

# Civil judgments can be like getting blood out of turnips

**Peter H. Wolf** Guest columnist



A 2017 protest by white supremacists in Charlottesville, Va., in which a counterprotester was killed.

On Nov. 23, a Charlottesville, Va., jury returned verdicts totaling \$26 million against more than a dozen hate groups and white supremacist members. It found these defendants had conspired to intimidate, harass and commit acts of violence during the “Unite the Right” rally in August 2017. One of the defendants, neo-Nazi James Alex Fields Jr., plowed his car through a crowd of protesters, killing 32-year-old Heather Heyer and striking

four of the nine successful plaintiffs. Fields had been criminally convicted earlier and is in prison for life.

How do the plaintiffs collect \$26 million? Many people think you walk up to a pay window somewhere in the courthouse and collect your money. Not so!

Collection is time-consuming, arduous, expensive and technical. I know; I went through it in a case before I became a judge. After settling with the “deep-pocket” District of Columbia government for a lesser amount in lieu of appeal, I collected the entire verdict by pursuing the assets of the two police officers who had mercilessly shot my client. You can read details at [www.peterhwolf.blog](http://www.peterhwolf.blog), post No. 20.

Let me explain the basics of collection by slimming Charlottesville down to just three characteristic parties:

Injured plaintiff P sues white supremacist defendant D plus his employer, hate group H Inc. After pretrial discovery of evidence and then trial, the jury renders a verdict in favor of P “jointly and severally” against D and H for \$2 million “compensatory damages” — for P’s injuries; his past and future pain and suffering, expenses, loss of income and emotional distress; and permanent injury. H Inc. is responsible for the conduct of its employee in addition to its own actions. Let’s assume the jury also awards another \$1 million punitive damages for the defendants’ depraved and intentional conduct.

The \$3 million is called a judgment. Its “joint and several” nature means it can be collected from D, H or both in any proportion (it can’t be collected twice). It earns interest from the day of the verdict. In North Carolina the rate is 8.5% (it can vary by state and from year to year) — that’s a quarter million dollars a year!

## Civil judgments can be like getting blood out of turnips, continued

Every other state must give the judgment “full faith and credit,” meaning you can sue in another state simply to enforce the judgment; you don’t have to prove your case all over again.

After the verdict, P’s attorneys can summon D to appear before a judge for “oral examination” and compel D to answer questions about his assets and income; same for H through a corporate officer. D’s salary can be “garnished” (usually up to 25%). Any other property or source of income can be “attached” — bank accounts, investments, automobiles, etc. Liens can be filed against any real estate that defendants own; they last for a renewable decade or so. If the land is ever sold, the judgment must be paid first out of any proceeds. One can even seek a court order that land or other property be sold at public auction “on the courthouse steps.”

There can be complications, of course. If D owns property in joint tenancy with someone else, P’s lawyers can’t compel a sale. Government salaries or retirement sometimes can’t be garnished (except for child support and alimony).

An appeal can cause years of delay and typically kicks in a higher contingent fee pay rate for P’s lawyers (from a third up to a half or more, for example), expensively reducing P’s net. But an appeal by losing defendants can also be expensive for them: They must pay the court reporters to transform their machine notes to a necessary typed transcript (this can cost thousands of dollars) and timely certify it to the appellate court, or the appeal will be dismissed. Enforcement of the judgment can proceed unless they achieve a judicial stay of execution, usually requiring posting an expensive “supersedeas” bond. Interest continues to accrue.

Sometimes a defendant is “judgment-proof” — you can’t get blood out of that turnip. For Charlottesville, a significant objective will be to put the hate groups out of business — they can no longer raise funds without the money being seized to pay the judgments (including what would be used to pay P). Nor can defendants discharge in bankruptcy judgments for willful and malicious conduct.

Plaintiffs’ lawyers were supported by a civil rights group, so their payment under the typical contingent fee contract is not totally dependent on collection of the judgments. But

the collection capabilities described above give them the power financially to annihilate the vicious and detestable hate groups and send a message of accountability.

There are many similar damage suits in progress — against local governments and individuals for police shootings; against instigators of the Jan. 6 Capitol riot; against Alex Jones and his website “Infowars” for repeatedly, profitably and untruthfully claiming school shootings in Connecticut and Texas were hoaxes; against Kyle Rittenhouse and the Kenosha, Wis., police department.

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