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WMH LAW CORPORATION

Enforcement of a Judgment / Court Order

Civil Litigation Practice Series





“Enforcement Proceedings”

Enforcement of a Judgment / Court Order

When are Enforcement Proceedings Necessary?

A Judgment / Court Order is the determination / decision rendered by the Court in respect of the merits of a particular Court case.

A Judgment / Court Order sets out, *inter alia*, the “winning” party / Judgment Creditor, “losing” party / Judgment Debtor and the relief/remedy granted in a Court case.

The need for the “winning” party to resort to various enforcement mechanisms arises when the “losing” party refuses to comply with the relevant Judgment / Court Order.

First Port of Call – Letter of Demand

To not unnecessarily escalate legal costs, before commencing enforcement proceedings, the “winning” party should first issue a Letter of Demand to the “losing” party in relation to the Judgment / Court Order.

The said Letter of Demand will specify the matters that the “losing” party must comply with and require the “losing” party to comply with the same by a stipulated deadline.

Should the “losing” party fails, refuses and/or neglects to comply with the Letter of Demand, the “winning” party will commence enforcement proceedings.

“Modes of Enforcement”

Enforcement Proceedings

A Judgment / Court Order may be enforced by one of a variety of writs of execution. These writs authorize Court officials to take appropriate measures to give effect to the Judgment / Court Order.

These modes of enforcement include but are not limited to the following:-

- a) **Writ of Seizure and Sale – Immovable / Movable Property;** the “winning” party may elect to apply for a Court official to seize the “losing” party’s immovable / movable property which shall be sold by the Court official by public auction to satisfy the Judgment / Court Order.
- b) **Writ of Possession;** Where a person obtains a Judgment / Court Order for the possession of immovable property, such Judgment / Court Order may be enforced by a Writ of Possession. Such a writ shall not be

issued without the leave of the Court except where the Judgment / Court Order was given or made in a mortgage action to which Order 83 applies.

- c) **Examination of Judgment Debtor;** Where a person has obtained a Judgment / Court Order for the payment by some other person of money, the Court may, compel the “losing” party to attend Court, and be orally examined on whatever property the “losing” party has and wheresoever situated.
- d) **Garnishee Proceedings;** The garnishee process may be appropriate where the “losing” party owes a debt to a third party (the garnishee). When the “winning” party garnishes the debt, the garnishee / third party must pay the money to the “winning” party instead of to the “losing” party. Often, the “winning” party will garnish the bank account of the “losing” party.



Enforcement Proceedings (Cont'd)

e) **Committal Proceedings;** Where a person is required by a Judgment / Court Order to do or abstain from doing an act, but refuses or neglects to do such act, the Court may punish such a person for non-compliance to maintain the dignity and authority of the Court. Where the Court does decide to make an order for committal, the Court has discretion to either order a custodial sentence or levy a fine.

f) **Bankruptcy / Companies Winding-Up;** A “winning” party may seek to enforce a Judgment / Court Order as a judgment debt against the “losing” party and apply for a bankruptcy order (against an individual) or winding-up order (against a company) against that “losing” party. In the respective scenarios, either the Official Assignee or Liquidator will make arrangements to repay the “losing” party’s creditors.



For more information on the article, or if you wish to learn more about the topics discussed, please contact:-

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