



2024 Annual Conference

Niagara Falls, New York

Collection of Fines Civil Judgments

Date: Tuesday, September 24, 2024

Instructor:

Hon. Dean S. Puleo

MCLE: 1.0 SKILLS

This program has been approved for credit in
New York State for all attorneys
including those who are Newly Admitted
(less than 24 months) and administered by
the Onondaga County Bar Association

Instructor Bio – Hon. Dean S. Puleo

Judge Puleo is a graduate of Canisius University, a private school in Buffalo, NY and the SUNY Buffalo School of Law. Admitted to practice in New York State in 2003 he currently presides over the Town of Elma Justice Court. As Special Counsel for the Office of Court Administration, Judge Puleo provides guidance and assistance to the 191 Town & Village Justice Courts in the 8 counties that comprise the 8th Judicial District. Prior to taking the bench, he had served the Town of Elma for eight years as Deputy Town Supervisor and then eight years as Deputy Town Attorney/Prosecutor. Prior to his current position, he spent his career in private practice with a concentration on Family Law/Domestic Relations and Criminal Law.

COLLECTION OF FINES CIVIL JUDGMENTS



Presented by: Dean S. Puleo, Special Counsel
8th Judicial District

September 2024

Course Objective - We'll Discuss

The imposition and collection of fines and surcharges – especially in common Vehicle & Traffic Offenses – and we'll consider how these present significant challenges for the Town & Village Courts

Thoughts on this Statement?

“It is only fair that people with a similar criminal/driving history who commit the same offense should be fined the same amount”

What Information Do you Consider When Imposing a Fine

- Seriousness of the Offense?
- Defendant's Prior Record/Driving History
- Aggravating Facts
- Mitigating Facts
- Ability to Pay Fines

Some Thoughts About Implicit Bias & Fines

Implicit Bias Can Affect How Courts Impose and Collect Fines

What biases are we talking about?

- **Traditional:** Race, Sex, Age, National Origin, Religion, Disability, Sexual Orientation, Marital Status
- **Socioeconomic:** Employment, Wealth/Poverty, Class, Property Owner/Renter, Appearance, Eligibility for State Assistance Programs (housing, supplemental nutrition assistance, heating assistance, unemployment assistance)

Some Thoughts About Implicit Bias & Fines

“The more that a judge relies on a record of ***objective facts*** when determining defendants’ sentences (including fines), the less likely a judge is to be swayed by biases

A REVIEW OF WAYS TO PAY A FINE CPL 420

- Pay entire amount at time of sentencing by Cash or Credit Card.
- Pay entire amount at some later specified date after sentencing.
- Paying in installment payments on specified dates after sentencing. (Partial payments should be approved by Judge.)
- Pay through Probation- if sentenced to Probation

WAYS TO PAY

- Cash bail posted by the **defendant as the principal** may be applied towards payment of fines.
- Certified check or money order (guaranteed funds – must accept)
- Personal check? - At Court's Discretion
- Be wary – Judges could be personally liable for bounced check fees, etc. (end of month reports)

WHEN FINES ARE NOT PAID
AT SENTENCING
(Suggested Procedure)

- When fines, surcharges or fees are assessed, but not paid at sentencing, the Judge should be setting a date certain to receive payment of the fine. This should be a date that Court is in session.



OPTIONS

- The Judge should advise the defendant that if he/she cannot pay by that date they have to option of:
- Appearing in Court on that date to discuss the matter with the Judge.
- Contacting the Court to seek a new scheduled payment date. (Discuss with the Judge the circumstances wherein an extension of time for payment can be granted).

Bearden v. Georgia
461 U.S. 660 (1983)

- Courts must not incarcerate as a means of fine or fee collection UNLESS:
- The Judge **FIRST** finds that the defendant has **willfully failed** to pay the fine.
- Courts should make every effort to avoid incarceration due to indigency.

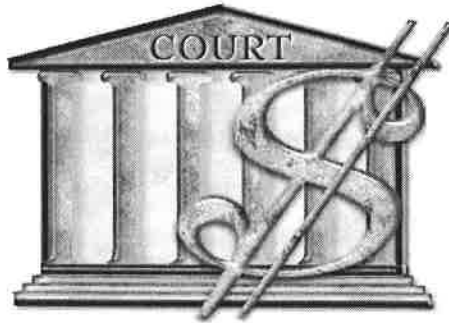
JUDICIAL DETERMINATION

- The Judge will make the determination as to whether the defendant is **financially unable** to pay the fine or has **willfully failed** to pay the fine. The Court will take the appropriate action under CPL 420.10.



Civil Judgments

- Converting Fines, Surcharges & Fees
 - CPL 420.10 (6)



ORDER TO CONVERT FINE TO CIVIL JUDGMENT

STATE OF NEW YORK
County of Saratoga

RESPECTED Hon. Town Justice
Docket No. 1890195
People of the State of New York

vs.

ORDER TO CONVERT
FINE/SURCHARGE/CAF
TO CIVIL JUDGMENT

Joe Daspie Defendant
125 Main Street
Saratoga, NY 12845

The above named Defendant having been convicted of VTL 1192.3
DWI before Hon. Justice of the Town of Malta Court, and
sentenced on 01/01/2001, to 10;

ADJUDGED, that such defendant has failed to pay a fine and/or
any applicable MANDATORY SURCHARGE and crime victims assistance
fee, of \$900.00 to the court, it is therefore

ORDERED, that the District Attorney of Saratoga County shall
file a certified copy of this order with the county clerk of
Saratoga County, pursuant to Criminal Procedure Law 420.10 (6),
for entry by the county clerk in the same manner as a judgment
in a civil action.

SO ORDERED,

Town Justice
Malta Town Justice
Dated: May 21, 2019

PLACE COURT SEAL ON
DOCUMENT AND
FORWARD TO DISTRICT
ATTORNEY FOR FILING

CIVIL PROCEEDINGS FOR COLLECTION CPL 420.10(6)

- Civil Judgment: Is for a fine, surcharge/fees, restitution or reparation imposed by the Court which shall be **by written order** of the Court containing the amount required to be paid by the defendant.
- In **New York**, a **judgment lien** can be attached to real or personal property to collect a court **judgment**.

CPL 420.10

- The Court's Order shall direct the District Attorney to file a certified copy of such order with the County Clerk of the County in which the court is situated.
- Q: Why the DA? A: No fee.
- Such Order shall be entered by the County Court Clerk in the same manner as a judgment in a civil action in accordance with subdivision (a) of rule five thousand sixteen of the CPLR.

ENTRY OF JUDGMENT CPLR 5016

What constitutes entry?

A judgment is entered when, after it has been signed by the County Clerk, it is filed by him/her.

CPLR 5016(a)



Civil Judgments

- The Order shall be signed by the Judge and have the Court Seal placed upon it.
 - Be sure the Order includes :
 - The defendant's address
 - Date of birth
 - The Court's Index # (Docket/Case #)
 - Name of the Court
 - County of the Court
 - Date of Judgment
 - Check with County Clerk for local guidelines



Civil Judgments

- The County Clerk's office will provide the Court:
 - The Certification that the judgment has been filed as an Incoming Judgment in their office; AND
 - A copy of the Judgment with the County Seal showing the date and time it was docketed in their office.
 - Need the Judgment # to complete the Satisfaction
- **Place this in the Court's file.**

EXAMPLE OF CERTIFICATION



STATE OF NEW YORK }
SARATOGA COUNTY CLERK'S OFFICE }

I, ORSA A. HAYNER, County Clerk of the said County, and also Clerk of the Supreme and County Courts of said County, do hereby CERTIFY that I have compared the copy with the original.

44-1111111-1111111-1111111
FILED: 5/20/2024
AT SARATOGA COUNTY CLERK'S OFFICE

of pages: 1. This record, or any and all parts thereof, and that the same is a correct transcript thereof and of the whole of said original, all true.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said County at Saratoga New York this 20th day of May, 2024.

Orsa A. Hayner

Orsa A. Hayner
Saratoga County Clerk



By:

NOW WHAT?

- Upon filing of the judgment in the County Clerk's Office it converts the Local Court Judgment to a Civil Judgment in the County of Filing.
- CPLR 5201 (b) – A money judgment may be enforced against any property which could be assigned or transferred (real property).

HOW LONG IS THE JUDGMENT FOR?

- CPLR 5203 (a) – The judgment is effective from the time of the docketing of the judgment with the Clerk of the County in which the real property is located until **10 years** after filing of the judgment-roll.

EXTENSION OF LIEN CPLR 5203(b)

- Upon motion of the judgment creditor, with notice to the judgment debtor, served personally or by registered or certified mail, return receipt requested, to the last know address of the judgment debtor, the judgment may be extended for an additional 10 years.
- Courts wishing to extend the judgment may file a motion to extend it (rarely done.) CPLR 5203(b)

WHAT DO WE DO?

- Once the Court has issued the Order for Civil Judgment the Court does not need to take any further action in regard to the collection of the fines/surcharges or fees.
- Make sure the Court's records reflect the status of the case in the case management program.



UPDATE CASE MANAGEMENT PROGRAM

- To update the case in the case management program, develop an “action code” such as “Disposed – Civil Judgment”.
- Utilities → Edit Data Base → Action/Status Codes → New



Civil Judgments

- If the charge is a finger printable offense, the CDR (540) should be updated to show that the case has been transferred to the District Attorney for collection.
- When the Judgment is satisfied, the Court Clerk shall:
 - Issue a Satisfaction of Judgment;
 - Provide it to the defendant; AND
 - Instruct the defendant to file it with the County Clerk’s office to lift the judgment.
- **You do not need to file another CDR**

SATISFACTION OF JUDGMENT

- Can be found
- In your Case
- Management
- Program.

Satisfaction of Judgment

Satisfaction of Judgment	
DEBTOR'S NAME	JUDGMENT CREDITOR
AMOUNT OF JUDGMENT	JUDGMENT FULFILLED
DEBTOR'S NAME \$ 0.00 COURT \$ 0.00 ATTORNEY'S FEE \$ 0.00 TOTAL \$ 0.00	FOR: 04113 ROMA COURT JUDGMENT NO. 202300000000 DATE OF JUDGMENT 11/03/2023 DEBTOR'S NAME \$ 0.00
REMARKS	ATTORNEY FOR JUDGMENT CREDITOR
I, ROMA COURT, of the State of Texas, County of Tarrant, hereby certify that the above is a true and correct statement of the amount of judgment in my office, as indicated by the above, and as stated by the above.	
Entered May 20, 2024 _____ Court Clerk	

Other issues

- Warrants for failure to pay fines are to be avoided. There are overriding constitutional issues at play here. But that is for another class.

Resource Center

800-232-0630 Call Them!!

- A Great Resource for All Clerks and Judges.
- Link to Education & Training Page for Court Clerks:
http://www.nycourts.gov/courts/townandvillage/judges_only/ed-train-clerks-only.shtml

A Pop Quiz on Imposing Fines

Scenario 1: DA offers a plea that requires Defendant to pay the full fine that night in order to receive the plea disposition offered

Scenario # 2:

Defendant is charged with 1 count of speeding [VTL 1180(d)]

DA offers the following plea: Defendant pleads guilty to three counts of VTL 1201(a) [parking on pavement] in satisfaction of the speeding count and pays a fine on each count.

Scenario # 3:

Defendant is charged with 1 count of speeding [VTL 1180(d)]

DA offers the following plea: Defendant pleads guilty to one charge of VTL 1201(a) [parking on pavement] and pays a fine of \$200, which exceeds the maximum fine.

Scenario # 4:

To improve the efficiency of the court, may you provide your clerk with a plea by mail “fine schedule” for use whenever the court receives a plea by mail to a VTL violation charge?

True or False?

The Legislature has established a fine range for offenses. Therefore, you can't impose a sentence *less* than the *minimum* fine or *greater* than the *maximum* fine