

Carter Ledyard Attorneys Vacate Confession of Judgment by Demonstrating Judgment Creditor's Fraud on the Court

December 05, 2018

On November 28, 2018, Carter Ledyard client Orion Mechanical, an HVAC business in upstate New York, successfully vacated a judgment by confession entered against it by Richmond Capital Group, a merchant cash advance funder, and the court directed Richmond Capital to pay restitution to Orion Mechanical. Orion Mechanical alleged that that Richmond Capital did not credit Orion Mechanical for payments made before the alleged default, falsely told Orion Mechanical that it would hold off on freezing Orion Mechanical's bank accounts and settle all disputes if Orion Mechanical paid various additional amounts, fraudulently induced Orion Mechanical to enter into a settlement agreement under duress, and improperly submitted a judgment execution to a New York City marshal, causing the marshal to freeze Orion Mechanical's bank accounts, prior to the judgment actually being entered.

In a sharply worded decision, the court wrote that "Plaintiff's [Richmond Capital] actions in making false statements to the Court were meant to undermine the truth-seeking function of the judicial system and essentially made the Court an unwilling participant in its fraud, which the Court will not allow under any circumstances. Defendants have proven by clear and convincing evidence that Plaintiff acted knowingly to try and hinder the Court's adjudication of the case and the Defendants' defense. Plaintiff repeatedly made false, sworn statements to the Court that resulted in the Court entering a Judgment for an inflated amount, extorted money from Defendants based on empty promises and heavily pressured Defendants to enter into a Settlement Agreement to prevent Defendants from shedding light on Plaintiff's deceitful acts. Therefore, based on the fraud committed on this Court by Plaintiff, the Judgment and Confession by Judgment are hereby vacated. Any lesser sanctions would not suffice to correct the offending behavior since Plaintiff's fraud was central to the substantive issues in the case and Plaintiff's lack of scruples in this case warrant this heavy sanction."

Orion Mechanical was represented by Carter Ledyard attorneys Jacob H. Nemon and Jeffrey S. Boxer.

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