PRACTICAL TIPS ON JUDGMENT COLLECTION

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I. WHAT YOU SHOULD DO PRIOR TO FILING A LAWSUIT.

A. Know Your Client.
   1. Talk to your client. Identify wants, needs and motivations. The needs of
      your client will vary depending on the type of client, whether they are an
      institutional client or an individual person. Likewise, resources will vary
      tremendously and will affect your ability to collect.
   2. Learn as much as you can about the transaction and information about the
      (future) defendant. Learn about your client’s practices if your client
      operates a business which gives rise to the need to collect monies.
   3. All of this is geared toward helping you and your client identify a
      collection strategy early on and avoid the potential of winning the battle
      but losing the war.

B. Collect All Documentation Related to Transaction or Occurrence.

C. File liens: Tax liens, mining liens, labor and materials, fish packer lien, lien for
   wages. See, generally, AS 34.35.

D. Talk to the Debtor or their Attorney.
   1. Obviously, this will not be the correct approach in every instance, but the
      point is not to overlook this approach.
   2. It is typically easier to get payments voluntarily than to have to take
      monies or property by force through a writ of execution. This is an
      opportunity to determine whether the debtor may pay voluntarily.
      a. Get their attention.
      b. Always treat debtor with respect.
      c. Practice Tip: Develop standard procedures on written payment
         plans. Be flexible, but if you are doing any kind of debt collection,
         whether it is for a business client with bad debt or individuals
         through the door with unpaid loans to family members, a form
         makes the work easier and reduces the chance that you will forget
         key information. Speed up pace.
      d. Confession of Judgment. Civil Rule 57(c).
3. Do not ignore Fair Debt Collection Practices Act Requirements under federal law or similar State law restrictions on communicating with debtors.

4. Ask questions that can help you determine what assets the debtor or defendant may have as well as any defenses to the claims that you can head off or otherwise prepare for in litigation.

E. Begin to Develop a Collection Strategy.

1. Identify assets and liabilities.
   a. DNR Website (UCC and land title records)
      (1) http://www.dnr.state.ak.us/ssd/recoff/default.htm
      (2) Be aware that while there is now central filing for UCC, there are some types of property that security interests in which are recorded at the local recording districts.
   b. LEXIS/NEXIS and Westlaw databases
   c. Internet searches
   d. Motznik Services
      (1) Can select types of information depending upon your budget.
      (2) Will not provide out-of-state information.
   e. Personal Property:
      (1) Debts to debtor, including prior judgments in their favor;
      (2) Accounts receivable;
      (3) Interests in LLCs and corporations;
      (4) Collectibles;
      (5) Vehicles, planes, boats, snowmachines;
      (6) Equipment.
   f. Future Income:
      (1) Permanent Fund dividend;
      (2) Wages;
      (3) Sale of assets.
g. Bankruptcies. If the debtor is in bankruptcy and receives a judgment without lifting the stay, the judgment is void.

h. Other indebtedness. Look for:
   (1) IRS liens;
   (2) Child support delinquencies;
   (3) Vehicle loans;
   (4) Deeds of Trust on real property;
   (5) UCC Financing Statements;
   (6) Other judgments.

i. Use of Private Investigators.

2. Recognize that most judgments are satisfied by two sources of property: claims upon current assets or claims upon future income (PFD or garnishment).

3. Evaluate Need For Early Relief
   a. Prejudgment Writ of Attachment (discussed below)
   b. Injunctions and TROs
   c. Fraudulent Conveyances of Property (discussed below)

F. Practice Tip: Make sure you have the correct name of the defendant. Use of nicknames which bear little resemblance to given names is not uncommon in Alaska. If you have the wrong name to begin with, and do not find out until after you receive a judgment, it will be difficult and possibly expensive to change. Not only that, you may have to convince the court that you served the correct person and re-record judgments, at a minimum. You don’t want to realize this for the first time when you are issuing a writ of execution for a permanent fund dividend or receive a rejection letter from the PFD office or a bank for lack of a positive identification match.

G. Draft Complaints for Easy Default Judgments.
   1. Use “also known as” or “a/k/a” and “doing business” as or “d/b/a” to maximize your judgment potentials.
   2. Make a claim for a “sum certain” in your prayer for relief.
   3. If you are suing under a contract providing for a particular interest rate, state that rate as it will apply for both pre-judgment and post-judgment interest.
a. If you do not claim it, then you will not receive it on default.

b. The rate of interest on judgments and decrees for the payment of money, including prejudgment interest, is three percentage points above the 12th Federal Reserve District discount rate in effect on January 2 of the year in which the judgment or decree is entered, except that a judgment or decree founded on a contract in writing, providing for the payment of interest until paid at a specified rate not exceeding the legal rate of interest for that type of contract, bears interest at the rate specified in the contract if the interest rate is set out in the judgment or decree. AS 09.03.070.

c. Consider attaching copy of the contract with the Complaint.

d. You must attach the original promissory note to the complaint if enforcing a promise to pay made thereunder. Civil Rule 78(e). If the original note is lost, provide an affidavit explaining the circumstances.

4. Likewise, if you have terms for accrual of interest different than that presumed by AS 09.30.070, states that in your complaint and in any documents filed seeking default judgment.

a. Otherwise, prejudgment interest accrues from the day process is served on the defendant or the day the defendant received written notification that an injury has occurred and that a claim may be brought against the defendant for that injury, whichever is earlier. The written notification must be of a nature that would lead a prudent person to believe that a claim will be made against the person receiving the notification, for personal injury, death, or damage to property. AS 09.30.070.

II. WHAT YOU SHOULD DO WHILE THE LAWSUIT IS PENDING.

“Everything Is In A State Of Flux, Including The Status Quo.” RB


1. Defendants invoke a myriad of tricks to deprive you of a judgment on which you might actually be successful in collecting. These acts include shipping their property out of the jurisdiction and making sham transfers or sales of property prior to entry of judgment. In addition, there may be other things going on with the Defendant which could impair your ability to collect, including new lawsuits filed and resolved prior to your own case and, on the bright side, any settlements or funds coming to defendant which could be used to satisfy a judgment.
2. Pre-Judgment Writs of Attachment (Civil Rule 89 and AS 09.40.010-.110)

a. Break this down and the lingo makes sense. Through this process you obtain from the court writ to take property of the debtor prior to receiving a judgment. To prevent abuse, the standard is high and Civil Rule 89 provides an easy guide to set forth your case

b. Here are a few of the basics:

(1) You must have already filed the lawsuit to be eligible for this relief. There is an option to obtain ex parte relief in extraordinary circumstances (an example is in the materials).

(2) Plaintiff must provide a written undertaking with sufficient sureties as ordered by the court unless the plaintiff is a governmental unit. AS 09.40.020. The court can require additional undertaking at any time.

(3) To obtain writ the case must meet the following criteria:

(a) The action must be based upon an express or implied contract for the payment of money.

(b) The sum due must be for an existing debt due and owing.

(c) The plaintiff is not secured or security is woefully insufficient.

(d) Good faith. You cannot seek attachment for reasons such as delay or fraud.

(e) The plaintiff has no information that the defendant has filed for bankruptcy or made a general assignment for the benefit of creditors.

(f) This is presented to the court by motion and affidavit. Civil Rule 89(b).

(4) Court will issue writ under normal circumstances after a hearing and prejudgment attachment proceedings do have some precedence on the court’s calendar. If the defendant does not show, the court should issue the writ immediately.

(5) If defendant shows up at the hearing, the plaintiff carries the burden of proof by establishing by a preponderance of evidence the probable validity of their claim for relief and absence of reasonable probability of a successful defense.
(6) If the standards are met, the court will issue a writ unless the defendant posts security. Several writs can be issued at a time provided you do not exceed the plaintiff’s demand plus costs and expenses. Generally cannot attach wages under a prejudgment writ. Where defendant is indigent, the court may allow other forms of security than a bond or other more traditional means.

(7) Writ lasts for six months unless extended by motion or sooner released.

(8) *Ex Parte* Relief--Civil Rule 89(m). Upon motion, affidavit and proof of an undertaking, a plaintiff may obtain *ex parte* writ of attachment.

(a) Extreme circumstances must be shown such as:
   i) certain cases where defendant is a non-resident in order to establish jurisdiction where jurisdiction not readily obtainable under AS 09.05.015;
   
   ii) signs defendant is avoiding legal obligations such as a defendant fleeing or about to flee the state or concealing their whereabouts, a defendant causing or about to cause property to be removed beyond the limits of the state or the defendant about to conceal, convey or encumber property to escape legal obligations or otherwise disposing of or about to dispose of property to defraud creditors; or,
   
   iii) government plaintiff where *ex parte* writ is necessary to protect an important governmental or general public interest.

(b) *Ex parte* writs last only seven (7) days (exclusive of weekends and holidays unless the defendant waives right to a hearing or consents in writing to a longer term or the writ is extended after hearing.

(9) There are special provisions for early sales of perishable goods. AS 09.40.070.

(10) Garnishee proceedings. A “garnishee” is someone who is ordered to court to be questioned as to any property or debt held by them belonging to a defendant and failure of the
garnishee to appear is grounds for a motion to compel them to do so. Garnishee must turn over property to peace officer with writ of attachment. AS 09.40.040, .060.

(a) Court can supervise discovery of a garnishee

(b) Issues of fact between plaintiff and garnishee are resolved as are issues between a plaintiff and defendant.

(c) If it is found that a garnishee had property of defendant liable to attachment beyond that admitted by garnishee, request the court to enter judgment against the garnishee for the value of that property.

(d) Garnishee can be restrained from disposing of property.

c. **Practice Tip:** Under Civil Rule 64, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately entered are available in the manner provide by law existing at the time the remedy is sought.

3. See also AS 09.40.130 (civil arrest in actions where defendant is about to remove from the state and absconding to defraud creditors).

4. Fraudulent Conveyances.

a. Under AS 09.25.060, a creditor can show a *prima facie* case of fraud against creditors of vendor:

   (1) Elements:

   (a) sale of personal property;

   (b) not accompanied by immediate delivery; and

   (c) actual change of possession of thing sold.

   (d) EXCEPTION: Retention in good faith and, current course of trade by merchant seller for commercially reasonable time after sale. Note, however, that the existence of fraudulent intent is a question of fact.

   (2) Demonstrating elements necessary to create the presumption shifts to vendee (debtor) the burden of proving that a conveyance was made without fraudulent intent. Basically the vendee/debtor must show that transaction entered into in good faith. If evidence introduced to show good faith, then finder of fact must determine if there was actually an intent to defraud creditors.

(4) If vendee has failed to establish immediate possession over personalty which was purchased, and if vendee makes no effort to show that the transaction was entered into in good faith, then a finding of fraud will be compelled if elements of presumption are shown.

b. The legislature has identified a list of factors which tend to show whether or not there was an intent to defraud. All elements or badges of fraud need not be proved in order to prevail. These *Badges of Fraud* as set out in AS 34.40.110 include:

1. inadequate Consideration;
2. transfer in anticipation of or pending suit;
3. insolvency of transferor;
4. failure to record;
5. transfer encompasses substantially all of the transferor’s property;
6. transferor retains possession of transferred property;
7. transfer completely depletes transferor’s assets; and,
8. relationship of the parties.

c. **Practice Tip:** To prevail on a claim that a debtor has fraudulently conveyed property, you must convince the court that this is not a simple case of preferential transfer of property to another creditor. At common law, it was not illegal for a debtor to pay one of his creditors in full, even though he did not have enough left to pay his other creditors in full or part and such payment was not then, nor is it now, a fraudulent conveyance. It is the performance of a legal duty.

5. Other Lawsuits. If your case is pending for some time, you may want to keep tabs on other pending claims against the defendant or claims the defendant may have against others. It may affect how you want to pursue your case in terms of priorities, settlements or otherwise.

B. Discuss settlement (Confession of Judgment After Action).


   a. Resolves dispute finally, with no room for a defendant to later contest the agreement. With a promissory note, a debtor might
later argue a defense to enforcement of the promissory note such as duress or forgery.

b. The confession of judgment process allows you to record your judgment lien immediately.

c. A confession of judgment is flexible enough to permit a repayment agreement allowing for a voluntary payment plan. The creditor/plaintiff can offer incentives or enticement for settlement and payment.

2. Process (Civil Rule 57(b)).

a. Usually two documents are involved, the confession of judgment and the judgment on confession.

b. The amount may not exceed or be different from the relief demanded in the complaint. You can accept a confessed judgment for less than the amount claimed in the complaint as an incentive to settle and for immediate judgment to be entered against them.

c. Must be in writing, signed by the defendant and assented to by the plaintiff or the attorney, all of which need to be acknowledged.

d. Don’t forget to file the judgment. If there is a payment plan you may also need to file your affidavit showing what has been paid under the plan before entry of judgment.


a. Deeds of Trust. Remember to do a title search and charge the cost to the debtor if this is practicable.

b. Financing Statements.

c. Deposit in court (Civil Rule 67, Admin. Rule 5).


1. This seems obvious, but it is not. You have to ask the court to enter judgment. A court cannot issue writs of execution based upon an order on summary judgment or to dismiss.

2. The request for entry of judgment can go hand in hand with a motion for fees and costs, which you should almost always do when requesting a default judgment.

3. Judgments for payment of money must be by the form required by Civil Rule 58.2. Note that dates of birth are now requested by the rule to be included on a judgment per Rule 58.2. The form required by Rule 58.2 does not apply to child support orders.
4. You can move to alter or amend a judgment no later than ten (10) days after the entry of judgment.

III. CONGRATULATIONS! YOU’VE GOT A JUDGMENT. NOW WHAT?

A. Record The Judgment.
   1. Request certified copy from court.
   2. Make payment up front.
   3. Make sure you have proper recording districts where property may be located. If you are not sure, consider recording in all recording districts.
   4. **Practice Tip:** Recorded judgment on non-homestead property will survive bankruptcy.
   5. Record as foreign judgment where judgment debtor owns property or has assets in another jurisdiction: Uniform Foreign Money-Judgments Recognition Act (AS 09.30.180). Procedures are typically the same throughout the 50 states. Usually requires hiring an attorney in other state to convert the judgment to a local judgment and then record the judgment.

B. Writs of Execution (Civil Rule 69 and AS 09.35).
   1. Basics.
      a. Writs of execution are the legal device used to seize any property of a debtor, whether real or personal. Where that property is something other than cash, the way to dispose or sell the property once seized will differ, but until that time, the basics are very similar.
      b. Only the process server should have the original writ. They can make copies for multiple executions. They cannot transfer it to a different process server.
      c. No writ of execution can be issued until after 10 days from the date of judgment.
      d. Multiple Executions (Civil Rule 69(e)).
         (1) There are limits to obtaining writs of execution, mainly aimed at avoiding over-collecting on a judgment.
         (2) Only one original writ of execution and one writ of execution for garnishment of wages can be issued and outstanding at any one time.
         (3) Exception, (2), above is where one writ is for a PFD or where a creditor can show (by affidavit) that there is
property which cannot be served by the process server holding the current outstanding writ (usually due to lack of physical proximity) and there is good cause to believe the debtor is about to remove property unless immediate action is taken.

e. Return of Service. This is a term for the documents filed by the process server to say what happened when they served the writ on a person who is believe to hold property of the judgment debtor.

(1) A \textit{full return of service} means that the original writ is returned and the process server will not be able to serve the writ again or seize property without a new writ being issue.

(2) A \textit{partial return or service} means that the process server retains the writ, but files a record with the court about what happened when they served the writ. The process server can then continue to serve the writ on other persons believed to hold property of the debtor again, without having to wait for a new writ to be issued by the court.

(3) Process servers will generally ask you if you want a full return or a partial return unless they have seized sums equal to the amount of the writ at which time they \textit{must} file a full return of service.

2. Permanent Fund Dividend (“PFD”) collection.

a. The process server will not typically take possession of the dividend payments unlike it will for bank sweeps and other collection of monies. There is electronic transfer of funds. Civil Rule 69(h). You can also serve this writ without a process server by mail through the court and this is a little less expensive.

b. Positive identification match required. Three point match. For this reason you need an accurate name, and two of the following: middle initial, date of birth or social security number.

c. \textbf{Practice Tip}: Criminal cases in Alaska typically have social security numbers and dates of birth that can help you gain information needed for execution, especially on the PFD.

d. With few exceptions (listed below) the first to file against the PFD is the first to be paid. The deadline each year to be first is April 1 (and there are contests to get there by your best process servers) and the Dept. of Revenue will not guarantee they can be processed after about September 1 each year.
e. **Practice Tip:** Leave plenty of time to get your documents to request the writ of execution to the court and have it issued and transferred to a process server or mailed to the PFD office. Do not wait until mid September thinking you will be on time.

f. Service is on the State Department of Revenue and 80% is available for seizure by creditors, the remaining is exempt by statute. AS 43.23.065. There is exception for the exemption for certain claims for judgments, and those claims take precedence over other claims to the PFD in the following order:

1. child support obligations required by court order or decision of the child support enforcement agency;
2. certain court ordered restitution;
3. claims on defaulted education loans;
4. court ordered fines;
5. writs of execution under AS 09.35 of a judgment that is entered:
   a. against a minor in a civil action to recover damages and court costs;
   b. under AS 34.50.020 against the parent, parents, or legal guardian of an unemancipated minor;
6. a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;
7. a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence under certain circumstances.

g. If you are rejected for the PFD, they will not really tell you why, but you may surmise that one of these judgment creditors listed in f, above superceded you, there is an IRS tax lien, someone beat you in filing, the debtor is not eligible for a PFD, they did not file for a PFD, or there was a failure of a positive identification match.

h. An individual who has had their PFD seized has 30 days from notice of seizure of PFD to file and objection that mistake has been made. AS 09.23.065(d)(5).

3. Against all real and personal property.

a. All property is liable for attachment. Very sweeping authority. AS 09.35.070.
b. Bank Sweeps:
   (1) Provides one-day coverage of all banks and credit unions.
   (2) Specifically request securities houses such as Schwab.
   (3) Prices vary and you can select only a few banks if you prefer.
   (4) A sweep is statewide of all accounts in the system.

c. Seizure of personalty.
   (1) Make arrangements for storage of large equipment prior to seizure (process servers and Troopers will require it). You may need to have a custodian to watch the equipment.
   (2) Consider taking out insurance on big ticket items (such as airplanes).
   (3) Be prepared to have releases ready for the Troopers who seize the property. This seems to be pretty standard and they may not have forms for this. They will normally check with their risk management office in Juneau prior to seizing big, expensive items.
   (4) For perishable property, additional special forms may be required for Trooper assistance, as is the case for alcoholic beverages.
   (5) Practice Tip: Ask the Troopers for their own rules regarding officer responsibility for seizing property prior to requesting the writ of execution. The rules will provide you with the information the Troopers want before they will seize certain kinds of property. For instance, it details the exact information they need to take an airplane (registration no., air frame serial number).
   (6) You must inventory property in vehicles and other equipment seized.

d. Real property sales can be confirmed by court and it is advisable you do so. Civil Rule 69(g). You should review rules carefully before proceeding.

4. Defending a claim for exemption.
   a. Exemptions hearings. Debtors has 15 days from the date of levy to claim an exemption. AS 09.38.080. The bases of exemptions are found in AS 09.38. This process assumes that the debtor was served with a debtor packet within 3 days after levy. AS 09.38.080
b. Under 09.38.050 you should be aware of an increased exemption amount available under two circumstances. One increased exemption is allowed where funds are for a disability settlement, the other is for heads of households, discussed in the garnishment section, below.

c. AS 09.38.065 allows some claims to be enforceable against otherwise exempt property.

(1) These claims include claims for:

(a) child support;

(b) unpaid earnings of up to one month's compensation or the full-time equivalent of one month's compensation for personal services of an employee;

(c) state or local taxes;

(d) to enforce a claim for the purchase price of the property or a loan made for the express purpose of enabling an individual to purchase the property and used for that purpose; for labor or materials furnished to make, repair, improve, preserve, store, or transport the property; and for a special assessment imposed to defray costs of a public improvement benefitting the property; and

(e) certain claims by victims where claim arose out of debtor being convicted for a crime, including claims for restitution.

(2) A creditor having a claim enforceable against exempt property, before, at the time of, or a reasonable time after making a levy on property of an individual, shall serve on the individual a notice of the levy and of the basis for the creditor's right to make a levy on exempt property.

5. Third Party Claims. AS 09.35.130. If property levied upon is claimed by a third person as the property of that third person, the process anticipate they file an affidavit of title to the property, or right to the possession of the property and the ground of the title or right, stating the value of the property, and delivered to the person making the levy, that person shall release the property. The creditor can keep the property, however, by giving the third-person an undertaking to indemnify the third person against loss, liability, damages, and costs, by reason of the taking or sale of the property by the person.

a. Service is typically required to be by a local process server where there is one.

b. If there is no process server, the next level is the local police and then, the State Troopers.
   (1) Recognize that the local police and the State Troopers often hand off the project to the others.
   (2) Recognize that this is a low item on the priority lists of local law enforcement. It may take time to have your writs served.
   (3) Be prepared to give step-by-step instructions. Some local law enforcement officers do not know how to serve this or what is required of them, especially as it pertains to returns of service.

c. Everybody knows everybody.

C. Writs of Garnishment.
   1. One common exemption in the garnishment process is that the individual is a head of household. Under AS 09.38.030 (allowing for exemption of earnings and liquid assets) and exemption can be increased when the debtor files an affidavit stating that their earnings alone support the individual's household. By filing this, the maximum part of the individual's aggregate disposable earnings for any week subject to execution may not exceed the amount by which the individual's disposable earnings for that week exceed $550, or, if the individual is claiming an exemption for cash or other liquid assets under AS 09.38.030 (b), a maximum amount of $2,200 available in a month is exempt.
   2. There are federal limitations for how much one can seize in any one check and those limits are usually more strict than what is allowed under Alaska law.
   3. Service process is substantially the same as with other writs, but the employer provides a response. Experience shows that you generally need to check back with the courts about responses as the attorney is not always provided with a copy of it from the employer, regardless of the rules.

D. Judgment Debtor Examinations (“JDE”) (Civil Rule 69).
   1. This process allows a creditor with a judgment to request an order for the judgment debtor to appear in court and answer questions about his or her assets, liabilities, sources of income, etcetera.
   2. Document to start the process is form CIV-540, Motion and Order for the Judgment Debtor to Appear. After you arrange for service, a hearing will
be held, but not always in front of a judge. It is recorded by an in-court deputy. The debtor is sworn and gives testimony under oath by answering questions you (or the judge) may ask of them. If no judge is presiding, you can sometimes obtain assistance of a judge if the judgment debtor refuses to answer questions.

3. This is less expensive than formal discovery process and provides you the advantage of talking to the debtor face-to-face in an environment that puts some pressure on the debtor to tell the truth and offer suggestions on how they intend to pay their debt. If property is identified, a judge may make an order requiring the debtor to apply the property in satisfaction of the judgment or that the property be levied on by execution. You may also be able to get a stipulation to a payment agreement on the record.

4. **Practice Tip:** An order scheduling a JDE can also be useful in preserving property that you are concerned about disappearing before you can seize it. The court can issue an order restraining the debtor from selling, transferring or otherwise dispose of property subject to execution, at least pending the JDE proceeding.

5. Issues can arise procedurally, such as if the debtor cannot make the scheduled date for the JDE assigned by the court or if the debtor wants to appear telephonically. Use common sense and stick by your guns. My experience is that you want the debtor there to evaluate credibility and because it is harder to lie or be evasive or obstructionist in person. If debtors refuse to show up, your remedy is rescheduling and possibly a motion to show cause.

6. **Practice Tip:** Come prepared to the JDE with a list of questions to ask. You may develop a set of stock questions that always are asked, and then fine tune additional questions depending upon the nature of the case. This is, for instance, a great way to get information as simple as a name of an employer or a social security number and birth date which can help you seize a PFD. The litigation handbook in the law library has a list of over 90 questions that one might want to ask a judgment debtor. Its not exhaustive, but helps you get thinking about the process and how to ask the questions to get the information you need.

E. **Formal Discovery.**

1. You can notice up depositions and interrogatories of a judgment debtor. If the judgment debtor does not answer the questions or attend, then enlist the help of the court to issue an order requiring them to do so.

2. If the discovery attempts and court order to respond do not get the judgment debtor’s attention, request an order for the debtor to show cause as to why they should not be held in contempt of court.
a. If debtor shows up, a judge may let you conduct a JDE.

b. Request fees and costs and come prepared to show the court what those fees and costs are. (You will have to do this work anyway, so come prepared and make it easy for the judge.)

3. You may be able to recover your costs and fees in pursuing this course of action. Even if there is a contempt, expect relief more in the form of sanctions and fines against the debtor. However, if the debtor does not show up for the hearing to show cause, request a bench warrant for civil arrest and that bond be set. Even so, be aware that a judge may be more apt to award costs and sanctions. Also, bench warrants for civil arrest are not high priority items for service by law enforcement, so they tend to stew a long time before they are served.

F. Post-Judgment Payment Agreements.

1. Often, by the time you receive a judgment, the payment agreement option is not viable. In a collections case, the judgment debtor has ignored the matter and has entrenched to the point that they will not give up anything voluntarily. And, if you can get satisfaction by a seizure of property, particularly of cash in a bank account or garnishment of earnings, there is often little value in further compromise.

2. There are exceptions, however. Occasionally, you will have a defendant who really disputes the demands made in the lawsuit and who wants a judge to decide. Once they receive a negative decision, they want to pay, but cannot pay the entire amount. Other debtors will wake up once you sweep a bank account or take their earnings and want to work something out where they have more control. With these persons, a post-judgment payment agreement can be worthwhile and successful for your client.

3. **Practice Tip:** Do not give up your right to obtain a writ of execution and take the debtor’s Permanent Fund dividend during the repayment period. If the debtor defaults on making voluntary payments, you want to be able to seize the PFD and if you do not get your writ filed early, you may lose your place in line to another creditor. I would also be wary of a debtor who will not agree to that term of a payment agreement absent cogent, verifiable reasons. This may be the biggest influx of funds you can get and can go a long way to shortening any payment period.

G. Satisfaction of Judgment (AS 09.30.300).

1. Don’t cast a shadow over a successful collection by forgetting to issue a satisfaction of judgment.

2. The Basic Rule. When a judgment is satisfied otherwise than upon an execution, the judgment creditor or the judgment creditor's attorney shall
deliver a written acknowledgment of satisfaction of judgment suitable for recordation immediately upon payment in cash or within 10 days after payment if payment is made in any other manner, and, upon motion, the court may compel an acknowledgment of satisfaction or may order the entry of satisfaction to be made without it. When the state or an authorized officer or agency of the state is the judgment creditor, a written acknowledgment of satisfaction shall be delivered within 15 days after payment in cash or within 30 days after payment if payment is made in any other manner. The entry of satisfaction shall be made upon the civil docket of the court rendering the judgment satisfied.

3. The Consequences. A judgment creditor or assignee who, after payment in full of the judgment and after written demand by the judgment debtor, fails without just cause for a period of 30 days to execute and file an acknowledgment of satisfaction with the court is liable to the judgment debtor or the grantees or heirs of the judgment debtor for all damages that may be sustained by reason of that failure and shall also forfeit to the judgment debtor or the grantees or heirs of the judgment debtor the sum of $100.

4. You are required to issue a Satisfaction of Judgment to the debtor suitable for recording. It is up to the debtor to record this document, although you may decide at your own election to do so. Also, file a copy or a duplicate original with the court.

5. Practice Tip: Keep track of your judgments and how payments are allocated. Court clerks can make mistakes about calculating your costs of collection and prejudgment interest. If you notice mistakes, correct them as soon as possible as it will affect the next writ or you may find that a clerk enters a satisfaction of judgment on the records prematurely.

H. Remember to release liens once satisfied. Judgments do not necessarily wipe prior liens out, so once you have been paid, you should file releases.