



"The most effective way to do it is to do it."

- Amelia Earhart

The Last Mile

We are a civil litigation law firm. Most of the cases we handle arise from claims for bodily injury caused by negligence, but all of our cases involve some kind of a dispute – sometimes over a business relationship or transaction, a piece of property, or some other kind of tort, or private harm – that for one reason or another the parties are not able to resolve on their own. While the parties, if they are able to compromise, have almost infinite flexibility in the solutions they can come up with, in most cases the only tool the court has to solve the problem is to order one party to pay money to the other.

Well, imagine you have gone all the way through a lawsuit and come out the other side with such an order, called a money judgment. What do you do then?

As I frequently hear judges remind the courtroom at the beginning of a calendar call, the court doesn't have a pile of money from which to pay successful litigants. Instead, the winners of those judgments have to walk the last mile on their own and collect on those judgments. Here are some of the tools available.

1. Usually the first step in collecting on a judgment is to obtain what is called a **writ of fieri facias**, commonly called a fi-fa (FIE-FAY). This instrument, known as a writ of execution in some jurisdictions, is an order from the court allowing the debtor's property to be seized for satisfaction of your judgment.
2. Once you have that writ, you can file a copy of it in the land records of any county where you believe the debtor owns real estate. Although this step does not by itself collect any money for you, it creates a lien on any property the debtor owns in that county. Your lien will prevent the debtor from selling or refinancing the property without paying off your lien.
3. The fi-fa, whose full Latin name means "cause it to be done," also authorizes the sheriff to put the judgment into effect by taking the debtor's personal property and selling it at auction to pay the judgment.
4. The last common tool used to collect on a judgment is the garnishment. A garnishment is a separate legal action, technically brought not against the debtor but against somebody who owes the debtor money, requiring the entity holding the money to pay it to the creditor. Typically, they are filed against the debtor's employer (a continuing or "wage" garnishment) or bank (a "regular" garnishment).

WARNING: In a case out of Gwinnett County, a Federal court recently found Georgia's garnishment statute to be unconstitutional. While that ruling does not appear to apply to wage garnishments, and does not necessarily invalidate *all* regular garnishments, it is a good reason for caution. The state legislature is scrambling to fix the problem, but for the time being you should make sure to seek out competent legal advice before pursuing a garnishment.

That last mile can be a tough one. I know we get great satisfaction from turning our clients' judgments into actual money in hand. Good luck, and let us know if we can help.

Speaking Engagements

Topic: "Legal Risk Management: Business Entity Selection"

October 14 – 11 am – 6 p.m

Business Fundamentals Bootcamp
Kennesaw State University Center
Kennesaw, Georgia 30144

<http://bfbootcamp.com/2015ATL>

Upcoming Events

October 10 – 10 am - 9 p.m.

Marietta/Cobb Museum of Art
Chalktoberfest

30 Atlanta Street

Marietta, Georgia 30066

<http://mariettacobbartmuseum.org>

October 17 – 5 p.m. - 8 p.m.

Marietta Zombie Walk

Marietta Square

Marietta, Georgia 30066

<http://marietazombiewalk.org>

October 23 – 6 p.m. – 11 p.m.

October 24 – 4 p.m. – 11 p.m.

Owl-O-Ween

Hot Air Balloon Festival

KSU Sports + Entertainment Park

3200 George Busbee Pkwy NW

Kennesaw, GA 30144

<http://owl-o-ween.com/>

October 26 – 5 p.m. - 8 p.m.

Paper Mill Village Food Trucks

Paper Mill Village

137 Johnson Ferry Road

Marietta, Georgia 30068

<http://www.marietta.com>

What Keeps You Awake at Night?

Q: Can I sue a business if I was walking by and their window fell on me? My boyfriend was walking by a business and one of the business windows fell on him. Is it worth getting a lawyer and suing?

A: Whether or not it is “worth” suing depends on how seriously your boyfriend was hurt – including all his damages, such as medical expenses, lost wages, pain, permanent injury, disfigurement, lost future earnings, etc. – and whether or not the responsible party is willing to offer reasonable compensation without your having to file a lawsuit. If your boyfriend’s damages are significant, it is probably worth consulting a lawyer at least for help calculating your damages and evaluating any offer he might have received. It is very likely, though, that the responsible party will not willingly pay for a significant injury, and he will have to sue if he wants to recover for his damages.

Aside from the injury to your boyfriend – and I hope he was not seriously injured – I love this question because it perfectly echoes a 19th-century English case everybody studies in law school. In *Byrne v. Boadle* in 1863, the plaintiff was struck and seriously injured by a barrel that fell from the second-story window of a flour shop. The defendant successfully moved the trial court to dismiss the case because the plaintiff, who knew only that the barrel had fallen on him but not how or why, was unable to show that the defendant had done anything negligent.

On appeal, the dismissal was reversed, the appellate court adopting the now-famous doctrine of “res ipsa loquitur,” which means “the thing speaks for itself.” Under this doctrine, where an injury is caused by some mechanism under the control of the defendant and is an injury that does not ordinarily occur without negligence, the burden of proof, normally on the plaintiff to show that the defendant’s negligence caused the plaintiff’s injury, shifts to the defendant, who must show that the injury was not caused by the defendant’s negligence.

In your case, this doctrine – which was actually used in trials back in Roman times – might apply, or you might be able to prove negligence without the doctrine. Certainly, if your boyfriend’s injuries are significant, you ought to consult an injury attorney.

What’s New With Us?

We’re Growing

Many thanks to everybody who has referred clients to us in the past months. It is of course a huge compliment when you recommend us to help your friends and family with their legal problems, a compliment we work hard to deserve. Largely as a result of these referrals, we continue our course of growth – steady, and not all that slow. Accordingly, we are looking to bring on some new people – a new paralegal and an associate attorney.

While we would like to bring people on as soon as possible, we are willing to take our time to make sure we get top notch people. We only want to hire real superstars – people who will help us continue to deliver great results and a first-class experience for our clients.

So, if you know some outstanding people who are looking for the right place to work, please pass along the following job listings:

For our paralegal opening: <http://crossonlawgroup.com/Paralegal.pdf>

For our associate opening: <http://crossonlawgroup.com/Associate.pdf>

Come See Us

On October 14 we will be presenting a legal and risk management breakout session at the Business Fundamentals Bootcamp, sponsored by Supporting Strategies and hosted by The Edge Connection.



Our session will address some of the issues business owners need to consider in order to avoid litigation and to be in as strong a position as possible if they find themselves facing, or needing to pursue, a lawsuit.

The event runs 11:00 to 4:30, will have a lot of other great sessions, and is followed by a networking reception. We would love to see you there.

For more information and to register for this terrific educational opportunity for entrepreneurs, visit <http://bfbootcamp.com/2015ATL>.

Be My Guest – *Join me anytime at these recurring events. Email for details.*

- **BNI Network North**, Weekly, Thursdays, 7 am, *Best Western Kennesaw.*
- **Kiwanis Club of Marietta**, Weekly, Thursdays, 11:30 am, *Marietta Country Club.*
- **Kiwanis Club of Kennesaw**, Weekly, Wednesdays, 11 am, *Provino's on Barrett Pkwy.*
- **Northeast Cobb Business Association**, Monthly, 3rd Wed., 11:30 am, *Piedmont Church.*
- **Main Street Morning Buzz**, Monthly, Last Friday, 8:00 am, *Woodstock City Chambers.*
- **Cobb Young Professionals**, Monthly, Last Thursday, 5:30 pm, *Location varies.*



Remember us when you are driving, because just like I-285 we help people on the roads around Atlanta. If you or someone you know is injured in a car wreck, reach out to us for advice and your free consultation at www.crossonlawgroup.com, www.285lawyers.com, or 844-285-HELP(4357).