

Basic Consumer Law Training

Summary

Collection Proof: No wages above \$371.25/week net (fed taxes, state taxes, fica, medicare, mandatory retirement, support); No personal assets worth more than \$4,000.00 (Wild card); no car worth more than \$2,400.00; no real estate or any equity in real estate is worth less than \$15k (\$30k married couple)

Wage Citation – max is 15% of gross, but wages can't be brought to less than \$371.25/week net

Wild Card – to protect any asset that isn't otherwise protected (other protected assets – pension, unemployment, public benefits, social security, workers comp), up to \$4,000.00 per judgment / debt.

Personal Citation to Discover Assets – Client must go to court; if client misses court twice, creditor can ask to have court allow creditor hire sheriff to arrest – body attachment - client to be brought into court to answer citation

Contesting the Judgment – does the client have a defense – contesting the judgment just means that client will be able to have his day in court IF he prevails and has the judgment vacated:

- **2-1301 motion to vacate** default within 30 days

- **2-1401 petition to vacate** default more than 30 days after

default but within 2 years of default – must show diligence and meritorious defense

- **Motion to quash and vacate** – must show service improper;

proper methods of service: 1) personally upon defendant; at defendant's home and on a resident of defendant's home who is at least 13; if small claim (10k or less) by certified mail, return receipt accepted.

- **Motion to reconsider** hearing within 30 days; must show: 1)

new facts; or 2) new law; or 3) how court erred

Statutes of Limitation:

- credit cards - 5 years from later of last use or payment
- installment contracts - 4 years
- sale of goods (includes credit card for store purchases only, e.g. Sears Card) – 4 years

- auto loan deficiency - 4 years

- written contracts - 10 years

- oral contracts - 5 years

Auto Loan Right to Redeem – If 30% of the purchase price is paid- right to redeem within 15 days of notice of default and within 21 days of repossession

Bankruptcy – Debts Generally NOT dischargeable: fraud; alimony; child support; student loans; Taxes; other debt to government – aka parking tickets, water bill, bldg fines

Chapter 7 liquidation / fresh start v. **Chapter 13** court authorized re-payment plan

Building Better Credit – Get FREE copy of credit report; make disputes in writing; report identity theft or lost or stolen identity ASAP; dispute credit denial within 60 days of notice