

## **EXAMINERS' ANALYSIS OF QUESTION NO. 5**

As a judgment creditor, Solar has the legal right to garnish the monetary assets of, or payments due to judgment debtors. Michigan Court Rule (MCR) 3.101; MCL 600.4001 et seq. Although Solar has not attempted collection efforts for approximately seven years, the statute of limitations for collection on a judgment is 10 years. MCL 600.5809(3). Thus, there is presently no statute of limitations impediment on collection.

Solar may not garnish Tanya's social security benefits because they are exempt from garnishment by law. 42 USC 407(a). That exemption applies even after the funds are received by the judgment debtor and deposited into a bank account. *Whitwood, Inc v South Boulevard Property Management Co*, 265 Mich App 652, 654 (2005).

Pursuant to MCR 3.101(B) Solar may garnish the periodic rental payments owed to Larry from his commercial tenant by seeking from the court a periodic writ of garnishment directing the commercial tenant to withhold rental payments to Larry and pay the rent directly to Solar until the judgment is paid in full. Similarly, Solar may garnish Clarence's wages by requesting court issuance of a periodic writ of garnishment directing Clarence's employer to repeatedly withhold a portion of Clarence's wages from his pay check (maximum 25% of disposable earning for the workweek, 15 USC 1673(a)(1)). Those withheld wages would be forwarded to Solar. Solar may also seek from the court a non-periodic (one-time) garnishment of Clarence's bank account in an amount not exceeding the judgment balance. MCR 3.101.

Solar also has the option of seizing each of the debtor's vehicles, by seeking from the court an order for seizure of property. According to MCL 600.6001, "[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." Also MCL 600.6017(3) 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 . . . ." Confiscation of a vehicle would result in a sale of that property, the proceeds of which would be delivered to Solar and credited to the judgment balance. Solar

can also levy against Larry's commercial property under MCL 600.6018, and could place a judgment lien against the property under MCL 600.2803