

Cases for 2/14/2020 Seminar

MOTIONS TO ALLOW EXECUTIONS:

1. G Murray Derrington PCF Management v. Wedin (2/23/2010) (Superior Court)
Court denied some pos jd interest where D reasonably believe that these 2 judgments had been paid along with 11 of 13 others, jd did not appear on lien search, DE made regular payments and no demand or execution for more than 10 years had passed.
2. Platinum Financial Services v. Melvin Colbert (11/07/2013) (Superior Court, J. Witham)
Plaintiff must proceed by Scire Facias before issuing execution.
3. Knott v. LVNV Funding (6/24/2014) (Supreme Court)
4. Delmarva Auto v. White (8/15/2014) (Superior Court)
5. Delaware Acceptance Corp v. Schatzman Letter/Order dated 6/01/2017, affirmed 1/23/2018 WL 526596. "We decline to consider the appellants' arguments concerning the previous issuance of execution writs, which were not fairly presented to the Superior Court."
6. Mergenthaler v. Triumph Mortgage Corp. Commissioner's Report & Recommendation dated April 27, 2017 (Superior Court)

Mergenthaler v. Triumph Mortgage Corp. (11/26/2018), 2018 WL 6177177 (Superior Court)

Triumph Mortgage v. Lawrence Mergenthaler (10/24/2019) (Superior Court) Did not mention White, but did rule that refreshing the judgment was necessary even though the creditor executed within the first 5 years. It appears that this aspect of White has been silently overruled.

Mergenthaler v. Triumph Mortgage Corp. (12/20/2019), 2019 WL 6999873 (Superior Court) Opinion on remand reversed "nunc pro tunc" motion to refresh.

Triumph Mortgage Corp v. Mergenthaler (1/28/2020) (Supreme Court) Affirmed w/o opinion.

7. 202 Investments v. Richard Wolf (1/09/2019) (Superior Court) Judge Bradley approves Commissioner Howards opinion declining to follow White on issue that one execution during first five years obviates need to get permission to execute after 5 years.

CHARGING ORDERS:

8. Bridev One, L.L.C. v. Regency Centers, LP (2/09/2018), 2018 WL 824976 (Superior Court)
Bridev One, L.L.C. v. Regency Centers, LP (3/26/2018), 2018 WL 1535406 (Superior Court)

STIPULATED AGREEMENT

C.A. No. JP13-17-015685

PLAINTIFF: JUDGEMENT COLLECTION SERVICES

DEFENDANT: [REDACTED]

1. DEFENDANT ROKEDA NEWSUAN-SMITH SHALL PAY A TOTAL OF \$1,679.91 TO PLAINTIFF JUDGEMENT COLLECTION SERVICES IN INSTALLMENTS OF FIFTY (50) DOLLARS PER MONTH BEGINNING AUGUST 1, 2018. ALL PAYMENTS MUST BE MADE ON OR PRIOR TO THE FIRST DAY OF ALL SUBSEQUENT MONTHS UNTIL THE AMOUNT IS PAID IN FULL.
2. PLAINTIFF MUST NOTIFY THE COURT OF ANY BREACH OF THIS AGREEMENT BY JULY 1, 2021. PLAINTIFF MUST ALSO NOTIFY THE COURT OF THE AMOUNT OUTSTANDING AT THAT TIME.
3. UPON NOTICE OF BREACH, THIS AGREEMENT SHALL BE CONVERTED TO A STIPULATED JUDGMENT AGAINST DEFENDANT FOR THE AMOUNT DUE AT THE TIME OF THE BREACH.
4. IF THE COURT DOES NOT HEAR FROM PLAINTIFF REGARDING A BREACH BY JULY 1, 2021, THEN IT WILL BE ASSUMED THAT THERE HAS BEEN NO BREACH, AND THIS CASE WILL BE DISMISSED WITHOUT PREJUDICE.
5. PLAINTIFF WAIVES ANY RIGHT TO COURT COSTS, PRE-JUDGMENT INTEREST, AND ATTORNEY'S FEES.
6. IF JUDGMENT IS ISSUED BASED ON A BREACH, POST-JUDGMENT INTEREST AT THE LEGAL RATE AT THE TIME OF JUDGMENT SHALL APPLY.
7. THERE SHALL BE NO PAYMENT PENALTY FOR PAYMENTS IN EXCESS OF \$50.00 PER MONTH.

BOTH PARTIES ACKNOWLEDGE THERE WILL NOT BE A TRIAL AND THERE IS NO RIGHT TO APPEAL ON A STIPULATED JUDGMENT.

Clark Kingery

CLARK KINGERY, ESQ., COUNSEL FOR
PLAINTIFF JUDGEMENT COLLECTION SERVICES

[REDACTED]

IT IS SO ORDERED THIS 27TH DAY OF JUNE, 2018.

CHRISTOPHER R. PORTER
JUSTICE OF THE PEACE



** copies given in courtroom **

Judicial review July 2, 2021