ancestor or lineal descendant, whether by blood or by adoption, or the spouse of such a lineal descendant, of the owner-employee under the same plan or contract.

Chapter 2 : Statutes & Constitution :View Statutes : Online Sunshine

After the judgment is signed, the court clerk will not issue a writ of execution until it is at least 30 days old (21 days in justice court) at which time the judgment is considered final. This post-judgment waiting period exists so that the debtor has ample time to file a motion for new trial as a prerequisite to appeal.

Appeals in General [-] Chapter 1 added by Stats. A judgment or order in a civil action or proceeding may be reviewed as prescribed in this title. The Judicial Council shall prescribe rules for the practice and procedure on appeal not inconsistent with the provisions of this title. Any party aggrieved may appeal in the cases prescribed in this title. A party appealing is known as an appellant, and an adverse party as a respondent. In any case in which a notice was required pursuant to subdivision e of Section These rights shall apply regardless of whether the Attorney General participated in the case in the trial court. However, the Attorney General has no direct right to appeal. If the Attorney General elects not to intervene and participate in the appeal, he or she shall file a statement with the Legislature and the Judicial Council stating the reason or reasons for the decision not to intervene and participate in the appeal. This statement may be in the form of an annual report to the Legislature and Judicial Council and that report shall be a matter of public record. Effective January 1, In the event of the death of any person who would, if still alive, have a right of appeal, either the attorney of record representing the decedent in the court in which the judgment was rendered, or the executor or administrator of the estate of the decedent, may file a notice of appeal therefrom within the time within which the decedent could have filed such a notice if he had survived. An appeal may be taken in a civil action or proceeding as provided in Sections An appeal, other than in a limited civil case, may be taken from any of the following: AB Effective January 1, An appeal of a ruling by a superior court judge or other judicial officer in a limited civil case is to the appellate division of the superior court. An appeal of a ruling by a superior court judge or other judicial officer in a limited civil case may be taken from any of the following: An appeal shall not be taken from a judgment of the appellate division of a superior court granting or denying a petition for issuance of a writ of mandamus or prohibition directed to the superior court, or a judge thereof, in a limited civil case or a misdemeanor or infraction case. An appellate court may, in its discretion, upon petition for extraordinary writ, review the judgment. Appeals from the small claims division of a superior court shall be governed by the Small Claims Act Chapter 5. Upon an appeal pursuant to Section The respondent, or party in whose favor the judgment was given, may, without appealing from such judgment, request the reviewing court to and it may review any of the foregoing matters for the purpose of determining whether or not the appellant was prejudiced by the error or errors upon which he relies for reversal or modification of the judgment from which the appeal is taken. The provisions of this section do not authorize the reviewing court to review any decision or order from which an appeal might have been taken. When it appears to the reviewing court that the appeal was frivolous or taken solely for delay, it may add to the costs on appeal such damages as may be just. When the judgment or order is reversed or modified, the reviewing court may direct that the parties be returned so far as possible to the positions they occupied before the enforcement of or execution on the judgment or order. In doing so, the reviewing court may order restitution on reasonable terms and conditions of all property and rights lost by the erroneous judgment or order, so far as such restitution is consistent with rights of third parties and may direct the entry of a money judgment sufficient to compensate for property or rights not restored. The reviewing court may take evidence and make findings concerning such matters or may, by order, refer such matters to the trial court for determination. In all cases where trial by jury is not a matter of right or where trial by jury has been waived, the reviewing court may make factual determinations contrary to or in addition to those made by the trial court. The factual determinations may be based on the evidence adduced before the trial court either with or without the taking of evidence by the reviewing court. The reviewing court may for the purpose of making the factual determinations or for any other purpose in the interests of justice, take additional evidence of or concerning facts occurring at any time prior to the decision of the appeal, and may give or direct the entry of any judgment or order and may make any further or other order as the case may require. This section shall be

liberally construed to the end among others that, where feasible, causes may be finally disposed of by a single appeal and without further proceedings in the trial court except where in the interests of justice a new trial is required on some or all of the issues. A court of appeal may order any case on appeal to a superior court in its district transferred to it for hearing and decision as provided by rules of the Judicial Council when the superior court certifies, or the court of appeal determines, that the transfer appears necessary to secure uniformity of decision or to settle important questions of law. No case in which there is a right on appeal to a trial anew in the superior court shall be transferred pursuant to this section before a decision in the case becomes final therein. A court to which any case is transferred pursuant to this section shall have similar power to review any matter and make orders and judgments as the appellate division of the superior court would have in the case, except that if the case was tried anew in the superior court, the court of appeal shall have similar power to review any matter and make orders and judgments as it has in a case appealed pursuant to Section Effective September 28, Upon final determination of an appeal by the reviewing court, the clerk of the court shall remit to the trial court a certified copy of the judgment or order of the reviewing court and of its opinion, if any. The clerk of the trial court shall file the certified copy of the judgment and opinion of the reviewing court, shall attach that copy to the judgment roll if the appeal was from a judgment, and shall enter a note of the judgment of the reviewing court stating whether the judgment or order appealed from has been affirmed, reversed or modified, in the margin of the original entry of the judgment or order, and also in the register of actions. The dismissal of an appeal shall be with prejudice to the right to file another appeal within the time permitted, unless the dismissal is expressly made without prejudice to another appeal. When the right to a phonographic report has not been waived and when it shall be impossible to have a phonographic report of the trial transcribed by a stenographic reporter as provided by law or by rule, because of the death or disability of a reporter who participated as a stenographic reporter at the trial or because of the loss or destruction, in whole or in substantial part, of the notes of such reporter, the trial court or a judge thereof, or the reviewing court shall have power to set aside and vacate the judgment, order or decree from which an appeal has been taken or is to be taken and to order a new trial of the action or proceeding.

Chapter 3 : 3 Steps To Successful Judgment Enforcement - Law

Executing on a Judgment for Defamation By Allison Friedman of Allison L. Friedman, P.A. posted in Executing on a Judgment on Saturday, July 2, I was recently retained to execute on a domesticated foreign judgment awarded in favor of my clients for defamation and damages.

A second writ may be issued at any time within 10 years after issuance of the first writ. Acts , 69th Leg. Acts , 81st Leg. An affidavit of death and a certificate of appointment of the legal representative, given under the hand and seal of the clerk of the appointing court, must be filed with the clerk of the court issuing the writ of execution. An affidavit showing that administration of the estate is unnecessary must be filed with the clerk of the court that rendered judgment. Money collected under the execution shall be paid into the registry of the court, and the court shall order the money partitioned and paid to the parties entitled to it. The death of the defendant after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the county court in the payment of the debts of the deceased. Property that the judgment debtor has sold, mortgaged, or conveyed in trust may not be seized in execution if the purchaser, mortgagee, or trustee points out other property of the debtor in the county that is sufficient to satisfy the execution. A person is entitled to recover his property that has been seized through execution of a writ issued by a court if the judgment on which execution is issued is reversed or set aside and the property has not been sold at execution. The commissioners court shall record that designation in the real property records of the county. A designation by a commissioners court under this section is not a ground for challenging or invalidating any sale. Except for a sale under Subsection a , a sale must be held at an area designated under this subsection if the sale is held on or after the 90th day after the date the designation is recorded. The commissioners court may by order authorize a county official or employee to identify separate locations within the designated area for the conduct of sales under this section and for the conduct of sales by peace officers under other laws. Acts , 83rd Leg. Acts , 85th Leg. If real property taken in execution consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately unless not susceptible to separate sale because of the character of improvements. Shares of stock in a corporation or joint-stock company that are owned by a defendant in execution may be sold on execution. A there are no delinquent ad valorem taxes owed by the person to that county; and B for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that school district or municipality; or 2 the written registration statement issued to the person in the manner prescribed by Section An officer conducting a sale under this subchapter may not execute a deed in the name of or deliver a deed to any person other than the person who was the successful bidder. An offense under this subsection is a Class B misdemeanor. Acts , 78th Leg. Acts , 79th Leg. Acts , 84th Leg. The purchaser of property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant. If an officer or his deputy conducting an execution sale directly or indirectly purchases the property, the sale is void. Acts , 80th Leg. If the officer who receives a writ of execution dies or goes out of office before the writ is returned, his successor or the officer authorized to discharge the duties of the office shall proceed in the same manner as the receiving officer was required to proceed. Added by Acts , 80th Leg. A county, at the discretion of the commissioners court, may pay any judgment taken against an officer under Section 7. An officer against whom a judgment has been taken under Section 7. An officer receiving a writ of execution does not have a duty to: Instead, a prevailing party under these provisions may bring a separate action against a surety failing to pay the amount remaining under the bond on a final judgment. This action must be brought on or before days after the date all appeals are exhausted in the underlying action. Whenever a distress warrant, writ of execution, sequestration, attachment, or other like writ is levied upon personal property, and the property, or any part of the property, is claimed by any claimant who is not a party to the writ, the only remedy against a sheriff or constable for wrongful levy on the property is by trial of right of property under Part VI, Section 9, Texas Rules of Civil Procedure.

Chapter 4 : How Creditors Enforce Judgments | theinnatdunvilla.com

If a judgment is a lien on the judgment debtor's property under the law of the state where the court is located, the judgment debtor is entitled to the same stay of execution the state court would give.

The basics of California Appeals are two not-so-simple rules: Gilroy Cal. The flip side of the one-final judgment rule is Rule 1, above, that if a judgment or order is appealable, aggrieved parties must file a timely appeal or forever lose the opportunity to obtain appellate court review. This is a jurisdictional principle: Appellate courts have no discretion to entertain appellate or writ review of appealable judgments or orders from which a timely appeal was not taken. The potential trap for trial lawyers then, is that a court issues a ruling or order that is deemed final or appealable, and the lawyer fails to appeal at the time, thinking instead that the matter will be addressed in the appeal from the final judgment. There is no easy, all-purpose rule to apply to avoid this problem. Instead, trial lawyers can protect themselves by being familiar with section 9. The most common appealable orders listed in section 9 are: See CRC, Rule 8. An order of dismissal, for example, is appealable when it is in writing, signed by the court, and filed in the action. But an order sustaining a demurrer without leave to amend is not an appealable order. Rather, the appeal lies from the order of dismissal made following the order sustaining the demurrer. Boustred Cal. Courts generally only invoke this rule to save a premature appeal. But it could conceivably be used to argue that an appeal was untimely in a case where the only order issued was the order sustaining the demurrer, and no dismissal was entered. Similarly, a statement of decision is generally not an appealable order. American Honda Motor Co. This is because courts generally embody their final rulings in orders or judgments, not a statement of decision. But if a written statement of decision is signed and filed, and satisfies the requirements of Code Civ. Proc. § 9. The list of appealable orders in section 9. The Family Code and the Probate Code have specific provisions that make certain orders appealable. So too does the Code of Civil Procedure, such as section 9, which makes orders denying or dismissing a petition to compel arbitration, or dismissing a motion to confirm, correct or vacate an arbitration award appealable. There are also common-law rules that make some orders appealable. The death-knell doctrine is therefore deemed part of the one-final judgment rule, not an exception to it. In general, the law recognizes two general exceptions to the one final judgment rule: The latter exception occurs frequently when one party is simply dismissed from a case that goes on as the remaining parties. In general, it requires that three conditions be satisfied:

Chapter 5 : Wisconsin Legislature:

If a judgment creditor who has delivered a writ of execution to a sheriff in any county before October 1, , does not properly file a judgment lien certificate with the Department of State by October 1, , such writ is considered to have been.

Errors in names, addresses, or social security numbers or failure to include same shall in no way affect the validity or finality of a final judgment. The Chief Financial Officer shall inform the clerk of the courts and chief judge for each judicial circuit of the rate that has been established for the upcoming quarter. The interest rate established by the Chief Financial Officer shall take effect on the first day of each following calendar quarter. Judgments obtained on or after January 1, , shall use the previous statutory rate for time periods before January 1, , for which interest is due and shall apply the rate set by the Chief Financial Officer for time periods after January 1, , for which interest is due. Nothing contained herein shall affect a rate of interest established by written contract or obligation. The rate of interest stated in the judgment, as adjusted in subsection 3 , accrues on the judgment until it is paid. For purposes of this subsection, if the process, writ, judgment, or decree refers to the statutory rate of interest described in subsection 1 , such reference shall be deemed to indicate the rate of interest. When a judgment or decree is rendered on a bond or other written evidence of debt providing for a lesser rate of interest, the judgment or decree bears interest at the rate specified in such bond or other written evidence of debt. This section shall apply to all proceedings heretofore had as well as to those hereafter had. A judgment, order, or decree does not become a lien on real property unless the address of the person who has a lien as a result of such judgment, order, or decree is contained in the judgment, order, or decree or an affidavit with such address is simultaneously recorded with the judgment, order, or decree. If the certified copy was first recorded in a county in accordance with this subsection between July 1, , and June 30, , then the judgment, order, or decree shall be a lien in that county for an initial period of 7 years from the date of the recording. If the certified copy is first recorded in accordance with this subsection on or after July 1, , then the judgment, order, or decree shall be a lien in that county for an initial period of 10 years from the date of the recording. The extension shall be effective from the date the certified copy of the judgment, order, or decree is rerecorded. The lien or extended lien will not be extended unless the affidavit with the current address is simultaneously recorded. Upon such deposit being made or such bond being filed, the clerk shall make and record a certificate showing the transfer of the lien from the real property to the security and mail a copy thereof by registered or certified mail to the lienor named in the claim of lien so transferred, at the address stated therein. Upon the filing of the certificate of transfer, the real property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security. Any number of liens may be transferred to one such security. Any deposit of money shall be considered as paid into court and shall be subject to the provisions of law relative to payments of money into court and the disposition of these payments. Such judgment, and execution thereon, shall have the same lien on property of the principal as though the surety were the original plaintiff. Upon payment of the amount required in subsection 1 and the recording charge required by this subsection and execution and recordation of the satisfaction by the clerk, any lien created by the judgment is satisfied and discharged. Pursuant to section Upon the execution of this satisfaction, said judgment is satisfied and discharged. If an address for the judgment holder was provided under section Clerk of Court 4 If an address for the judgment holder was provided under s. If an address is not provided under s. The discharge of the lien by the issuance of the satisfaction is not dependent upon the delivery of notice by the clerk. The petition shall be accompanied by a certified copy of the discharge of said bankrupt or by a certified copy of the order of confirmation of the arrangement filed by said debtor. The petition, accompanied by copies of the papers upon which it is made, shall be served upon the judgment creditor in the manner prescribed for service of process in a civil action. If it appears upon the hearing that the bankrupt or debtor has been discharged from the payment of that judgment or of the debt upon which it was recovered, the court shall enter an order canceling and discharging said judgment. The order of cancellation and discharge shall have the same effect as a satisfaction of judgment, and a certified copy thereof may be recorded in the same manner as a

satisfaction of judgment. This section shall apply only to liens under judgments or obligations duly scheduled in the bankruptcy proceedings. A court may authorize, for cause shown, the filing of a judgment lien certificate before a judgment has become final when the court has authorized the issuance of a writ of execution in the same matter. A judgment lien certificate not filed in compliance with this subsection is permanently void and of no effect. Although no lien attaches to property, and a creditor does not become a lien creditor as to liens under chapter , until the debtor acquires an interest in the property, priority among competing judgment liens is determined in order of filing date and time. Such filings must contain the information set forth in s. For each judgment lien certificate filed, the department shall: Liens securing the payment of reemployment assistance tax obligations lapse 10 years after the date of the original filing of the notice of lien. A second lien based on the original filing may not be obtained. The effective date of the second judgment lien is the date and time on which the judgment lien certificate is filed. The second judgment lien is a new judgment lien and not a continuation of the original judgment lien. The second judgment lien permanently lapses and becomes invalid 5 years after its filing date, and additional liens based on the original judgment or any judgment based on the original judgment may not be acquired. Such judgment lien continues only if: Subsequent removal of the property does not defeat the lien. A court may order continuation of the lien beyond the day period on a showing that extraordinary circumstances have prevented levy. If a second judgment lien is filed, the department shall maintain both files and all information contained in such files for a minimum of 1 year after the second judgment lien lapses. Such judgment creditor proceeding by writ of execution acquires a lien as of the time of levy and only on the property levied upon. Except as provided in s. A valid security interest as defined in chapter in after-acquired property of the judgment debtor which is perfected before the debtor acquires an interest in the property takes priority over the judgment lien on the after-acquired property. If the buyer has made improvements to the goods, or other reasons justify doing so, a court may adjust the amount secured by the lien as the equities may require. This subsection shall not apply to: A statement signed by an assignee must include or be accompanied by a separate written acknowledgment of assignment signed by or for the benefit of the judgment creditor of record. The judgment debtor, the judgment creditor, or assignee may file such statement with the Department of State. As to any property of the judgment debtor brought into the county on or after October 1, , such writs create no lien, inchoate or otherwise. Priority of such judgment liens is determined as of the effective date they are considered to have been filed. As to all other property of the judgment debtor, the effective date of the judgment lien is as provided in s. The duration of all judgment liens is as provided in s. However, no charge may be collected for copies provided in an online electronic format via the Internet. The information maintained in the database is for public notice purposes only and the department may make no certification or determination of the validity of any judgment lien acquired under ss. The clerk shall file, record, and index the foreign judgment in the same manner as a judgment of a circuit or county court of this state. A judgment so recorded shall have the same effect and shall be subject to the same rules of civil procedure, legal and equitable defenses, and proceedings for reopening, vacating, or staying judgments, and it may be enforced, released, or satisfied, as a judgment of a circuit or county court of this state. In addition, the judgment creditor may mail a notice of the recording of the judgment to the judgment debtor and may record proof of mailing with the clerk. The failure of the clerk to mail notice of recording will not affect the enforcement proceedings if proof of mailing by the judgment creditor has been recorded. When an action authorized in s. Procedures for recognition and enforceability of an out-of-country foreign judgment shall be as follows: The priority of such lien will be established as of the time the latter of the two recordings has occurred.

Chapter 6 : Rule Execution on Realty. | Tennessee Administrative Office of the Courts

When Execution Can Begin - If the judgment is a default judgment, you can execute on the judgment immediately after the judgment is entered. If the judgment is not a default judgment, you must wait until the day appeal deadline is over.

Our law provides that only non-exempt property of the judgment debtor may be seized to satisfy the judgment. Most judgment debtors do not have non-exempt property; in other words, most people have only exempt property. This means that even though you might obtain a judgment against someone, it is likely that you may never recover any money. Please consider this before you take the time and the expense of filing a lawsuit. If you decide to file a lawsuit and you obtain a judgment, you may follow these steps to try to collect your judgment. We suggest that you wait until the appeal time runs out before you do anything. After the judgment is rendered, you may obtain an Abstract of Judgment which you may file with the County Clerk in Travis County or any county in which the judgment debtor has real property. You may file this abstract in as many counties in Texas as you like. There will be a fee each time it is recorded. Before you pursue this remedy, you should determine whether the debtor has non-exempt property. The homestead is exempt. This means a house and up to one acre of land in an urban area, or a house and up to two hundred acres of land in a rural area. Current wages for personal services, certain unpaid commissions for personal services, and certain health aids are exempt. The following items of personal property are eligible for exemption within above monetary limits: If a judgment debtor has no non-exempt property, you cannot execute on your judgment. There are other remedies available in addition to the Writ of Execution, but they are even more complex. The best advice is to consult an attorney. This information is not intended to constitute legal advice or to take the place of an attorney. The Justice of the Peace and the clerks are prohibited by law from giving legal advice. The law concerning the collection of judgments is complex and can be properly explained by your attorney. You may want to view the Texas Law Help web site. Precinct 1 Justice of the Peace.

All goods, chattels, money and other property, real and personal, of the judgment debtor, or any interest therein of the judgment debtor not exempt by law, and all property and rights of property seized and held under attachment in the action, are liable to execution. Subject to the provisions of chapter of NRS, shares and interests in any corporation or company, and debts and credits and other property not capable of manual delivery, may be attached in execution in like manner as upon writs of attachments. Gold dust and bullion must be returned by the officer as so much money collected, at its current value, without exposing the same to sale. Until a levy, property is not affected by the execution. This chapter does not authorize the seizure of, or other interference with, any money, thing in action, lands or other property held in spendthrift trust or in a discretionary or support trust governed by chapter of NRS for a judgment debtor, or held in such trust for any beneficiary, pursuant to any judgment, order or process of any bankruptcy or other court directed against any such beneficiary or trustee of the beneficiary. This subsection does not apply to the interest of the beneficiary of a trust where the fund so held in trust has proceeded from the beneficiary unless: The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law: Except as otherwise provided in paragraphs o , s and t , the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph: The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor. Except as otherwise provided in NRS Any exemptions specified in subsection d of section of the Bankruptcy Reform Act of , 11 U. The primary dwelling, including a mobile or manufactured home, of a judgment debtor is exempt from execution upon a judgment for a medical bill. The parcel of land upon which the dwelling is situated and any appurtenances thereto are also exempt if they are owned by the judgment debtor. These exemptions apply during the: Lifetime of the judgment debtor, his or her spouse, his or her dependent adult child if that child is mentally or physically disabled or a joint tenant if the person was a joint tenant when the judgment was entered; or 2. Minority of any child of the judgment debtor, if the judgment debtor or joint tenant resides in the dwelling, or the spouse, dependent or minor child of the judgment debtor resides in the dwelling. Any bona fide owner of a collection or cabinet of metal-bearing ores, geological specimens, art curiosities, or paleontological remains who shall properly arrange, classify, number and catalog in a suitable book or books of reference any such collection of ores, specimens, curiosities or remains, whether the same be kept at a private residence or in a public hall or in a place of public business or traffic, shall be entitled to hold the same exempt from execution as other property is exempted from execution under the provisions of NRS The owner of any collection or cabinet as described in subsection 1 shall keep constantly at or near such collection or cabinet, for free inspection of all visitors who may desire to examine the same, written or printed catalogs as provided in subsection 1. Any person owning such collection or cabinet who fails or neglects to comply with the provisions of this section shall forfeit all right to hold such collection or cabinet exempt from legal execution as provided herein. Nothing in this section shall be construed so as to exempt from execution any numismatic collection, such as gold and silver coins, paper currency, bank notes, legal tender currency, national or state bonds, or any negotiable note, or valuable copper, bronze, nickel, platinum or other coin. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as: If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies

the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money. If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court. Notwithstanding the provisions of NRS 17.040, a judgment creditor may apply to the court for an order pursuant to subsection 1 by submitting a signed affidavit which identifies each financial institution in which the judgment debtor has a personal account. A judgment debtor may claim an exemption for any exempt money in the account to which the writ attaches in the manner set forth in NRS 17.040. The sheriff shall, in the manner provided for writs of attachments in NRS 17.040, That the judgment debtor may indicate at the time of the levy such part. That the property indicated be amply sufficient to satisfy such judgment and fees. A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment. Procedure; clerk to provide form and instructions; manner in which to object; burden of proof; release of property; debtor may not be required to waive. In order to claim exemption of any property levied on pursuant to this section, the judgment debtor must, within 10 days after the notice of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 17.040, The clerk of the court shall provide the form for the claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court. An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property where a claim of exemption is not served on the sheriff. Unless the court continues the hearing for good cause shown, the hearing on an objection to a claim of exemption to determine whether the property or money is exempt must be held within 7 judicial days after the objection to the claim and notice for a hearing is filed. The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee. If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor. At any time after: The provisions of this section do not limit or prohibit any other remedy provided by law. In addition to any other procedure or remedy authorized by law, a person other than the

judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim. If personal property levied on under a writ of execution belongs to a going business and the judgment debtor consents, the sheriff shall place a keeper in charge of such property for a period of at least 2 days with the judgment creditor prepaying to the sheriff the expense of such keeper. During such period, the judgment debtor may continue to operate in the ordinary course of business at his or her own expense if all sales are for cash and the full proceeds are given to the keeper for the purpose of the execution. After such period, the sheriff shall take such property into immediate custody unless other disposition is made by the court or agreed to by the judgment creditor and judgment debtor. If personal property, including debts or credits due or to become due, is not in the possession or control of the debtor, the sheriff, upon instructions from the creditor and without requiring an order of court, shall serve a writ of garnishment in aid of execution upon the party in whose possession or control the property is found. Notice of the writ of garnishment must be served upon the judgment debtor in the same manner and form and within the time prescribed in NRS. If any property levied upon by writ of execution or by writ of garnishment in aid of execution is claimed by a third person as his or her property, the same rules prevail as to the contents and making of the claim, as to the holding of the property and as to a hearing to determine title thereto, as in the case of a claim after levy under writ of attachment, as provided for by law. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS. The cost of publication must not exceed the rate for legal advertising as provided in NRS. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. In addition to the requirements of NRS. If the sale of property is a residential foreclosure, the notice must include, without limitation: If the sale of property is a residential foreclosure, a separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must be in substantially the following form:

Chapter 8 : Codes Display Text

(2) All unsatisfied executions in the hands of the sheriff docketed before October 1, , or 20 years after the date of issuance of final judgment upon which the execution was issued may be returned to the court issuing the execution.

Table of Contents a Definition; form The terms "judgment" and "final judgment" include a decree and mean the act of the trial court finally adjudicating the rights of the parties affected by the judgment, including: A judgment shall not contain a recital of pleadings, the report of a master or the record of prior proceedings. In the absence of such determination and direction, any order or other form of decision however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties. If only damages that are a sum certain or a sum which can by computation be made certain are demanded, a judgment by default shall not exceed the amount demanded. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings. Except for those costs which are subject to the discretion of the court, costs shall be taxed by the clerk according to law. Costs which are taxable by the clerk may be taxed without notice unless a party notifies the clerk at any time after judgment and before execution that he desires to be present at the taxation of costs. Such notification shall be in writing and entered on the docket. If such notification is given, the clerk shall set a time for the taxation of costs, and shall give notice to all interested parties. The clerk shall include in the costs taxed only such items as are shown by the record and files at the time of taxation. On motion served within 5 days after receipt of notice of taxation of costs by the clerk, the action of the clerk may be reviewed by the court. A party claiming costs shall file such certificates, affidavits and vouchers pertaining to items of costs, as he desires to have considered in taxing costs. Copies of such certificates, affidavits and vouchers shall be served by said party upon all other parties at least 5 days prior to the taxation of costs. Whenever costs are awarded to two adverse parties in the same case, the court may order one sum to be set off against the other. If such set-off is not ordered, each party may have execution for the costs due him. When an audio-visual deposition is taken, taxable costs may include a reasonable fee for the use of the audio-visual equipment and for the services of the operator both in recording the deposition and editing it. Interest accrued up to the date of entry of a judgment shall be computed by the clerk according to law. Unless otherwise ordered by the court, interest from the date of entry of a judgment to the date of execution or order directing the payment of said judgment shall also be computed by the clerk, and the amount of such interest shall be stated on the execution or order. These differences were based on the lack of civil jury trials in the District Court. Although there are still no civil jury trials in the District Court with some exceptions , the differences are not significant enough to merit any changes in the merged set of civil rules. Post-judgment interest should be computed on that total. Bonanno Linen Service, Inc. Heretofore, "judgment" has meant the last step in the case, which cuts off all appellate review unless the losing party can successfully press a petition to vacate the judgment. Under the Rules, "judgment" is merely the final adjudicating act of the trial court, and starts the timetable for appellate review. Briefly stated, a case which "went to judgment" under the old practice was, except in the rarest circumstances, forensically dead; henceforth, a case in which judgment is "entered" is ready for appeal. Practice under Federal Rule 54 b identical to Rule 54 b is to wait until all claims are ripe for judgment before entering judgment on any of them. However, the court may "direct entry of a final judgment as to one or more but fewer than all of the claims or parties," although "only upon an express determination that there is no just reason for delay. Rule 54 c requires that a judgment by default extend only to what is prayed for in the demand for judgment; otherwise, a judgment should grant the relief to which the prevailing party is entitled. Rule 54 c also provides that every final judgment except a default judgment shall grant the relief to which the party is entitled, regardless of whether he requested it or not. Thus a party may be granted equitable relief when he asked for damages, or damages when he requested equitable relief. A party may be awarded greater damages

than the ad damnum. Costs in actions whose costs are not thus regulated may not be taxed more broadly than in regulated actions. In the latter event, however, both rules and statute vest the court with discretion as to whether costs shall be taxed at all. The clerk may tax the costs without notifying any party, unless the adverse party has given "seasonable notice in writing to the clerk of his desire to be present at the taxation or causes such notice to be entered on the docket. Rule 54 e deals with the taxation of costs incident to depositions. But costs may never be allowed unless the court finds the taking of the deposition to have been reasonably necessary. Items includible as "taxable costs" are also listed in Rule 54 e. Rule 54 e is for all practical purposes identical to S.

Chapter 9 : The basics of California Appeals – two not-so-simple rules (Part 2) – The Ehrlich Law Firm

When a judgment is renewed, whatever interest has accrued on the original judgment is added, and becomes part of the principal amount of the judgment. Effective Sept 1, , if the judgment amount exceeds \$15,, 2% is added to the interest rate.

If money is owed you because you have been awarded a judgment by the Superior Court or Special Civil Part, you are a judgment creditor. Real estate cannot be used to collect money owed in the Special Civil Part. You must locate and identify the debtors personal property that can be used to satisfy your judgment. Your attorney may, petition that a Court Officer try to sell personal items such as office equipment, etc. Vehicles- If you ask that the Court Officer seize the debtors motor vehicle, you must be able to show that the vehicle is registered in the name of the debtor. This is done by getting a certified copy of the title and a certified lien search from the New Jersey Division of Motor Vehicles. The Clerk or Court Officer will inform you of additional fees to advertise and sell the property when and if these events occur. A writ of execution is good for one year from the date it is issued, and can be renewed. You must provide the number of the bank, the address and the account number, if possible. Court Officers cannot search for bank accounts. After the money has been levied upon by the Court Officer, it is considered frozen. Your attorney must then file a Motion to Turn Over Funds with the court and serve a copy upon the debtor and the bank. If the court grants the motion, the judge will sign the Order to Turn Over Funds that you submitted with your motion. This order will be delivered to the bank by the Court Officer. To request a wage execution, your attorney or you must send a Notice of Application for Wage Execution to the debtor by regular and certified mail. A copy of the application and a statement of how you mailed the application to the debtor must be filed with the Office of the Clerk of the Special Civil Part. If the debtor objects to the wage execution, a hearing will be scheduled by the court. If the debtor does not object or the court does not allow the objection, an order for a wage execution will be issued and the wage execution will be delivered to the debtors employer by the Court Officer. The employer will hold back a portion of the debtors pay, in accordance with the Order for Wage Execution and will send this money to the Court Officer who will then send it to you. Once you apply and the court issues a writ of execution on goods and chattels personal property or wages, it is assigned to a Special Civil Part Court Officer for collection. This fee is listed on the writ and is payable to the Court Officer as the judgment is collected. Once a writ of execution is issued, the payments should be made directly to the Court Officer and not directly to you as the creditor. The Court Officer handles the bookkeeping, deducts the appropriate commission, and sends the balances to you. After a writ is returned by the Court Officer marked fully satisfied, the Clerk of the Court will enter the satisfaction in the record. In some instances, after a levy has been made by the Court Officer or contact has been made with the debtor, settlement discussions may occur between you and the debtor. Any partial or full payment made directly to you is subject to the commission that must be paid to the Court Officer. Once your judgment is recorded in the Superior Court, the debtor cannot sell with clear title any real estate owned in New Jersey until your debt is paid. Once docketed, future efforts to collect a judgment originally awarded in the Special Civil Part must be made through the Sheriffs Office in the county where the debtors assets are located. An information subpoena is a court paper containing questions about the debtors assets. Your attorney will serve an original and one copy of an information subpoena upon the debtor either personally or by registered and certified mail, return receipt requested, and simultaneously by regular mail. You also must provide a postage paid, addressed envelope with the information subpoena. The debtor must answer and return the information subpoena within 14 days from the date on which it was served. An information subpoena cannot be served more than once in a six month period without approval of the court. If the debtor does not answer the information subpoena, he or she is subject to contempt sanctions enforceable by the court. The court issues an Order requiring the debtor or any person who has information about the debtors assets to answer questions concerning these assets at a place and time specified in the court order. A person may be required to appear only once without another court order. Your attorney may serve a copy of the order for discovery upon the debtor or other person either personally or by registered or certified mail,

return receipt requested and simultaneously by regular mail at least 10 days before the appearance date. If the debtor or person named in the court order does not comply with the court order and fails to appear at the specified time and place to provide information about the debtors assets, he or she is subject to contempt sanctions enforceable by the court. In aid of the judgment or execution, the judgment creditor or successor in interest appearing of record, may examine any person, including the judgment debtor, by proceeding as provided by these rules for the taking of depositions or the judgment creditor may proceed as provided by R. The court may make any appropriate order in aid of execution. If the warrant for arrest is not executed within 24 months after the date of the entry of the order authorizing it, both the order and the warrant shall be deemed to have expired and to be of no further effect. To give a judgment awarded in another state validity to be collected in New Jersey, another lawsuit must be started in the appropriate court in New Jersey. To attempt collection or enforcement of an out-of-state judgment where the amount due is within the monetary limits of the Special Civil Part, you must file a complaint with an exemplified copy of the out-of-state judgment attached with the Office of the Clerk in the county where the defendant lives or is located. If a judgment is paid, with or without the aid of a Court Officer, the plaintiff is responsible for filing a warrant of satisfaction with the Special Civil Part.