

Judgment Enforcement Problems

Your client, Paul Plaintiff, has acquired a \$250,000 federal judgment against David Defendant for copyright infringement. David's lawyer has ignored all of your calls inquiring as to a timetable for payment of this judgment. You know nothing about David other than his home address and telephone number (which you found on the internet). What, if anything, can you do to enforce your judgment against David?

1. Can you ask the court to put him in jail for contempt for failing to fulfill the judgment?
2. What kinds of sources of value do you think David might have against which you could enforce your judgment? Can you ask David questions (preferably under oath) about the existence and location of any such sources of value? Can you ask other people (again, preferably under oath) if *they* know of any sources of value belonging to David?
 - 2a. If you are able to question David under oath about the location of his assets, and he fails to appear for the examination, can you compel his attendance?
3. If you discover that David owns the following valuable assets, what can you do to have them seized and their value applied to your client's judgment: (i) a 2009 Lexus, (ii) a bank account, (iii) a series of retirement accounts managed by various investment companies, (iv) a four-bedroom home in Highland Park, Lake County, IL, valued at \$750,000 and subject to a \$735,000 recorded mortgage, and (v) antique bedroom, dining room, and living room furniture likely to be worth at least \$25,000. In answering this question, consider whether (and how) any of these assets might be protected from creditors by law and what, if anything, David would have to do to take advantage of that protection. Consider also if it matters whether or not David is married, with or without children.
4. You have heard from lawyer friends that it is important for you to "put a lien on" David's property. Which of the enforcement actions you've mentioned above "puts a lien" on some or all of David's property, and what generally does that mean?
5. You take legal action to enforce Paul's judgment against David's bank account by taking the proper actions, and a representative of the bank "personally appears" in the supplementary proceeding on June 1. As of that date, the balance in David's account is \$5000. How much of this—at *most* and at *least*—will your client be able to seize? One month later, you discover, David deposited \$10,000 more into that same account. Can you seize any of this? Must you renew your enforcement efforts against this account to seize the \$10,000? May you do so? What if another \$20,000 is deposited on December 30?
 - 5a. Suppose, in the previous question, David makes a \$10,000 deposit on October 29, and the bank pays out that \$10,000 on several checks presented against David's account on November 1. Can you take any action to recover that money for Paul? Would it matter if bank argued that these payments were made in the "ordinary course of business" for both David and the bank?

6. You learn that Teresa Parks owes David \$20,000 for work that David performed for Teresa a few weeks ago. Can you do anything to compel Teresa to pay the \$20,000 directly to Paul rather than waiting until David receives the money? Can David invoke any legal protection for this money?

7. You learn that David has started working for a large corporate employer for a gross salary of \$240,000 per year (\$20,000 per month). You eventually discover that, after taxes and other required withholding, David's net take-home pay is \$14,000 per month. Can you do anything to compel the employer to turn over all or some portion of David's salary to Paul? If so, does the law protect any portion of this salary for David, and what, if anything, must David do to take advantage of this protection? How much, at *most*, can you collect from David's salary if you can collect anything?

7a. If David's employer ignores your enforcement efforts, what remedy do you have, if any, against the employer?

7b. Must you renew your enforcement efforts against David's wages or take any other action after a certain period of time to continue to seize future wages?

8. Can you add to the judgment any of the ongoing amounts you are expending in all of this enforcement activity? What about your attorney's fees?

9. Suppose the judgment debtor were not David, an individual, but David's business, a corporation called David, Inc. How, if at all, would your answers to the preceding questions change, particularly question 3 with respect to the protections provided to the debtor's assets?

10. If you represent David or David, Inc., and your client tells you that the burden of Paul's enforcement actions has become too much to bear (destroying David's family life, business, etc.), is there an inexpensive and effective form of relief available to David to put an end to Paul's collection efforts?

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