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COA Opinion: A judgment lien survives the judgment debtor's sale of a property to a third party when the judgment debtor does not use the proceeds to pay the judgment creditor.

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Two judgment creditors properly filed a judgment lien against a debtor's real estate, but when the judgment debtor sold the property to a third party, the debtor did not use the proceeds from the sale to pay off the judgment. Wanting to get their money from the third party, who was on constructive notice of the lien, the judgment creditors then sought to foreclose on the property under § 2819 of the Michigan Judgment Lien Act (MJLA), MCL 600.2819, and also under MCL 600.6018. The trial court concluded that the third party had no obligation to make sure the creditors were paid out of the sale proceeds. The court then dismissed the judgment creditors' claims and discharged the judgment lien, but did not address MCL 600.6018.

In *Thomas v. Dutkavich*, No. 293229 (Oct. 28, 2010), the Michigan Court of Appeals, in an opinion by Chief Judge Murphy, concluded that the judgment creditors could not foreclose under the judgment-lien act for two reasons. First, § 2819 imposes a duty to pay the judgment on the judgment debtor, not on the real-estate purchaser who happens to do business with the debtor. Second, the judgment-lien act specifically provides that "no right to foreclose a judgment lien [is] created under this chapter." MCL 600.2819. Thus while the judgment lien remained attached to the property—it was error for the trial court to discharge it when the lien had not been paid off—the judgment creditors had no remedy under § 2819. Section 6018, however, provides that "lands conveyed in fraud of creditors" by a judgment debtor "are subject to execution, levy and sale." Accordingly, the Court affirmed in part, reversed in part, and remanded to the trial court for consideration of the latter statute.