

EXAMINERS' ANALYSIS OF QUESTION NO. 2

1. Timelines for Judgment Collection:

Generally, collection efforts are only allowed to begin on a final judgment 21 days after entry. See Michigan Court Rule 2.614(A)(1) which states that "[e]xcept as provided in this rule, execution may not issue on a judgment and proceedings may not be taken for its enforcement until 21 days after a final judgment . . . is entered in the case." The statute of limitations for collection on a judgment is 10 years. MCL 600.5809(3). However, a judgment can be timely renewed, which would permit collection efforts to continue through the legal process beyond the initial limitations period. *Van Reken v Darden, Neef & Heitsch*, 259 Mich App 454, 458 (2003).

2. Rita's Wages:

Lauren may seek to garnish Rita's wages by requesting that the court issue a periodic writ of garnishment directing Rita's employer to repeatedly withhold a portion of Rita's wages from her paycheck (maximum 25% of disposable earnings for the workweek, 15 USC 1673(a)(1)). Those funds would be delivered to Lauren to be applied to the judgment balance. See MCL 600.4011; *Ward v DAIIE*, 115 Mich App 30, 35 (1982) and Michigan Court Rule 3.101 governing procedures for post judgment garnishments.

3. Rita's Joint Bank Account:

Lauren may seek from the court a non-periodic writ of garnishment of Rita's joint bank account with Henry, but is likely entitled to only one-half of the account balance. Holders of joint bank accounts are considered joint tenants with rights of survivorship, MCL 487.703, and unless otherwise established, there is a presumption that Rita and Henry are "equal contributors . . . [of deposits to the account] and, therefore, equal owners." *American National Bank & Trust Co of Michigan v Modderman*, 37 Mich App 639, 642 (1972). See also *Danielson v Lazoski*, 209 Mich App 623 (1995). Henry is not the judgment debtor in this instance. As such, and without any further evidence to the contrary, Lauren may most likely recover only from Rita one-half of the joint account balance.

4. Rita's Vehicle:

Lauren may seize Rita's vehicle by seeking from the court an order for seizure of property. If confiscated, the vehicle would be sold and the proceeds delivered to Lauren to be credited to the judgment balance. MCL 600.6001 provides that "[w]henever a judgment is rendered in any court, execution to collect the same may be issued to the sheriff, bailiff, or other proper officer of any county, district, court district or municipality of this state." See also MCL 600.6017 (3) which specifically allows execution to be "made against all personal property of the judgment debtor that is liable to execution at common law, including, but not limited to . . . [g]oods or chattles"

5. Rita's Transferred Funds to Mother's Account:

With respect to the \$4,000 that Rita transferred to her mother's account, Lauren could seek relief under the Uniform Voidable Transactions Act (the "act") alleging that the transfer is voidable as to her because it was made "[w]ith actual intent to hinder, delay, or defraud any creditor of the debtor." MCL 566.34(1)(a). Lauren, as the judgment creditor, would be required to prove by a preponderance of the evidence, that Rita's transfer was fraudulent under the act and therefore voidable as to Lauren. MCL 566.34(3). This should not be difficult to prove as Rita angrily announced in open court that she did not plan for Lauren to receive any money on the judgment. Also, the transfer was made to Rita's mother (who is an "insider" under the act), and occurred the day after entry of the judgment. MCL 566.34(2)(a) and (j). All of these factors strongly support a finding of Rita's actual intent to hide some of her assets from Lauren. Assuming Lauren is successful in her claim that the transfer is voidable, Lauren has several statutory remedies under the act (see MCL 566.37), including asking the court to "levy execution" on the \$4,000 that was transferred to Rita's mother's account. MCL 566.37(2).