

# 5 QUESTIONS

That **You** Should Be Asking About  
Your Dormant Judgments



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Any financial institution that has engaged in a litigation strategy on its charged-off inventory has likely developed a significant pool of judgments. Chances are that pool is heavily weighted toward

## ***dormant judgments:***

In today's heavily regulated environment, letting those accounts sit unattended at the attorney's office is *no longer an option*. Regulators demand audits and controls over third party servicers, no matter what volume of accounts they may or may not be actively working. Conducting audits on unworked accounts is **counter-productive and wasteful**.

***You may want to recall the dormant judgments from your attorney network*** and bring them back in-house to avoid the expense and time of third party audits. But recalling judgments is not as simple as it sounds.



**cases in which there has been no contact with the consumer for months or years and no plan of action to liquidate them.**

## HERE ARE JUST A FEW OF THE OBSTACLES YOU MIGHT FACE:

- **Does the attorney have copies of all of the judgments obtained and a method to send them to you in bulk?**
- **Do you have access to the current judgment balance including any costs or fees awarded and the appropriate post-judgment interest rate?**
- **Can you get an accurate record of the current status of the judgment including any disputes from the consumer?**
- **Is the attorney still owed reimbursement for court costs?**
- **Has the attorney truly closed the account appropriately in their system or could they still be working the account?**
- **Does the attorney's system of record reflect the true status of the judgment or has the court taken action to dismiss the case prior to judgment having been granted?**

And if you do bring the files back in-house, post-judgment collection activity cannot occur without the aid of an attorney – a consumer may pay voluntarily, but the judgment still has to be satisfied with the court and any property lien that may have been recorded must be released.

Let's face it; neither of these strategies is advisable for compliance or for your bottom line. The question is where do you start to get these accounts back on track to profitability? We'll cover 5 questions that you need to ask now about your dormant judgments in order to assure a smooth transition to collectability.

# 1

## Are you tracking the expiration date of your judgments?

Once a judgment is expired there is no more opportunity to collect. Make sure that you are tracking the expiration dates on your judgment portfolio and have processes in place with your law firms to renew the judgments 90 to 120 days prior to the expiration date. Different states have different rules and varying costs for renewals – anywhere from a few dozen dollars to a few hundred dollars.

**FOR EXAMPLE;** Currently *you'll pay* \$25 to renew a judgment in the Las Vegas Justice Court and ***over \$400 to renew a judgment in the Minnesota District Courts where the process involves filing an entirely new lawsuit.*** Due to the widely divergent costs involved, you may choose not to renew some judgments if the prospect of collectability is low.

# 2

## When consumers move out of state, are you domesticating the judgment in the new state?

A typical nationwide pool of judgments that are aged between 5 and 9 years has an out of state movement rate of 3.8%. If the consumer has moved to a new state, you will need to domesticate the judgment in that state in order to move forward. This usually requires an original, exemplified judgment copy from the court that awarded the judgment and might also require the chain of title for the underlying account and other documentation pertaining to the judgment award.

Domestications can also be complicated by different judgment renewal periods in each state. If the state in which you're trying to domesticate has a shorter judgment renewal period than the original state, it's possible that your judgment has already expired in that state.

# 3

## Do you have a process for transferring domesticated judgments to new counsel?

If the original attorney, that obtained the judgment, does not practice in the new state, you will need to transfer the judgment to new counsel. The new counsel obviously needs the judgment copy and balance information and many of them also need a transaction history listing all payments made on the account and how those payments were applied to the account balance since it was placed for litigation.

Certain jurisdictions will require that you formally notify the court of the change in counsel via a substitution of counsel filing. And you must also consider the plaintiff involved in the action. Is your plaintiff entity licensed in the new state or will a substitution of plaintiff need to be filed as well?

# 4

## Are you tracking the expiration of property liens?

Many judgments are secured in part by a lien on the consumer's real property. Depending on the state, liens may attach automatically at the time of judgment or have to be filed by a separate motion.



In some states, ***Pennsylvania for example,*** liens have an expiration date completely separate from that of the judgment that must be tracked.

# 5 If you need to pull dormant judgments from an underperforming agency or firm to send to another, can you get access to all judgment data?

This is a common pain point for creditors and attorneys alike. If you must pull judgments from one attorney to send them to another because of poor performance, you will likely encounter resistance from both sides. The poor performer will be reluctant to relinquish the accounts and the data that accompanies them and the new attorney will be leery of how the judgments were worked by the previous firm.

**Ensuring that you have judgment copies and balance data coming in regularly from your attorney partners will go a long way toward making any such exercise less painful. A weekly data update is ideal, but monthly is adequate for most purposes. You can also institute a periodic balance review with your attorney partners, or make these reconciliations a part of your routine audits.**



Clearly there are many complex factors involved in reviving a dormant judgment portfolio and these are just a few of the hurdles that you may encounter. But an overall judgment strategy must take all of these factors into account before pursuing post judgment collection. Dormant judgments don't have to be a liability. In fact, they are likely one of the biggest sources of revenue in your entire litigation portfolio, if you know how to manage them. And managing them starts with knowing which accounts to litigate in the first place.

*We'll talk about choosing the right accounts to litigate as well as how to prioritize the judgment renewal process in future papers.*