

JULY 2009



EQUITY NEWS AND VIEWS

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TO LEVY OR NOT TO LEVY

That is the question. Sometimes getting served with a summons and complaint alone will motivate the defendants to pay their debts. However, in these less-than-ideal economic times, some additional force may be necessary to recover funds on an outstanding judgment. Equity Management, long known for service of legal documents, happens to be the largest levying firm in the state of Montana. Equity provides the muscle on the outside, as well as the sensitivity on the inside, that is needed for judgment satisfaction.

As levying officers, we have a variety of options available for a resourceful plaintiff with a writ of execution. Those options depend largely on what is known about the defendant. The following are the top three most popular ways our clients satisfy their debts:

1. Wage Garnishment. A defendant's place of employment is a key piece of information for successful judgment recovery. Once a writ is served on an employer, the employer is obligated to remit 25% of the defendant's disposable earnings to the levying firm each and every time payroll is processed for the life of the writ, or until the debt is paid in full. The main considerations when contemplating a wage garnishment are whether the defendant is working full or part time, and how much above the federal

minimum wage is a defendant likely to earn. If a defendant's weekly pay is less than 30 times the federal minimum wage, Montana Code Annotated 25-13-614 would dictate that no money could be levied. Another issue is the likelihood that a defendant has multiple garnishments, child support, or student loan repayment in effect. Since wage garnishments are honored in the order in which they are received, a prior writ may be standing in the way of a new levy. Additionally, child support and student loans come before a civil wage garnishment, and they count toward that 25% of disposable earnings that can be levied.

2. Bank Levy. Knowing where defendants store their assets can be of great help in judgment recovery. Unless defendants are hiding money under their mattresses, a strategically timed bank levy can be a handy tool for a plaintiff. If the specific bank is unknown, it may be worth serving a levy at multiple banks in the town where the defendant primarily resides. Bank levies are not without risk, though. Many people these days carry a low or zero balance in their bank accounts, or the defendants may even have a past due loan at their bank. Increasingly common are high legal order processing fees charged by the banks to handle the levy. These bank fees are assessed before the account is levied, potentially wiping out any funds available on the day the levy is served.

3. State Tax Refund. The refund season rolls around once a year, but it is often the only time for a plaintiff to access a clever defendant's funds. Defendants can change jobs and close bank accounts in order to avoid being levied, but there is not a lot defendants can do if they are expecting a state tax refund. The important factor here is timing the issuance of the writ for the 120-day period most likely to encompass the date a refund check might be cut. Equity typically receives state tax refund checks from February through June, but since levies are honored in the order received, it is best to be the first in line for a payment.

If a little risk is assumed up front, there is great opportunity for recovering funds on a judgment. For more information on what Equity levying officers can do for you, contact us at 406-721-3337.



EQUITY MANAGEMENT INC

PO Box 4906, Missoula, MT 59806 406-721-3337

1534 S Ave W, Missoula, MT 59801 800-721-3337

Fax 406-721-0372

Email: equity@equityprocess.com

www.equityprocess.com

LET US SERVE FOR YOU!

We're on the web at
www.equityprocess.com



WEEKEND WARRIOR WAISTLINES

Weekend warriors typically play hard, and quite often they indulge with as much intensity as they play. Some weekend warriors merely enjoy the spoils of a hard-fought workweek. No matter which category of weekend warrior you fall into, the backyard BBQ volleyball star or the bathing beauty on the motorboat stocked with refreshing beverages, the simple fact is Saturday and Sunday are sabotaging the weight loss goals of many Americans.

Research conducted at the Washington University School of Medicine in St. Louis monitored daily body weight, caloric intake, and caloric expenditure of subjects for several weeks in a year. Some subjects were on a calorie-restricted diet, some were on an increased activity level only diet, and the rest were part of a control group. Findings show that the holidays aren't the only culprit in weight gain. Weekends, and especially Saturdays, are perhaps even a bigger threat to maintaining or lowering one's body weight. Often the participants in the study didn't realize they were consuming significantly more calories on the weekend.

Even subjects participating in a calorie-restricted diet stopped losing weight on the weekends, because they were simply consuming more calories than they thought they were.

If conscientious, strictly monitored dieters can't help themselves on the weekends, what does that mean for the rest of us? The answer lies in planning and moderation. If you know you are going to a party or a ballgame, have a light meal beforehand. That way you may not be tempted by the chips and dip, the second helping of potato salad, or the concession stand. Pack healthy snacks in advance for daytrips and errands to reduce reliance on fast food. If you must indulge, practice portion control and savor your food. Be conscious of your weekend habits, and weight-control may not be as difficult as it seems, and you might just get to enjoy yourself too.

