

# Enforcing court orders for payment

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## LEGAL MATTERS

**E**ven when you successfully obtain a judgment or order against a debtor requiring them to pay you money, it can sometimes still not be enough to get them to pay you money.

You may need to enforce the order.

The first step is to find out as much as you can about the debtor's finances.

Information may be publicly available, but if it isn't, the first port of call is usually to apply to the court for an examination of the debtor.

An examination requires the debtor, on oath, to provide the court with details of all income, outgoings, assets, and liabilities. If they fail to appear or provide the information a warrant for their arrest can be issued.

Once you are satisfied you have enough information, you can look at the best enforcement option.

If the debtor has money in the bank or is owed money by

another person (eg rent or another debt), you can seek an order that the bank or other party pays the money to you.

This is called a garnishee order.

You will need proof they owe money to your debtor before the court will make an order. If there is sufficient to pay your entire judgment, this order means the debt owed to you is paid and the debtor cannot use that money to pay other debts before you.

Attachment orders are useful when a debtor is asset poor but has income. Income is not limited to wages – it can include any rent or regular source of incoming money such as a benefit or AOC payments.

An attachment order attaches to a source of income and makes automatic deductions from it and pays those to you. The employer or other party is responsible for making the payments and is liable if they fail to pay you the amount ordered.

Sale orders are useful where a debtor is cash poor but asset rich. You can obtain orders to sell personal property or real estate owned by the debtor. You need to make application to the court for the bailiff or sheriff to seize the debtor's property.

Once seized, the property is sold and the proceeds used to cover the court expenses of sale

and your debt. This is very effective in getting payment. Often just the threat of having a vehicle seized is enough to get the judgment paid.

Bankruptcy is another option to consider if the judgment is more than \$1000. The debtor's assets can be seized, sold and used to repay creditors. Income over basic living costs will also go to creditors.

Secured creditors take priority over unsecured creditors (a judgment is not a secured debt, but a mortgage is).

Unsecured creditors share the proceeds, so just because you initiate the bankruptcy does not give you priority.

As with anything debt-related, the key is to act quickly.

Once you have obtained a judgment, the debtor should be

contacted to require payment immediately. If payment is not received, you need to take action.

Column courtesy of Rainey Collins Lawyers, phone 0800 733 484 or [raineycollins.co.nz](mailto:raineycollins.co.nz). If you have an inquiry email [sknowlesy@raineycollins.co.nz](mailto:sknowlesy@raineycollins.co.nz). Our next free public seminar for first-home buyers will be on February 19, noon till 1.30pm. See our website.

