

§1035. Actions by and against partnership and partners

1. Sue and be sued. A partnership may sue and be sued in the name of the partnership. [PL 2005, c. 543, Pt. A, §2 (NEW).]

2. Action against partnership and partners. An action may be brought against the partnership and, to the extent not inconsistent with section 1034, any or all of the partners in the same action or in separate actions. [PL 2005, c. 543, Pt. A, §2 (NEW).]

3. Judgment against partnership; partner. A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner. [PL 2005, c. 543, Pt. A, §2 (NEW).]

4. Execution against assets of partner. A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless the partner is personally liable for the claim under section 1034 and:

A. A judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part; [PL 2005, c. 543, Pt. A, §2 (NEW).]

B. The partnership is a debtor in bankruptcy; [PL 2005, c. 543, Pt. A, §2 (NEW).]

C. The partner has agreed that the creditor need not exhaust partnership assets; [PL 2005, c. 543, Pt. A, §2 (NEW).]

D. A court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome or that the grant of permission is an appropriate exercise of the court's equitable powers; or [PL 2005, c. 543, Pt. A, §2 (NEW).]

E. Liability is imposed on the partner by law or contract independent of the existence of the partnership. [PL 2005, c. 543, Pt. A, §2 (NEW).]
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5. Application to partnership liability or obligation. This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under section 1036.

[PL 2005, c. 543, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 543, §A2 (NEW).

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