**National Client Protection Organization**

**Fall Workshop September 2024**

Kathryn peifer morgan, esquire

executive director and counsel

Pennsylvania lawyers fund for client security

|  |
| --- |
| civil judgments and other recovery options |

# civil judgments

Recommend obtaining a civil judgment whenever possible. May not be able to immediately collect, but circumstances could change for the former attorney.

## Procedures

1. Be sure to have claimants execute a subrogation agreement and assignment of claims to the Fund.
2. Set policy for when a civil judgment will be pursued. Considerations:
	1. amount of award(s)
	2. number/amount of judgment(s) already of record against the former attorney
	3. are criminal charges being pursued against the former attorney
	4. will litigation be handled in-house by Fund staff or will outside counsel be retained (negotiate reduced hourly rate)
	5. sufficient evidence to prove claim and claimant who will be cooperative witness, if needed
3. File a Writ of Summons/Complaint after making payment of the award as soon as possible to preserve any statute of limitation concerns. If you have multiple claimants, a Writ may be the best option to preserve the viability of the civil action until all claims have been decided and all awards have been paid. (Sample complaint provided)
4. Know deadline for filing an Answer and proceed with a default judgment if no timely Answer is filed.
5. If timely Answer is filed, present option of entering into a Forbearance Agreement and Stipulated Judgment to save all parties time and legal fees (Sample forms provided)
6. After obtaining judgment, whether through full litigation or default, file a Writ of Execution and take discovery in aid of execution to determine if assets are available to execute on the judgment
7. If claimant obtained a civil judgment prior to filing claim or receiving an award from the Fund, be sure to file an assignment of that judgment
8. Be sure to timely revive the judgment
9. If former attorney dies, consider filing a claim with the Estate. Some states consider the obligation owed to a client protection fund as falling into the category of an obligation owed to the state or political subdivision. (PEF Code § 3392)

# Court Rule Requiring repayment to Fund as condition of reinstatement

Have a court rule that requires repayment to the client protection fund as a condition of reinstatement. Such a rule reinforces the court’s and the profession’s commitment to preserving the integrity of the profession, and requires the former attorney to be accountable; prevents the client protection fund from being used as an “interest-free” lender to the former attorney.

1. Wording of the rule can be very helpful if former attorney is attempting to have the obligation discharged in bankruptcy
2. Provides disciplinary with an additional weapon to oppose reinstatement
3. Sample rules are provided with materials