

## Paying it Forward

By Audrey Priolo, Litigation Procedure Attorney

Picture this: You accept a client, you thoroughly litigate the case, prepare for trial, try the case and win. Your client is awarded \$1.6 million in compensatory damages and \$280,000 in punitive damages. Defendant files a motion for new trial and the court grants the motion for new trial regarding punitive damages, but not on the compensatory damages. Accordingly, your client has a judgment of \$1.6 million dollars and the potential for punitive damages. When can your client begin collecting the judgment after already waiting for so long? The Answer: Not Yet.

In *Newstart Real Estate Investment LLC v. Huang*, Plaintiff's counsel faced this very dilemma under California State Law. Plaintiff's counsel filed an appeal on the order granting a new trial on punitive damages. Plaintiff sought to enforce the judgment and obtained a writ of execution on the entire judgment, including punitive damages and began collection efforts. Defendant opposed the collection efforts and filed a motion to quash subpoenas and another motion to quash the writ of execution. The Court held there was no enforceable judgment. The court held that a judgment cannot be enforced when a new trial was granted to part of the judgment. The Court of Appeals further explained, "When a court grants a partial new trial, "the new trial order has the effect of vacating the entire judgment and holding in abeyance the portions which are not subject to a new trial until one final judgment can be entered." The Court explained that there was no final judgment because it was vacated by operation of law. Unfortunately, the court also hedged by indicating that "even if the compensatory damages award remained enforceable," plaintiff sought to also collect the punitive damages, "which unquestionably had been vacated."

This is only one of the tricky situations that can come into play when collecting judgments. A win at trial certainly does not mean the battle is over. Even after success at trial, it is necessary to look at the entire procedural history of a case and conduct proper research to ensure that collections may begin.

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