

CONDUCTING ASSET SEARCHES IN MINNESOTA

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Before We Start, We Need to Learn the Rules of the Game

- ◉ Federal laws that govern the rules of skip tracing/asset searches
 - Graham-Leech-Bliley Act
 - Subtitle B: Fraudulent Access to Financial Information, codified at [15 U.S.C. §§ 6821–6827](#)
 - Fair Debt Collection Practices Act (FDCPA)
 - Check state laws and statutes before you begin

Learn the difference between 1st & 3rd parties.
Understand that you are responsible for the actions of the third parties you hire (private investigators, repo agents forensic specialists).

PART 1: TOOLS OF THE TRADE

DATABASES AND INVESTIGATIONS YOU CAN UNDERTAKE TO LOCATE ASSETS AND STREAMS OF INCOME

Free Databases

- ◉ Google.com , Dogpile.com, Bing.com, etc.
 - Learn to use the shortcuts
 - Whois.com to find the owners of a domain name
- ◉ Government records
 - County tax assessor, court records, etc.
 - SEC Filings (Edgar)
 - F.A.A. Registry (small planes)
 - UCC Filings (free at MN S.O.S. if searched by file number. \$5.00 by name)
 - Minnesota D.N.R. records
 - U.S. Department of Transportation S.A.F.E.R. System

Always be on the look out for new websites.

Proprietary Databases

- ◉ www.clear.com (Thomson Reuters)
- ◉ www.accurint.com (Lexis/Nexis)
- ◉ www.TLO.com (Trans Union)
- ◉ www.tracersinfo.com
- ◉ www.microbuilt.com


Make sure you understand price structure before you sign a contract.

Information from 3rd party databases make up about 40% of the information in our reports. Verify 3rd party information with direct source information whenever possible.

Don't rely on 3rd party data from the most current information. Always look at the freshness date for the data you are using. Some databases update weekly and other only update information once or twice a year.

Analyze the underlying data. Look at the address history, phone numbers and I.P. addresses. This is where some of the most useful data is.

Best sites to locate information




- ◉ **Facebook.com** might provide you with employment information, streams of income, pictures of assets, reports of purchases made (from liquor, jewelry, season tickets), information about lifestyle
- ◉ **LinkedIn.com** might provide you employment information
- ◉ **Twitter.com** might provide you with employment information, streams of income, information about their lifestyle
- ◉ **Thras.com** doesn't exist, but it might exist now or in six months. Stay on top of social networks because the information is free and you can obtain some great results by utilizing these sites.



Garbage

What can we find?
Correspondence from banks, brokerages and other financial institutions
Receipts from assets purchased
Pay stubs

Is it legal?
U.S. Supreme Court Case California v. Greenwood
MN Court of Appeals Case A13-1864



Surveillance and Field Visits

Surveillance on an individual can uncover employment, banking relationships and other assets.

Surveillance on an individual can also show that the subject isn't working and assets like his home, collector car or recreational vehicles have depreciated.

A field visit to a company can expose inventory, heavy equipment and other assets, the amount of business a company engages in, banking relationships.

I would only suggest surveillance as a last ditch effort if you have a subject who appears relatively solvent, but other avenues have failed.

PART TWO: SEIZING ASSETS

Minnesota Property Exemptions

550.37 Property Exemptions

- Subd. 1.Exemption.
- Subd. 2.Bible and musical instrument
- Subd. 3.Pew and burial lot.
- Subd. 4.Personal goods.
- Subd. 5.Farm machines.
- Subd. 6.Tools of trade.
- Subd. 7.Value limitations.
- Subd. 8.University apparatus.
- Subd. 9.Exempt property claims.
- Subd. 10.Insurance proceeds.
- Subd. 11.Beneficiary associations.
- Subd. 12.Manufactured home.
- Subd. 12a.Motor vehicles.
- Subd. 13.Earnings.
- Subd. 14.Public assistance
- Subd. 15.Minor child earnings.
- Subd. 17.Selection.
- Subd. 18.Natural persons limitation.
- Subd. 19.Waiver.
- Subd. 20.Traceable funds.
- Subd. 21.Value.
- Subd. 22.Rights of action.
- Subd. 23.Life insurance aggregate interest.
- Subd. 24.Employee benefits.
- Subd. 25.Proceeds for improvements to property.

Full explanations of these exemptions can be found at <https://www.revisor.mn.gov/statutes/cite/550.37>

Locating Employment

- **LinkedIn.com** is a great source to locate traditional employment
- **MicroBilt.com** offers pay per search employment searches
- **Equifax** has the following options
 - **Express Service** – Instantly look up client with only an SSN.
 - **Basic Service** – Run your entire case load with ease.
 - **The Work Number Alert** – Monitor your entire case load on a monthly or quarterly basis, you set the timeframe. Equifax offers:
- Google cell phone and email addresses
- Some professional licenses list the subject's current employer
- Look at Social networks to locate employment or changes in employment status

Traditional Employment is a Thing of the Past!

- Subcontract websites: www.elance.com, www.upwork.com & www.freelancer.com
- Craigslist.com is a great source for cash jobs.
- Websites that advertises services or products.
- Selling products on Ebay.com or Amazon.com
- Business entities registered at the Minnesota Secretary of State

Seizing a Motor Vehicle

Make sure you understand all the fees and deposits charged by the sheriff. It varies from county to county. Some sheriff departments charge a flat fee and other take a percentage of the sale.

550.37 PROPERTY EXEMPT

Subd. 12a. Motor vehicles. One motor vehicle to the extent of a value not exceeding \$4,600; or one motor vehicle to the extent of a value not exceeding \$46,000 that has been modified, at a cost of not less than \$3,450, to accommodate the physical disability making a disabled person eligible for a certificate authorized by section 169.345.



Seizing Recreational Vehicles

I was unable to locate any exemptions under MN 550.37.

People do not buy jet skis or ATVs to be nice to them.

Liens are sometimes filed with the DNR or as a UCC, but most of the time these vehicles are financed by note loans. Creditors would rather collect on the note loan than reposes the vehicle.

Use www.nadaguides.com to establish the value of the vehicle. I would suggest using the low retail when you evaluate the value of the vehicle.



Seizing Real Estate Points to Remember

- Conduct a certified O&E Search before foreclosing on a property.
- Conduct a field visit to determine the condition of the property
- Look at seizing rents instead of/in conjunction with foreclosing on rental property
- Review Statute 510.01

Locating Bank Accounts

- There is no magic search engine to locate banking information.
- Look at lien holders, employers and court records to uncover banking relationships
- Review credit bureaus
- Pull garbage. You won't find bank statements, but you may find disclosure statements.

Garnishing a Bank Account Continued

- Exemptions
 - Most government benefits, including Social Security, unemployment insurance, veterans' benefits and public assistance
 - A percentage of your earned wages, which varies by state
 - Alimony or child support payments, and other payments for the support of a dependent
 - Proceeds of the sale of property that is exempt from collection, such as a homestead exemption
 - Disability or unemployment benefits from your employer
 - Workers' compensation
 - Retirement benefits, such as pension or annuity payments (but not all)
 - Amounts received due to a wrongful death claim or from life insurance
 - Payments due to personal bodily injury, in an amount that varies by state
 - Proceeds of guaranteed student loans

Garnishing a Bank Account

- First, you need to serve a Garnishment Summons and Disclosure Form upon the financial institution along with its appropriate Notice, Instructions, and two copies of an Execution Form.
- The requirements for the Garnishment Summons are set forth in Minnesota Statute 571.14. This statute contains an example form you may copy if you wish. This statute is online [at this link](#).
- Minnesota Statute 571.75 contains an example form for the Disclosure Form you may copy if you wish. This statute is online [at this link](#).
- Minnesota Statute 571.912 contains example forms for the appropriate Notice, Instructions and Execution Form you may copy if you wish. This statute is online [at this link](#).
- **The Bank's Retention**
 - The bank must retain as much of the amount the debtor owes to you as the bank holds for the debtor, but not more than 110% of that debt.
- **Fair Debt Collection Warning**
 - The Fair Debt Collection Practices Act prohibits unethical tactical threat tactics in the past have been known to use in collect debts. As a creditor you should add the language, "This is an attempt to collect a debt. Any attempt to collect a debt using the Fair Debt Collection Practices Act may violate the Fair Debt Collection Practices Act under section 1692e(b)(1) of the Federal Fair Debt Collection Practices Act."
- **Notice to the Debtor**
 - You must also serve the debtor with a Notice to Debtor. The procedure for how to do this is found in section 571.913 of the Minnesota Statutes. This statute is online [at this link](#).
- The debtor has 14 days to notify the financial institution and the creditor (you) of any claim for exempt property. As you serve to the creditor if the financial institution does not file a claim for exemption within 14 days, the debtor's funds at the financial institution remain subject to collection. To collect those funds, execute by street levy using a Writ of Execution pursuant to Minnesota Statute chapter 570.



Retirement Accounts

- Many believe that creditors can't touch their retirement savings. But in many states—including Minnesota—that is frequently not true.
- If you have an ERISA-qualified 401(k) or pension plan, your savings are probably safe from creditors. In such plans, your money generally has complete protection under federal law from garnishment, attachment, and other creditor remedies, so long as your debt isn't for taxes or for deducting the plan itself. A qualified 401(k) is subject to federal "anti-alienation" requirements under ERISA law, which means that absent certain exceptions, the money in the 401(k) can't be touched or borrowed against by you and your creditors. (Note that "Solo 401(k)" plans probably don't get the same creditor protection—consult a professional.)
- In stark contrast, standard IRAs, pensions, and other non-ERISA plans are subject to state creditor law, and in Minnesota such plans have very limited protection. The statutory exemptions are found in Minn. Stat. § 560.37.
- **Subdivision 1. Exemption.** The property mentioned in this section is not liable to attachment, garnishment, or sale on any kind process issued from any court.
- **Subd. 24. Employee benefits.** (a) The debtor's right to receive present or future payments, or payments received by the debtor under a stock bonus, pension, profit sharing, annuity, individual retirement account, Roth IRA, individual retirement annuity, simplified employee pension, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent of the debtor's aggregate interest under all plans and contracts up to a present value of \$30,000 and additional amounts under all the plans and contracts to the extent reasonably necessary for the support of the debtor and any spouse or dependent of the debtor. (emphasis added)
- The \$30,000 exclusion amount is indexed, and the currently applicable number is \$69,000. So assuming you aren't thrown into bankruptcy, a creditor might get your whole IRA or pension minus just \$69,000. And don't expect to be saved by the caveat language, which protects "any additional amounts...to the extent reasonably necessary for the support of the debtor." That language has been narrowly construed against debtors. See *Heasley, on Behalf of Heasley v. Heasley*, 04-6-2347, 1997 WL 38023 (Minn. App. July 15, 1997).
- Many of the same professionals—doctors, lawyers, business owners, etc.—who are generally more likely to have substantial retirement savings are also at higher-than-average risk of being sued individually. The difference between an ERISA-protected retirement plan and a standard IRA or other non-protected plan could be the difference between preserving your retirement savings and losing them.

Closing Thoughts

- No when to stop! Putting too much time into a search wastes times & resources.
- Analyze the information you find along the way and let that lead you to the outcome.
- Look at other debts to see how successful creditors were when they tried to collect.
- Don't take everything your client states as fact.
