

Hamilton County LAW LIBRARY NEWS

Professional legal information, services, and education

August 2017

Changes to Ohio Law Impact Dormancy and Execution Rules for Judgment Creditors By Thomas R. Kendall , Esq. of Weltman, Weinberg & Reis Co., LPA . Reprinted with permission.

A lawsuit is filed, judgment is awarded and the defendant still fails to pay the creditor. This scenario is all too common; it can sometimes take years and require multiple strategies to collect a judgment. In Ohio, a judgment eventually becomes dormant, unless steps are taken to keep it active. Recent changes to Ohio law have updated creditors' rights regarding dormancy. In addition, when a judgment creditor seeks to attach a defendant's property, streamlined procedures are now available if a third party claims ownership of that property.

Ohio Senate Bill Updates Judgment Dormancy Rules

Under longstanding Ohio law, a judgment is active for a period of five years, unless a creditor takes certain action to extend it.¹ Without taking such action, a judgment becomes dormant, and a creditor may not execute on it. There are many pitfalls to a dormant judgment: a lien se-

curing it expires and cannot be enforced until the underlying judgment has been revived; and subsequent judgment creditors can step ahead of a dormant judgment.² Judgment interest accrual is also suspended during the period of dormancy.³ Therefore, it's in the best interest of a judgment creditor to prevent the judgment from going dormant.

Traditionally, issuing an "execution" or filing a certificate of judgment (judgment lien) staved off dormancy. In the past there has been confusion as to when or whether a judgment became dormant. The word "execution" was not defined in Ohio Revised Code Chapter 2329. Did a wage garnishment or bank account count as an execution? How about a debtor's exam? To clear up any confusion, Ohio Senate Bill 227 was passed into law last year, to amend ORC 2329.07. The changes took effect April 6,

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Hamilton County Law Library

Hamilton County
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1000 Main Street
Room 601
Cincinnati, OH 45202
T:513.946.5300
F:513.946.5264

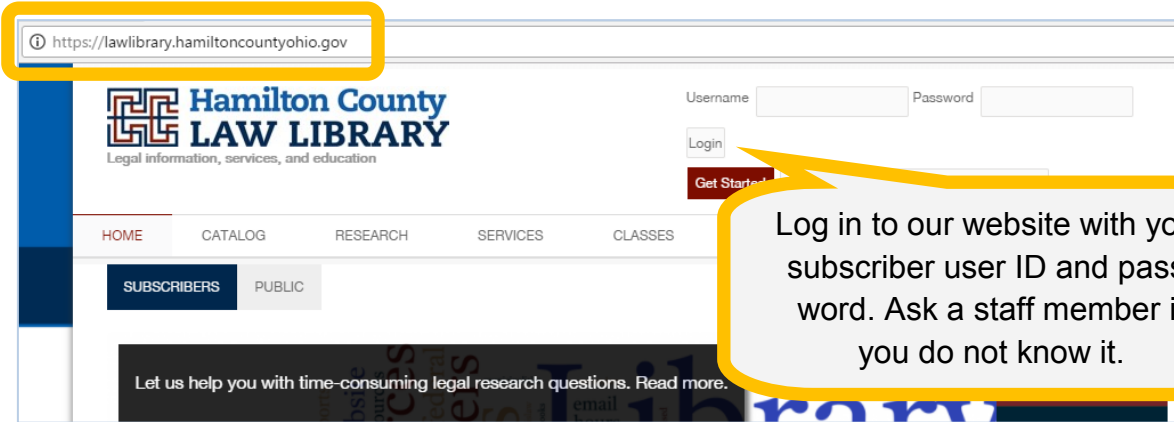
Open Monday-Friday 8 - 4

<http://lawlibrary.hamilton-co.org>

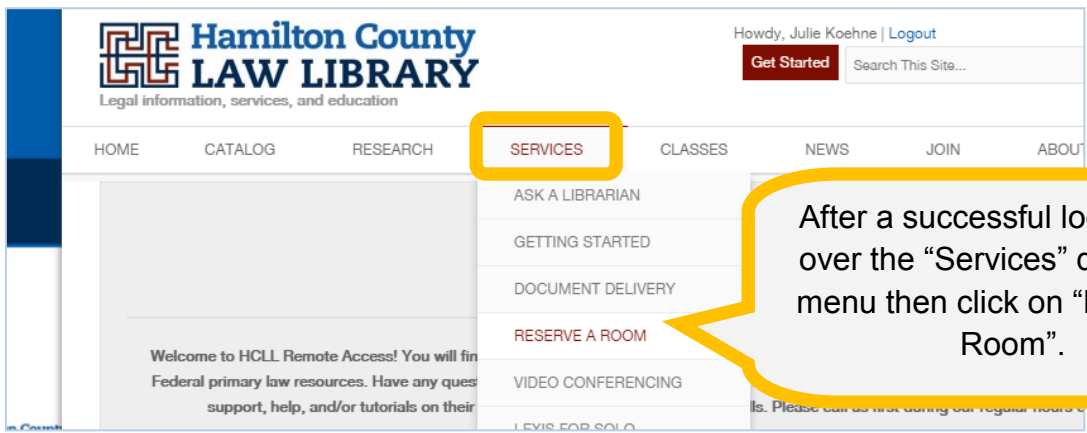
Tech Tip: How to reserve a conference room at the HC Law Library

By Systems Librarian, Julie Koehne

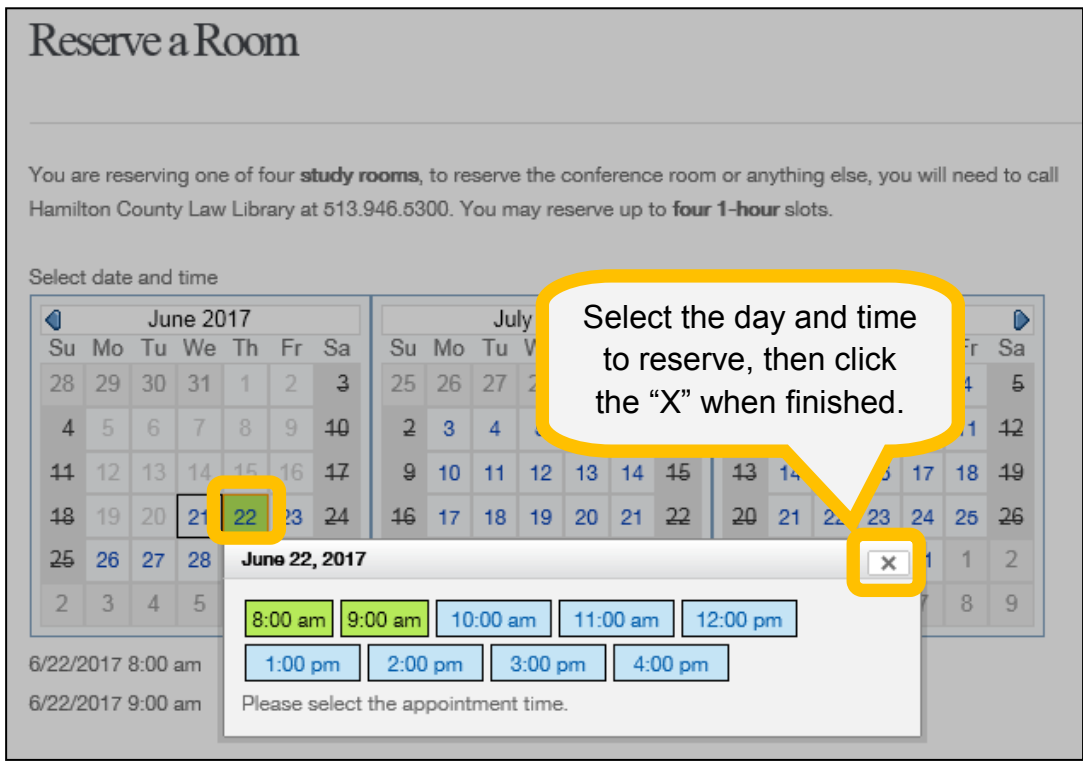
A law library subscriber may follow these few steps to reserve a conference room online.



Log in to our website with your subscriber user ID and password. Ask a staff member if you do not know it.



After a successful login, hover over the "Services" drop down menu then click on "Reserve a Room".



Select the day and time to reserve, then click the "X" when finished.

6/22/2017 9:00 am Cancel
6/22/2017 8:00 am Cancel

Your phone number:

Your name:
Julie Koehne

Your email:
JKoehne@cms.hamilton-co.org

Comments/Questions:

Continue

Verify the times are correct, enter a valid phone number then click the "Continue" button.

Room Dimensions:
Four small (13' X 7'4")
1 table and 4 chairs

Must call to reserve large room.
One large (20' X 19')
Configuration may vary



You will get a follow-up email.



Upcoming CLE

Free to subscribers; \$50 for non-subscribers
Registration is required.

To register, call 513.946.5300, email reference@cms.hamilton-co.org, or register via the website <http://lawlibrary.hamiltoncountyohio.gov/classes/calendar/>

[CLE: Profiles in Courage: How Lawyers Can Be Inspired by Two Centuries of Leadership](#)
Presenter: Chuck Strain
Thursday, August 10
Noon-1pm
1.0 hour of professional conduct CLE pending in Ohio and 1.0 hour of ethics CLE pending in Kentucky

If you would like to watch a how to video please go to:
<https://www.youtube.com/watch?v=n2BN7FsBy1I>

(Continued from page 1)

2017.

The amendment defines "execution," effectively limiting its meaning to writs for the levy and sale of a judgment debtor's property.⁴ However, the revised law also adds to the list of methods to defer dormancy. The new language makes it clear the issuance, or continuation, of a wage or bank garnishment order will keep the judgment active for another five years.⁵ Also, a proceeding in aid of execution, including a judgment debtor examination, can prevent dormancy.⁶

These amendments should clear up any misunderstanding as to when or whether an Ohio judgment becomes dormant. The amended law should also reduce the occurrence of dormancy by expressly adding garnishments and debtor's exams to the list of actions which keep a judgment active. Any reduction in judgment dormancy benefits creditors and conserves court, clerk, and attorney resources.

Ohio House Bill Partially Streamlines Judgment Execution Procedures

Ohio's judgment execution statutes have changed little since the 19th century. One of those statutes addresses attaching personal property of a defendant, through a levy. The result is a procedure for the levy of execution which imposes requirements for appraisal, notice, handling of exemptions and ownership disputes, and manner of sale - which are out of step with modern customs. Although last year's House Bill 390 modernized many provisions for the sale of real property after foreclosure, its scope was limited.

Fortunately, Ohio lawmakers did give judgment creditors and courts partial relief with House Bill 347, which amended ORC 2329.84, effective April 6, 2017. That section outlines procedures for ownership dispute resolutions over levied property. Traditionally, if property levied upon was claimed by a third party, the court was required to immediately summon a jury of five "men" to appear within three days and conduct a trial on the property's ownership.⁷ The requirement for a jury trial within such a short time was impractical, given the volume of collection cases passing through Ohio's modern court system.

As a result, this procedure was not widely followed. Moreover, the risk that any property levy could result in the need to conduct a trial on short notice likely had a chilling effect on the use of writs of executions by creditors and their attorneys. The amended law instead requires a hearing on the issue of ownership "as soon as is practicable" after a dispute is raised.⁸ At the hearing, the judge sits as the trier of fact, instead of a jury.⁹

Taken together, these recent Ohio law revisions are a common-sense reform of Ohio's levy of execution statute. They give both parties their day in court, without unduly burdening the parties and the legal system. Additional questions regarding this update to judgment creditor law in Ohio can be answered by an attorney within the Consumer and Commercial Collections unit at Weltman, Weinberg & Reis Co., L.P.A.

Thomas R. Kendall is an attorney in the Cincinnati office of Weltman, Weinberg & Reis Co., LPA who focuses his practice in commercial and consumer litigation.

- 1 R.C. §2329.07(A) (eff. until 4-6-17)
- 2 R.C. §2325.15, et seq.
- 3 R.C. §2325.18(B)
- 4 R.C. §2329.07(A) (eff. 4-6-17)
- 5 Id. at (B)(2)(c)
- 6 Id. at (B)(2)(d)
- 7 R.C. §2329.84 (eff. until 4-6-17)
- 8 R.C. §2329.84 (eff. 4-6-17)
- 9 Id.

For more information, contact [Thomas R. Kendall](#).

Where are the books?

In preparation for the upcoming renovation to our state room, which will provide great new services to our subscribers with an updated subscriber lounge and conference room suite, we have moved all of our print materials out of that area and interfiled them in the Main Room and the Text Room. Outreach librarian, Vanessa Seeger, has printed up handy new signage to help direct you to the books you're seeking. Or, you can always ask your friendly librarians, who will help you track down what you need. Please feel free to continue to use the State Room as a workspace at this time. We'll keep you updated with more renovation details and the schedule when we have more information.



Conference Rooms and Boardroom: What's the difference?

Conference Rooms: The Law Library offers four small conference rooms in the main room which can be reserved at no charge by subscribers and Hamilton County officials. Per library policy, other patrons may use the rooms, but may be asked to vacate if a room has been reserved or if a subscriber or county official requires the space. For instructions on how to reserve a conference room through the library's website, see the Tech Tip on page 2.

The Hon. Robert S. Kraft Boardroom: The Boardroom is located in the subscriber and staff area at the rear of the library and is available for use by reservation only. Reservations for the Boardroom are free for library subscribers and Hamilton County officials and cost \$100/per hour for other patrons. The Boardroom houses our videoconferencing equipment, a conference phone, a computer, a ceiling projector and speakers. In addition to videoconferences, it's commonly used for meetings, presentations and webinars. It can seat about 20 with tables and around 35 without. We try to make the reservation process as easy on you as possible. If you'd like to use the space, don't hesitate to call us at 513-946-5300, email at reference@cms.hamilton-co.org or stop in and speak with anyone on staff. Just give us a little information about when you need it, what technology you require and how you'd like the room set up, and we'll get it ready for you. For more information, please see our [website](#).

Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to six weeks at a time

Access to extensive legal information databases from the Law Library, including Westlaw, IntelliConnect, Lexis Digital Library e-books, HeinOnline, and Loislaw treatises

Wireless network throughout the Law Library

Polycom videoconferencing

Five meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

CLE seminars throughout the year, on legal research and substantive topics

Subscribers' lounge, magazines, daily newspapers, and coffee

Bi-weekly news alerts by practice area

Discounted rates for photocopying

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/LOISLaw treatises, HeinOnline (for under 50 attorney firms), EBSCOhost, and IntelliConnect Law, Business, Tax, and Accounting

An add-on plan for Lexis access is available for subscribers in solo practice

You and the Legal System: Wage and Hour Issues

Attorneys Alison De Villiers and Kristen M. Myers of Beckman Weil Shepardson will discuss wage and hour issues on Friday, August 18 at noon in the Law Library. The session will cover mistakes commonly made by employers in paying employees, including off-the-clock work, over-time, treatment of services charges, and payment of tipped employees.

To register, call 513.946.5300 or register via our website at

<https://lawlibrary.hamiltoncountyohio.gov/event-registration/?ee=116>

Please note that this is not a CLE event; it is intended for the general public. However, attorneys are welcome to attend and may want to pass along the program announcement to clients, staff and community organizations. If you would like more information, please contact [Vanessa Seeger](#).

You and the Legal System is brought to you as a public service by the Hamilton County Law Library, in conjunction with the Cincinnati Bar Association's Lawyer Referral Service. Save the date for the next event in our You and the Legal System. Blake Somers will discuss Domestic Relations Law on Friday, September 15.

Employment Law Resources

Law Library subscribers have access to a variety of resources on Labor and Employment Law. If you have questions, or have a suggestion for a title to add, contact the reference staff at

reference@cms.hamilton-co.org or
513.946.5300

50 employment laws in 50 states
KF3320.Z99 E56

The ABA consumer guide to employee rights : understanding and asserting your rights on the job
KF3455 .F744 2015

Advanced employment law [in Ohio].
KFO331.Z9 A37 2015

Basics of employment law.
KFO331 .B37 2016

Discipline and discharge in arbitration
KF3424 .D57 2015

Employee documentation, discipline & discharge
KFO334.N38 E481 2015

Employment discrimination law
KFO334.5.D5 E47 2014

Ohio employer's guide
KFO331 .O35

Ohio employment practices law
KFO331 .S571

Workplace harassment law

.KF3467 .L56 2012

Online Resources-Remote Access*

CCH IntelliConnect-Contains arbitration decisions, cases, federal and state laws and regulations, newsletters and titles such as:

Disabilities Management Guide
COBRA Handbook
EEOC Compliance Guide
Employment Law Answer Book
Employment Practices Guide
HR Compliance Library
Labor Law Journal
NLRB Case Handling Manual
OFCCP Compliance Manual
Payroll Management Guide
State by State Guide to Employment Law
Wages-Hours Library

Fastcase Loislaw Treatises

Employment Discrimination Law & Practice
Representing Plaintiffs in Title VII Actions
Americans With Disabilities Act Handbook
Sexual Harassment in the Workplace: Law and Practice
Civil Rights In the Workplace Employee Relations Law Journal
Employment Relationships: Law and Practice
Employee Dismissal Law & Practice
Covenants Not To Compete
Immigration Law In the Workplace

EBSCO

Your Rights in the Workplace

*Remote access is available to subscribers who are solos or firm attorneys whose entire firm has a subscription to the Law Library.

Upcoming Events:

August 10: CLE: Profiles in Courage: How Lawyers Can Be Inspired by Two Centuries of Leadership

August 18: You and the Legal System: Wage and Hour Issues

Law Library Holidays

The Law Library will be closed on Monday, September, 4 in observance of Labor Day.



August 2017 Law Library Newsletter

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ADDRESS CORRECTION REQUESTED

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1000 Main Street, Room 601
Cincinnati, OH 45202