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ADVANCED PIERCING THE CORPORATE VEIL

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Introduction

- Remedy is equitable but it is also malleable and unpredictable

  In 1985, Easterbrook and Fischel famously charged that the law of piercing is "freakish[]. Like lightening, it is rare, severe, and unprincipled." In the years since, the chorus has only swelled in volume. Scholars have described piercing opinions as "awkward", "vague", and "jumbled." They have excoriated the doctrine as a "notoriously problematic" "unprincipled hodgepodge of seemingly ad hoc and unpredictable results", explaining that such variability is "highly discretionary and problematic for the business planner."

Why a Corporate Veil?

- Limited stake of failure increases economic development
- More citizens participate in market place
- Encourage innovation and predictability
- Designed to serve convenience and justice

Overview

- Phrase coined in early 20th century
- Flexible and sometimes unpredictable remedy
- Grounded in equity
- Strong presumption against piercing, but courts do pierce

Several Entities Can Have Veil Pierced

- Limited Liability Corporation
- Parents and Subsidiaries
  - Owner of Closely Held Corporations
  - Sister Corporations

Nature of the Remedy

- Applicable when the corporate form is used to "defeat public convenience, justify wrong, protect fraud or defend a crime."

  Shay v. Flight C Helicopter Services, Inc., 822 A.2d 1, 17 (Pa. Super. 2003)

- "…courts are basically concerned with determining if equity requires that the shareholders' traditional insulation from personal liability be disregarded and with ascertaining if the corporate form is a sham……."

  Fletcher-Harlee, 936 A.2d 87, 96 (Pa. Super. 2007)

Basic Formulation

- As a general rule, the corporate entity should be upheld unless specific, unusual circumstances call for an exception. A court should disregard the corporate existence only when it appears that 'a corporation was an artifice and a sham to execute illegitimate purposes and [an] abuse of the corporate fiction and immunity that it carries.' The United States Court of Appeals for the Third Circuit directs district courts to consider the following factors when determining whether grounds exist for piercing the corporate veil:

the failure to observe corporate formalities; non-payment of dividends; the insolvency of the debtor corporation at the time; siphoning of funds of the corporation from the dominant stockholder; non-functioning of other officers or directors; absence of corporate records; and the fact that the corporation is merely a façade for the operation of the dominant stockholder or stockholders.

Local Union No. 98 International Brotherhood of Electrical Workers v. RGB Services, LLC, 2011 WL 292233 (E.D. Pa.).

Typical Factors Considered

- Undercapitalization
- Failure to adhere to corporate formalities
- Insolvency of corporate defendant/debtor
- Siphoning of funds to dominant shareholder(s)
- Failure of officers/directors to function
- Absence of corporate records
- Substantial intermingling of corporate and personal affairs
- Use of the corporate form to perpetrate a fraud

Undercapitalization

- *Lieberman v. Corporacion Experienca Unica, S.A.*, 226 F. Supp. 3d 451 (E.D. Pa. 2016)

  But these facts are insufficient to support veil-piercing: PDV's failure to pay income distributions is evidence not of undercapitalization, but of underperformance, and it is patently absurd to suggest that the need to borrow money – especially at the beginning of a project – proves, on its own, that a company is undercapitalized. Indeed that conclusion would, presumably, expose nearly *every* company to the possibility of veil-piercing. Moreover, Plaintiff has failed to present "any [**32] evidence . . . As to the level of capital required for a corporation of [PVD's] size to conduct" it business.

Undercapitalization

- *Commonwealth Dept. of Envr. Protection v. Trainer Custom Chem*, 204 F. Supp. 3d 814 (E.D. Pa. 2016) S.J. Motion – CERCLA case
- Purpose of LLC defendant was to own, improve and rent out a CERCLA site
- Starting balance was $25,000 in 2012, ending balance $836 in 2014
- Court denied S.J. on undercapitalization grounds because no evidence as to the level of capital required
- For a small, closely held corporation . . . the amount of initial capitalization may well have been sufficient.

Undercapitalization

- *Welkner v. Carnevale*, 2016 U.S. Dist. LEXIS 171064
- Med Mal case
- Clearfield Hospital is wholly owned sub of Penn Highlands Healthcare
- Plaintiffs assert that Penn Highlands Healthcare should be held liable – and corporate veil pierced – because of, inter alia, undercapitalization
- Plaintiffs suggest that assets plus insurance is insufficient to meet a high judgment
- Court says that there must be gross undercapitalization
- Sole fact that a worst case scenario law suit could bankrupt a corporation does not by itself justify piercing the veil

Undercapitalization

- A company is undercapitalized if it is unable to carry on its business. *Reivia Ashley, LLC v. Paselo Logistics, LLC*, 201 U.S. Dist. LEXIS 198430.
- But when should the determination of undercapitalization take place? At the time of the breach or tort, or at the time of corporate formation?
- *Reivia* – Allegations that *Paselo* breached loan agreement wholly. Rivera financed *Paselo* acquisition of coal facility. Court recognized that *Paselo* generating substantial revenue before acquisition.
- But, Court found that *Paselo*'s business yielded modest profits and susceptible to market fluctuations. Could not contribute 10% of purchase price. Later failed to pay bills when becoming due, unable to pay taxes. Veil Pierced.

Alter Ego v. Single Entity Theory

- Alter ego theory - corporation is sham and used to advance owner's interests
- Single entity/enterprise theory - corporations share common ownership and act as single unit
- Pennsylvania has not adopted the single entity theory

Advanced Telephone Systems, 846 A.2d 1264 (Pa. Super. 2004)

Miners, Inc. v. Alpine Equipment Corp., 722 A.2d 691 (Pa. Super. 1998)

Related Concepts

- Successor liability
- Reverse piercing
- Participation theory
- Substantive consolidation

Alter Ego Theory for Personal Jurisdiction

- Typically, a foreign corporation is not subject to the jurisdiction of the forum state merely because of the ownership of shares of stock of a subsidiary doing business in the state.
- But – Can use alter ego theory to establish personal jurisdiction
- *In re Enterprise Rent-A-Car Wage *Hour Employment Practice Litigation*, 735 F. Supp. 2d 277 (W.D. Pa. 2010)
- Factors generally same as in alter ego test but analysis regarding alter ego jurisdiction is less stringent. *Id.; Gasbarre Prods. v. Diamond Auto. Grp.*, 2017 U.S. Dist. LEXIS 42038

Can Veil Be Pierced as a Penalty for Abuses of Discovery?

Clientron Corp. v. Devon IT, Inc., 2016 U.S. District. Lexis 95705

- Jury gave advisory verdict denying veil piercing.
- District Court agreed that evidence did not support piercing the veil
- Individual defendant did not take seriously the obligation to search documents and committed spoliation of evidence.
- "The Court now joins a number of other courts which have held that piercing the corporate veil is an appropriate sanction for discovery misconduct impeding a party's ability to prove alter ego liability."

- Third Circuit reverses 894 F.3d 568 (3rd Cir. 2018)
- Third Circuit agrees that even though many corporate formalities not observed "lack of formalities in a closely-held or family corporation does not often have as much consequences as where other kinds of corporations are involved."

BUT

- Third Circuit says can't pierce veil as sanction
- District Court pierced only as to one tennant by the entirety and only to part of the judgment
- Fed.R.Civ.P. Rule 37 does not permit the Court's action

- Nonetheless, Third Circuit recognizes that in appropriate circumstances veil can be pierced as discovery sanction or default judgment. *See, e.g.,* S. New Eng. Tel. Co. v. Glob. Naps Inc., 624 F.3d 123 (2d Cir. 2010)

Statute of Limitations

- No independent statute of limitations
- Takes statute applicable to underlying claim

  e.g. Genesis Underwriting Management Co. v. Insurance Management & Services, Inc., 22 Pa. D. & C. 4th 119 (Pike County 1994)

- But if judgment obtained general rule is that statute for action on a judgment applies

  e.g. Madonna v. Francisco, 2014 WL 981568 (E.D. Pa. Mar. 13, 2014) (Four year statute in PA)

- Some states toll statutes against a party if that party's alter ego was previously timely sued and served

  e.g. Matthews Const. Co. Inc. v. Rosen, 796 SW 2d 692 (Tex. 1990)

Plaintiff Strategy

- Manage client expectations
- Forum selection
- Jurisdiction - choice of law
- Raise the Stakes
- Parent/Subsidiary Defendants
- Individual Owners/Officers
- Create factual issues
- Jury trial

Difficult Road for Plaintiffs

> "[M]eeting the burden necessary to establish that a corporate entity is merely an alter ego of a particular shareholder, officer, or director is 'notoriously difficult for plaintiffs. *Pearson v. Component Tech. Corp.*, 247 F.3d 471, 485 (3d Cir. 2001)"
>
> *Guzzi v. Morano*, 2013 WL 4042511 (E.D. Pa. Aug. 8, 2013)

But Plaintiffs do win at times!

- Need to manage your client's expectations as to discovery and what success means

Pleading a Cause of Action

- Federal and state pleading standards merging

Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007)

- Basis of claim can impact pleadings standard
  - Fraud - pleading with particularity - F.R.C.P. 9
  - Plead sufficient ***facts*** to make the claim viable

Pleading a Cause of Action

- Equitable considerations - Fed.R.Civ.P. 8
  - sufficient facts “to show that a claim is ‘plausible’ and not merely conceivable.”
  - Facts that were merely ‘consistent’ with wrongful conduct may not be enough
  - Plead facts that would be ‘suggestive’ enough to render the alleged conduct plausible

Shenango Inc. v. The American Coal Sales Co., 2007 U.S. Dist. LEXIS 58110 (W.D. Pa. 2007)

Pleading a Cause of Action

- Courts carefully scrutinize complaints
- Assume the pleading standard will be strict
- Plead injustice or wrongdoing

Fort Washington Res., Inc. v. Tannen, 153 F.R.D. 565 (E.D. Pa. 1994); but see *Fletcher-Harlee*, 936 A.2d 87, 96 (Pa. Super. 2007)

- Plead what defendant actually did to establish cause of action

Lumax Industries, Inc. v. Aultman, 669 A.2d 893 (Pa. 1995)

Pleading a Cause of Action

- Cases that did not withstand demurrer or motion to dismiss

Tunnell-Spangler & Assoc.,Inc. v. Katz, 2004 WL 1632567 (Phila. C.C.P. 7/15/04); *JK Roller Architects, LLC v. Tower, Inc., Inc.*, No. 02778, 2003 WL 1848101 (Phila. C.C.P. 3/17/03); *Fort Washington Res., Inc. v. Tannen*, 153 F.R.D. 565 (E.D. Pa. 1994); *Shenango Inc. v. The American Coal Sales Co.*, 2007 U.S. Dist. LEXIS 58110 (W.D. Pa. 2007)

- Cases that did withstand demurrer or motion to dismiss

Killian v. McCullough, 850 F. Supp. 1239 (E.D. Pa. 1994); *Laborer's Combined Funds v. Ruscitto*, 848 F. Supp. 598 (W.D. Pa. 1994); *Vill. At Camelback Pro. Owners Ass'n v.Carr*, 538 A.2d 528 (Pa. Super. 1988); aff'd 572 A.2d 1, (Pa.1990); *Goldenberg v. RoyalPetro Corp.*, No. 004168, 2004 WL 3051577 (C.C.P. 12/16/2004).

Tunnell-Spangler & Assoc.,Inc. v. Katz

- Following allegations insufficient
  - Corporation undercapitalized
  - Intermingling of corporate and personal assets
  - Owner was sole shareholder, officer and director
  - Failure to maintain books and records
  - Failure to adhere to corporate formalities
- Court said there was no allegation as to how these factors were used to further defendant's personal interest

Shenango Inc. v. The American Coal Sales Co.

- Use of “information and belief”
- Allegations of undercapitalization unsupported by facts
- Recitations of interrelationships between corporate entities without facts
- Failure to comply with corporate formalities without facts
- Allegation of “corporate shell”
- Court required “specific factual averments, rather than mere legal conclusions”

Goldenberg v. RoyalPetro Corp.

- Allegations of use of corporate assets for personal benefit
- Undercapitalization
- Control by dominant shareholders
- Unjust enrichment
- Court allowed the claim to proceed

Blair v. Infineon Technologies, AG
720 F. Supp. 2d 462 (D. Del. 2010)

Motion to Dismiss denied

- Allegation that during mass layoffs defendants violated Plaintiffs' rights under ERISA; claimed Infineon defendants are liable because they ran Qimonda as their own decision
- Court says that for reasons of public policy, the alter ego standard for piercing the corporate veil is often more lenient for cause of action arising under ERISA

- Court says that Delaware state and federal law different – Delaware law requires "something that is similar in nature to fraud or a sham." Federal law says no actual fraud is required, merely an element of injustice or fundamental unfairness

- Plaintiffs alleged:
  1. Infineon used the term “Infineon Group” in its most recent 2009 corporate profile to refer to entities under its direct control, including the Qimonda entities (*Id.* At 3 n. 4);
  2. In a 2008 filing, *472 Infineon stated that “Infineon Technologies AG is the parent company of the Infineon Group and carries out the group’s management and corporate functions” (*Id*.);
  3. Infineon continues to retain 77.5% of the stock in Qimonda AG, limiting Qimonda’s ability to obtain financing (*Id.* at ¶¶ 18, 22);
  4. At the time of the spin off, Qimonda received approximately 565 million EU in financing from Infineon (*Id.* at ¶ 20);

5. Infineon installed three of its own officers or board members to officer or board member positions at Qimonda (*Id.*);

6. Infineon provided "general support services" to the Qimonda entities like logistics services, sales support, purchasing services, human resources services, facility management, patent support, legal services, strategy services, and financing, accounting, and treasury support (*Id.* at ¶ 21);

7. Infineon reported the Qimonda entities' earnings and losses on a consolidated basis in its own financial statements until April 2008, when it classified the Qimonda entities as "discontinued operations" (*Id.* at ¶ 23)

8. Qimonda was expected to use Infineon's fabrication facility in Germany, buy Infineon's products, and pay severance to Infineon employees (*Id.* at ¶ 25);
9. Employee recruitment was shared between Infineon and Qimonda (*Id.* at ¶ 27);
10. Infineon counted Qimonda's employees in its annual report (*Id.*);
11. Plaintiffs' severance plans were under the Infineon Group Severance Plan (*Id.* at ¶ 30);
12. In late 2008, Infineon arranged a 325 million EU "rescue package" for Qimonda that was never delivered (*Id.* at ¶¶ 34-35);

13. In 2008 and 2009, Infineon siphoned funds from the Qimonda Subsidiaries by forcing them to give 87% of their revenue to Qimonda AG, in an effort to prop up Qimonda AG for possible sale (*Id.* at ¶ 36); and

14. There is an "overall element of injustice" because Infineon mishandled or misdirected funds and prevented Qimonda from honoring obligations to their employees (*Id.* at ¶ 67).

Extended Veil Piercing Disallowed Cannot Hold a Beneficiary Liable for Debts of Estate

- *Mark Hershey Farms, Inc. v. Robinson*, 171 A.3d 820 (Pa. Supra. Ct. 2017)
- Deceased was sole shareholder of Meadow Valley Dairy
- Meadow Valley owed Mark Hershey Farm money
- Robinson was executor and sole beneficiary of estate
- Estate owned shareholder investment in Meadow Valley Dairy
- Trial Court found estate liable for monies owed **and** pierced veil to find Robinson liable
- Superior Court **reversed** – "[N]o legal basis to apply the concept of piercing the corporate veil to the beneficiary of an estate and hold a beneficiary of an estate liable for the debts of the estate."

Plaintiff's Discovery

- Complaint sets discovery parameters
- If possible seek pre-complaint discovery in state court
- Develop discovery based upon the potential elements of cause of action
- Anticipate Motion for Summary Judgment
- See 45 POF3d 1 for sample discovery requests

Plaintiff's Discovery

- Documents/records
- Request from both parent/owner and subsidiary/alter ego
  - Computers - personal and business
  - Bank records
    - Deposit and Checking Accounts
    - Loan records
    - Financial statements
  - Accountant records
  - Tax returns

Plaintiff's Discovery

- Depositions
  - Shareholders
  - Principals and family members
  - Officers and Directors
  - Employees
  - Accountants and bookkeepers
  - Lawyers

Defense Strategy

- Removal
- Jurisdiction – choice of law
- Separate counsel
- Joint defense agreements
- Counterclaims
- Affirmative Defenses

Litigation Hold Letters

Considerations:

- Anticipation of litigation
- Work with client to define scope
- Be reasonable when choosing recipients
- Lawyer's obligations

Defenses

- One or more elements not met
- Defenses specific to entity or theory
- Equitable defenses (unclean hands, laches, estoppel)
- Statute of limitations
  - Underlying cause of action
- Premature

Motions to Dismiss

- State/federal pleading standards
- *Twombly*, *Iqbal* and their progeny
- Can discovery be a cure to an insufficient complaint?

  See Essex Insurance Co. v. Miles, No. 10-3598, 2010 WL 5069871 (E.D. Pa.)

  But see Stein v. Fenestra America, L.L.C., 2010 WL 816346 (E.D. Pa.)

Panthera Rail Car LLC v. Kasgro Rail Corp., 2013 WL 4500468 (W.D. Pa. Aug. 21, 2013)

To survive a motion to dismiss, a complaint must contain sufficient factual pleadings to "state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007); *accord Phillips v. Cnty. Of Allegheny*, 515 F.3d 224, 234 (3d Cir. 2008) (citing *Twombly*). "A claim has facial plausibility when the plaintiff pleads a factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009).

The Court's plausibility determination is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Id*. at 679; *accord Fowler v. UPMC Shadyside*, 578 F.3d 203, 211 (3d Cir. 2009) (quoting *Iqbal*). This requirement is designed to facilitate the federal notice-pleading standard, which requires "a short and plain statement of [a] claim *showing* that the pleader is entitled to relief." Fed.R.Civ.P. 8(a)(2) (emphasis added). With respect to allegations of fraud, "a party must state with particularity the circumstances constituting fraud." Fed.R.Civ.P. 9(b).

Essex Insurance Co. v. Miles, 2010 WL 5069871 (Dec. 3, 2010 E.D. Pa.)

- Essex brought action against Raymond Miles and his wife seeking to collect a judgment it obtained against a corporation owned by defendants. Sought to pierce the veil.
- Court held that only fact that was alleged was that defendants were owners of business.
- Court granted motion to dismiss and refused to allow discovery on the issue:

"Essex argues that if the complaint is insufficient, it should be permitted to take discovery because information related to piercing the corporate veil is in the exclusive possession and control of the defendants. While we acknowledge that it may be difficult without discovery for a plaintiff to plead this type of claim in light of *Twombly* and *Iqbal*, we must nonetheless reject Essex's request. The Supreme Court precludes the use of even limited discovery to overcome a pleading insufficiency. As the Court stated in *Iqbal*, Rule 8 '"does not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions.'"

See also Vacaflor v. Pennsylvania State University, 2014 WL 3573593 (M.D. Pa. 2014)

- Plaintiff seeks to hold Penn State liable because, *inter alia*, Penn State's logo and name appear on Penn College (a wholly owned subsidiary) letterhead
- Court cites *Essex* for proposition that cannot use limited discovery to overcome a pleading insufficiency

Stein v. Fenestra America, LLC, 2010 WL 816346 (E.D. Pa.)

- Plaintiffs filed complaint against Fenestra and Zeluck, Inc. alleging among other counts fraud and breach of contract
- Separate count on piercing the veil between the two
- Allegations sparse and limited to "On information and belief"

71. Upon information and belief, Fenestra and Zeluck share identity of ownership.
72. Upon information and belief, Fenestra and Zeluck operate under unified administrative control.
73. Upon information and belief, Fenestra and Zeluck have similar or supplementary business functions.
74. Upon information and belief, Zeluck dominates and controls Fenestra and uses it as an alter-ego.
75. Therefore, Fenestra and Zeluck are jointly and severally liable for the debts of each entity

When the Court ruled on a motion to dismiss, it granted limited discovery.

Amended complaint contains 70 paragraphs of fact.

Case eventually settled.

See also Accurso v. Infra-Red Services, Inc., 23 F. Supp. 3d 494 (E.D. Pa. 2014)

- Court permits limited discovery to permit Defendants to amend their counterclaims to cure shortcomings of their piercing claims

Defensive Discovery

- Fact-intensive cases but need to prevent fishing expeditions. Emphasize what is not in pleadings.
- Pay attention to allegations
- Make objections specific – don't merely say overbroad – detail how much time is required, how many documents might need to be reviewed
- Be aggressively professional in depositions
- Confidentiality agreements
  - Attorney's eyes only provisions

Summary Judgment Motions

- Create Factual Issues
- Focus on factors for piercing corporate veil theories
- Documentary evidence
- Deposition testimony - experts
- Affidavits

Guzzi v. Morano, 2013 WL 4042511 (E.D. Pa. Aug. 8, 2013)

- Plaintiff claimed that defendant corporation U.S. Benefit Partners ("USBP") breached an alleged oral contract. Claimed that the controlling owner liable based on a piercing theory.

Court granted summary judgment for controlling owner on the piercing claim.

- Controlling owner paid for certain corporate expenditures but no evidence that payment came from his own personal funds or USBP funds.

- No evidence that controlling owner siphoned off corporate funds for his own personal use.
- No evidence of undercapitalization.
- No evidence of failure to keep corporate records.
- No evidence that corporate form used to perpetuate a fraud.
- No evidence of illegality, injustice or unfairness.

Probably should have been dismissed earlier

VEIL PIERCING WITHOUT ASKING??

Bailey v. B.J. Quarries, 2016 W.L. 1271381 (M.D. Pa. 2016)

- Decedent died at a quarry while operating a rock crusher
- Plaintiff's estate brings action against company and individuals
- Two individual defendants move for summary judgment on piercing claim – submit both a short conclusory brief
- Factors alleged:
  1. Individual defendant sole owner of defendant LLC and S corporation
  2. Neither company keeps corporate records
  3. Neither elects officers
  4. Companies undercapitalized
- Even though plaintiff had not moved for summary judgment, Court granted it *sua sponte* so as to hold individuals liable as companies are mere alter ego of owners

MOTIONS IN LIMINE

Don't give up!

> *Nelson v. Allan's Waste Water Serv. Inc.*, No. 2:11-cv-1334, 2014 WL 109081 (W.D. Pa. Jan. 10, 2014).

Plaintiff was employed by corporate defendant Allan's Waste Water Service, Inc. ("AWWS"). She resigned because of alleged sexual harassment and sued the company and its owners in a multi count complaint.

Motion for summary judgment on behalf of owner denied:

- Court found that in a stock purchase agreement in which AWWS sold its assets (because of a plea agreement arising from uninsured activities) and ceased operating, the owners received the proceeds of the sale.
- Court agreed with Plaintiff that it would be unfair to receive proceeds and hold up an empty shell.

- Court also held that Defendants had failed to disprove veil piercing as a matter of law

BUT

- Court later granted a motion in limine and held that Plaintiff could not advance the veil piercing claim and trial
- Court found that Plaintiff had not established any evidence that AWWS was operated as a sham or that the owners ignored the corporation's separate status.

Trial and Post-Trial Issues

- No right to trial by jury
  - *Brownstein v. Hewlitt-Packard*, 1997 W.L. 134898 E.D. Pa.
  - *Regent National Bank v. Dealers Choice Automotive Planning,* 1999 W.L. 357364 E.D. Pa.
- Experts
- Burden of proof – preponderance or clear and convincing

Jury v. Non-Jury Trial

- No right to a jury trial due to equitable nature of the cause of action

Advanced Telephone Systems, Inc. v. Com-Net Professional Mobile Radio, LLC, 846 A.2d 1264 (Pa. Super. 2004)

- While a party has no ***right*** to a jury trial, it does appear that a jury is competent to hear such claims and often does.
- Use of advisory juries

- Because Veil Piercing involves overlay of fraud, must be clear and convincing
  - *Mlea, Inc. v. Atlantic Recycled Rubber*, 2005 W.L. 1217190 (E.D. Pa.)
  - *Siematic Mobal Werke v. Siematic Corp.*, 643 F.Supp. 2d 675 (E.D. Pa. 2009)

Procedure After Judgment

1. Separate lawsuit
   See Plastipak Packaging, Inc. v. DePasquale, No. 02-2670, Third Circuit 2003

2. File motion in aid of execution and join parties who are alleged to be liable
   See Grand Central Sanitation, Inc. v. Intercontinental Resources, Inc., No. 1911-C-9862, Court of Common Pleas of Northampton Cty.

3. Place lien on property

See Dickinson v. Ace Construction, 24 Pa. D. & C. 4th 193 (Montgomery Cty 1995)

Miners, Inc. v. Alpine Equipment Corp., Superior Court of Pennsylvania No. 00095 Harrisburg 1998

Final Practice Pointers

- Identify the elements of the cause of action that apply to your case
- Do as much pre-complaint investigation as possible
  - If a shareholder, demand access to books and records before filing lawsuit. (15 Pa.C.S.A. 1508)
- Do pre-complaint discovery if possible
- Strategize re defendants to join in lawsuit
- Plead facts and details
- Plead causation and damages

Questions?

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