



JUDGMENT EXECUTION EFFORTS

THINKING OUTSIDE OF THE BOX!

CLLA Eastern Region Convention
November 10, 2022, 11:15 am – 12:15 pm

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Today's Summary

In this seminar, we will provide anecdotal efforts made to execute on unusual property, such as royalties, fine art, and other assets beyond bank accounts and wage garnishments.

Disclaimer

This information is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case.

Every effort has been made to assure this information is up-to-date. It is not intended to be a full and exhaustive explanation of the law in any area, nor should it be used to replace the advice of your own legal counsel.

Any opinions expressed are the opinions of the speaker(s) and not this organization.

SEIZING REAL PROPERTY & VEHICLES



[https://upload.wikimedia.org/wikipedia/commons/thumb/b/bf/2005_Bentley_Continental_GT_-_Flickr_-_The_Car_Spy_\(28\).jpg/1280px-2005_Bentley_Continental_GT_-_Flickr_-_The_Car_Spy_\(28\).jpg](https://upload.wikimedia.org/wikipedia/commons/thumb/b/bf/2005_Bentley_Continental_GT_-_Flickr_-_The_Car_Spy_(28).jpg/1280px-2005_Bentley_Continental_GT_-_Flickr_-_The_Car_Spy_(28).jpg)

What NOT To Do!

- Seize an asset without confirming ownership (i.e. Seize a leased car)
- Seize an asset without confirming you have enough costs advanced to cover storage, etc.
- Seize an asset without checking PACER for bankruptcy
- Hire Disreputable Constables to Assist in Judgment Enforcement

Special Real Estate Attachment

- Obtain a Special Real Estate Attachment against real property in which judgment debtor has an interest but which is held in the name of a third party
 - Trusts
 - “Side Agreement” with Owner

Anecdote

The Contractor With Nothing In His Name



SEIZING VALUABLES



Types of Valuable Personal Property

- Artwork
- Antiques
- Classic motor vehicles
- Jewels
- Collectibles

Issues to Consider

- The Sheriff may not be the one to take possession and sell valuable personal property
- Possession issues and storage along with insurance can be an issue
- The sheriff or public official is not set up to take such works into their possession

Ownership Issues

- How do you determine who owns the artwork or valuable antique or collectible?
- Common word used in the industry is “Provenance”

Ownership Issues

- Bill of sale (easily forged)
- UCC liens can attach to art and antiques
- Storage location may be able to provide ownership information
- Certificate of authenticity can be as valuable to the items as the item itself

Is it a Forgery?

FORGERY

- Offered at an online auction
- Photocopies of the authenticity documents
- Unreadable signatures on bills of sale
- Unverifiable chain of ownership
- Names of all auction houses or galleries that have owned the art.

AUTHENTIC

- Offered at an exhibition or gallery
- Signed receipt from the artist
- Appraisal from a recognized authority or expert stating that the artwork is by the artist
- Newspapers or books recognizing the art.

Attaching the Art or Antique

Make

Make sure you know the owners are the judgment debtors

Obtain

Obtain documents regarding the ownership in deposition

Find out

Find out the storage location or dealer where the art, collectable or antique is stored

File

File a motion with the court to require the specific method of levy

What Motion to File?

- Check your local statutes.
- Notice to anyone who may claim ownership?
- File Ex-Parte?
- Enjoin the Sale
- Garnish the storage facility or dealer with the item is being stored.

Preliminary Order

- The court will bring all potential claimants before the court for a determination of ownership if in question.
- If ownership is clear through a clear uncontested bill of sale this step can be skipped

Subsequent Orders

- The order should specify exactly who will pick up the item, where it will be stored and how it will be sold.
- Once ownership is established or if it already known for sure, the court can order a levy with special instructions.

Issues with Sale

- Liability and insurance
- Possession, sale or appraisal
- Expenses of storage and insurance
- Voluntary or involuntary turnover with the help of the Sheriff
- Method, location and type of sale, public or private

Post Sale Issues

- Who retains funds
- How are funds disbursed
- Lien and claimant priority determinations
- This may require an additional hearing depending on the claimants.

NON-PARTY GARNISHEES

Examples...

- Adversary Attorneys
- Accountants
- Landlords
- Customers
- Spouses
- Auto Lenders
- Credit Card Companies
- Banks

Anecdote

The Braggadocious Company



SEIZING ROYALTIES

How Does Copyright Work?

- Master Royalties – **United Artists**
- Mechanical Royalties – **Bill Conti**



https://live.staticflickr.com/1613/24592940845_632ba1882e_z.jpg

What are Royalties?

- Venue, Business, Event,
- Restaurants, Gyms, Dance Recitals, Radio, TV, Podcasts
- Performing Rights organizations

ASCAP

American Society of Composers, Authors, and Publishers

- www.ascap.com/contact-us



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SESAC

The Society of European Stage Authors and Composers

<https://www.sesac.com/>



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SEIZING STOCK

Seizing Interest in Corp or LLC

- Seize Corporate Stock owned by individual judgment debtor
- Obtain a charging order against judgment debtor's interest in a Limited Liability Company

Questions?

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