

CPLR ARTICLE 50: JUDGMENTS.

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Interest is due in cases for breach of contract or deprivation of property. Interest generally = 9%. For cases of an "equitable nature" however, it shall be determined by the Court.

Interest is due from the first date of a cause of action or from a damage incurred. The specific date shall be specified in the verdict; although the Court shall "fix" it on motion if the jury didn't, and the Clerk may if an affidavit is submitted, and the date is certain and not disputed.

Interests is also due from the date of the verdict until judgment, such ti be computed by the Clerk. For a Money Judgment, interest is due from the date enterd, or the date docketed if docketed as a judgment.

On an action to recover damages which is "Settled", plaintiff shall "tender" (by personal delivery or registered/certified mail, return receipt requested) the duly executed Release, and the Stipulation of Discontinuance on the defendant, whereafter payment is due within 21 days. If the Settlement was against a public agency or municipality NOT indemnified by the State, payment is due 90 days after tender. IF indemnified, the State Comptroller shall make a determination that all necessary papers were *received*, and pay within 90 days thereafter. If the settlement was by Judicial approval - except with regard to indemnified parties - the Order shall be tendered as well.

If payment is not made within the above timeframes, Judgment enters for the settlement amount, plus costs and interest. Prompt payment requirements do not apply to *future* installments of a structured settlement.

Judgments are "determinations of rights" an can be Final, or **interlocutory** (during the course of arguments). Judgments shall refer to the verdict and state the result, or recite the default of a party if applicable. A Judgment **may** direct that money due be "Paid into Court".

When a judgment for damages is made on behalf of a prisoner, the Court shall notify the Crime Victims Board promptly in writing, and shall also direct that no payment be made for 30 days.

A Dismissal *before* the close of party's evidence is NOT "on the merits" (unless it so states); but *is* "on the merits" if made after the close of evidence (again, unless the Court orders otherwise).

No further action on a money judgment is allowed unless: a) 10 years have elapsed since the first docketing [except that a proceeding for "renewal" may be

commenced up to one year before expiration of those ten years, and the judgment will be extended effective the original date of expiration]; b) if the judgment was on default, and service was NOT by personal deliver; c) or by Order of the Court on motion with notice.

If relief sought by Motion, it shall be for: 1) excusable default, within 1 year of entry or service of the order; 2) new evidence (which probably would have made for a different outcome, and which couldn't be discovered in time); 3) fraud/misrepresentation/misconduct of a party; 4) a lack of jurisdiction to have rendered the underlying order; 5) that the underlying order was reversed/modified/vacated.

The Clerk can vacate a default judgment in stipulation of consent filed by the parties personally, or their attorneys. The Administrative Judge can claim fraud/failure to serve/or bad law resulted in default judgments, and, if there be a sufficient number of such cases, direct the issue to be heard before another judge.

Upon vacatur of judgment herein, the Court may order Restitution as would otherwise be provided for when a case is reversed on appeal.

A Judgment is "entered" when it is signed by the Clerk and filed. General orders are entered as of right (unless the Court orders otherwise; special verdicts are entered as the Court directs. Judgment on a Decision is entered pursuant to the terms of the decision. If NOT a money judgment, the Court on motion determines the form.

No verdict or decision can be made after the death of a party; **EXCEPT** that if the verdict/decision/accepted compromise offer was made *before* death, judgment SHALL enter after death unless the Court sets it aside.

A "Judgment ROLL" = summonses/pleadings; orders and judgments affecting the final determination; if a default judgment made by the **Court** (not Clerk): the proof/assessment of claim; verdict/decision on trial; any "tenders" or such offers; any transcript *on file*; any Appeals determinations/opinions, and papers based on; as well as the "return" of the Sheriff for chattel. Judgment roll for cases on "Submission" shall be comprised only of the Submission & Affidavit, as well as any orders/judgments which affected the outcome. On a Confession, the Roll is the Affidavit and the Judgment.

The "Roll" is prepared by the attorney for the party who is having the judgment entered; and is filed with the Clerk, who notes the date and time of filing and docketes the judgment immediately. The docketing of a Real Property judgment can be in the "Section & Block" index instead, upon the application of a party who specifies the name of the adverse party.

In a case of joint liability, the Clerk shall note "not summoned" next to each such defendant.

A transcript of any judgment - **EXCEPT**: Supreme/County/Family Court - can be docketed as a judgment with the County Clerk of the same county where judgment was

entered. Once docketed with that county clerk, the transcript can also be so docketed in any other county of the state.

The County Clerk after docketing shall notify the Clerk of the judgment court, who then makes an entry on the docket as to where the judgment was filed. A Judgment so filed in another county has the same effect as a judgment of that county's Supreme Court.

A transcript of judgment from a United States court rendered or filed *within this State* can be filed with any County Clerk of the State with the same effect as above.

The filed transcript shall be entered in the docket book as follows: entries to be made under the surname of the first listed debtor = name and last known address of *each* debtor; profession of debtor (if stated in the judgment); name and last-known-address of the creditor; the sums in figures recovered already and/or still to be paid; date/time of filing the judgment "Roll"; date/time of docketing; Court/County where entered; name and *office* address of the creditor's attorney. Entries shall also be made under the surname of each additional debtor, as to their name and last known address, as well as a cross-reference to the chief entry. If addresses are unknown, an affidavit of the docketing party of their attorney shall attest to the lack of knowledge. Counties may implement electronic record-keeping of these docket entries at their discretion.

A mistake in papers shall NOT stay entry of judgment if it doesn't affect a "substantial" right of a party, and either the trial or Appellate Court can cure the error.

The Clerk shall make entry in the docket of any subsequent judgments/orders which affect the one already filed. The County Clerk shall also make such entry when a Certified copy has been filed.

On a judgment constituting a Lien on Real Property, the duration of the lien is calculated as commencing on the date that the "roll" was filed.

A Creditor can be changed by filing an Instrument of Authority [acknowledged in the same manner required of deeds] or the Order (if such effected the change); and the Clerk shall make entry in the docket accordingly. Upon a Certificate of a County Clerk that a change was made, each other Clerk where the judgment was filed shall make entry accordingly.

A party entitled to enforce a judgment shall execute and file a "satisfaction piece" [acknowledged like a deed] with the Clerk any time there is full or partial recovery of monies owed. Such piece shall specify the book and page # of the docket where the judgment is recorded. The party filing such piece must also mail a copy to the debtor within 10 days thereafter. The attorney of record for a party may file such a piece also, provided that it is within 10 years since entry, and his authority was not revoked. Even if the authority *was* revoked, the judgment is only still enforceable if the debtor had **actual notice** of the revocation of authority before piece was executed.

Failure to comply with these rules within 20 days of *full satisfaction* results in a penalty against the creditor of \$100; **EXCEPT** that if the creditor is a city with a population over 1 million, the debtor must first make written demand by certified mail, return receipt requested, before the 20 day time limit begins.

The satisfaction piece must also be filed with every County Clerk where judgment was docketed.

If a debtor tries to mail a sum to the creditor at a last known address (certified or registered mail, return receipt requested) but it is returned unclaimed or undelivered, upon showing such to the Clerk, the debtor may deposit a certified check with the Court, and thereby cease to accrue charges relating to the execution of the judgment. The Clerk shall then notify each Sheriff with to whom the execution was given, that such is now rescinded, *effective when Sheriff receives such notice*. No "satisfaction" is docketed however.

Satisfaction is only by the filing of a piece (as above); with Order of the Court on motion with notice when money was paid but the creditor didn't file the piece; or where the Court allows by Order on motion (with notice as the Court requires) allowing money to be deposited with the Court [such order NOT to be made if fees are still owed to the Sheriff for execution]; or upon an Instrument of Release for one party of "compounding joint debtors).

A Sheriff provided with an execution on a judgment shall make a "return" to the Clerk *of the county where execution made* when satisfaction (full or partial) is had; and shall also provide the debtor with a certified copy of the execution and return if so requested. **EXCEPT** that a City/District/Uniform Justice Court execution of judgment shall be "returned" within 90 days, even if unsatisfied.

The Clerk of the County where judgment filed shall make entry as to satisfaction when provided a Certificate by the Clerk of County where *judgment entered*.