

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA

WOODLANDS BANK, Plaintiff,	:	No. CV 23-01,411
vs.	:	CIVIL ACTION – LAW
PINE RIDGE CONSTRUCTION MANAGEMENT, LLC, Defendant.	: : : :	

OPINION AND ORDER

AND NOW, this 27th day of June, 2025, upon consideration of Garnishee Lycoming College's petition to terminate garnishment and for a declaratory judgment ("Garnishee's Petition"),¹ Plaintiff's petition to enter judgment against Garnishee Lycoming College ("Plaintiff's Petition"),² the responses to the Petitions,³ and the briefs⁴ and arguments⁵ of the parties, it is hereby ORDERED and DIRECTED that both Petitions are GRANTED in part and DENIED in part, as explained below.

¹ "Petition of Lycoming College to Terminate Garnishment and for a Declaratory Judgment," filed June 27, 2024.

² "Petition of Plaintiff Woodlands Bank to Enter Judgment Against Garnishee Lycoming College," filed July 2, 2024.

³ The parties filed the following responses to the Petitions: (i) "Response of Plaintiff Woodlands Bank to Petition of Garnishee Lycoming College to Terminate Garnishment and for a Declaratory Judgment," filed July 19, 2024 ("Plaintiff's Response"); and (ii) Garnishee's "Response to Petition to Enter Judgment against Garnishee Lycoming College," filed July 26, 2024 ("Garnishee's Response").

⁴ The parties filed the following briefs: (i) "Supplemental Memorandum of Law in Support of Petition of Lycoming College to (Terminate) Garnishment and for a Declaratory Judgment," filed October 28, 2024 ("Plaintiff's Supplemental Brief"); (ii) "Garnishee Lycoming College's Post-Hearing Brief," filed January 29, 2025 ("Garnishee's Brief"); and (iii) "Post Hearing Brief of Plaintiff Woodlands Bank Related to the Hearing Held on October 30 and December 10, 2024, Concerning Garnishment of Money Owed by Garnishee Lycoming College to Defendant Pine Ridge Construction Management, LLC," filed February 27, 2025 ("Plaintiff's Brief").

⁵ The Court held a hearing and heard argument on the Petitions on October 30 and December 10, 2024. Scheduling Order dated July 5 and entered July 8, 2024; Scheduling Order dated July 9 and entered July 10, 2024; Continuance Order dated September 3 and entered September 4, 2024 (continuing hearing until October 30, 2024); Order dated and entered November 4, 2024 (providing that hearing and argument will re-convene on December 10, 2024). Attorney Cory S. Winter, Esq. represented the Plaintiff, and Attorney Michael Metz-Topodas, Esq. represented the Defendant.

I. BACKGROUND.

Plaintiff Woodlands Bank commenced this action on December 21, 2023 by complaint in confession of judgment (the "Complaint")⁶ and, separately, a confession of judgment (the "Confession of Judgment")⁷ against Defendant Pine Ridge Construction Management LLC in the amount of \$11,221,007.33, plus interest, late charges, attorneys' fees and costs. Plaintiff is a bank chartered in Pennsylvania with a principal address in Williamsport, Lycoming County, Pennsylvania.⁸ Defendant is a limited liability company in the business of construction management with a principal address in Williamsport, Lycoming County, Pennsylvania.⁹

The instant case arises out of a loan Plaintiff extended to Defendant on or about January 14, 2021 in a principal amount not to exceed \$3,000,000.00,¹⁰ which was subsequently amended, effective October 5, 2021, to a principal amount not to exceed \$10,000,000.00.¹¹ Plaintiff, thereafter, advanced loan funds to PRCM totaling \$9,811,125.73, which, together with accrued interest through December 20, 2023 in the amount of \$400,740.85, late charges through that same date in the amount of \$28,028.18, and attorneys' fees in the amount of ten percent (10%) of the outstanding principal, or \$981,112.57, for a total of \$11,221,007.33, is the amount Plaintiff now contends is owed to it by Defendant, as well as by its members, Jerry Lariviere and Craig S. Miller, *via* commercial guarantee agreements.¹² Plaintiff alleges that Defendant defaulted on the loan agreement by not making interest

⁶ Plaintiff's "Complaint in Confession of Judgment," filed December 21, 2023.

⁷ "Confession of Judgment" against Defendant in the amount of \$11,221,007.33, filed December 21, 2023.

⁸ Complaint, ¶ 1.

⁹ *Id.*, ¶ 2.

¹⁰ *Id.*, ¶ 5.

¹¹ *Id.*, ¶ 7.

¹² *Id.*, ¶¶ 8-12.

payments on the loan commencing on July 24, 2023.¹³ Thereafter, Plaintiff filed its Complaint and confessed judgment against Defendant and its members on December 21, 2023.¹⁴

Pursuant to its efforts to obtain payment on Defendant's outstanding obligations, the Bank filed a praecipe for writ of execution against Defendant and Garnishee Lycoming College in the amount of \$12,871,807.01, plus costs, on April 2, 2024.¹⁵ The Court issued a writ of execution on the same day, attaching money and other property of Defendant in the possession, custody or control of Garnishee in the amount of \$12,871,807.01, plus costs,¹⁶ which was served on Garnishee on April 5, 2024.¹⁷

Previous to issuance of the Writ of Execution, Garnishee, a non-profit post-secondary educational institution located in Williamsport, Lycoming County, Pennsylvania, undertook a project for construction of a collegiate baseball facility in Williamsport (the "Construction Project").¹⁸ In pursuance of the Construction Project, Garnishee entered into a construction management contract with Defendant for the contract sum of \$816,214.96 (the "Contract").¹⁹ In accordance with the Contract, Defendant entered into various subcontractor agreements with a number of vendors to provide Garnishee with labor and materials for the Construction Project.²⁰

¹³ *Id.*, ¶ 10.

¹⁴ Confession of Judgment. The judgments against Defendants members were also confessed in this Court. The judgment against Lariviere is docketed to CV 23-01,412, and the judgment against Miller is docketed to CV 23-01,413.

¹⁵ Plaintiff's "Praecipe for Writ of Execution—Money Judgment (Pa. R. Civ. P. 3251," filed April 2, 2024.

¹⁶ "Writ of Execution," issued April 2, 2024.

¹⁷ "Sheriff's Return of Service," filed April 8, 2024.

¹⁸ Garnishee's Petition, ¶¶ 1-2.

¹⁹ *Id.*, ¶ 3.

²⁰ *Id.*, ¶ 4.

Defendant was and is a conduit for payments from the Garnishee to the various subcontractors for work done on the Construction Project by the subcontractors.²¹

As of June 11, 2024, garnishee owes \$726,663.00 to Defendant, which includes \$662,871.00 Defendant is obligated to pay over to subcontractors and \$63,792.00 due to Defendant.²² As a result of the garnishment on Garnishee, no payments have been made by Garnishee to Defendant or Plaintiff since service of the Garnishment.²³ Garnishee desires the Court to terminate the garnishment in its entirety or to enter a declaratory judgment permitting Garnishee to terminate its contract with Defendant, at which point no further payments will be due from Garnishee to Defendant; and to permit Garnishee to pay the subcontractors directly, which will foreclose the possibility of subcontractors filing mechanics' liens against the Garnishee.²⁴

The parties submitted testimony, evidence, and arguments in support of their respective positions at hearings held on October 30 and December 10, 2024 and, thereafter, filed briefs.²⁵ Thus, the Petitions are now ripe for disposition.

II. LAW AND ANALYSIS.

A judgment is a judgment or order requiring payment of money.²⁶ A judgment creditor may execute against a judgment debtor's personal property within the time allowed by law.²⁷ "Garnishment is a remedy created to enable a judgment creditor to reach assets of [its] debtor held by a stranger and is the means by which a

²¹ *Id.*, ¶ 6.

²² *Id.*, ¶ 10.

²³ *Id.*, ¶ 11.

²⁴ *Id.*, ¶¶ 14-18.

²⁵ *See, supra*, nn. 4-5.

²⁶ Pa. R. Civ. P. 3101(a).

²⁷ Pa. R. Civ. P. 3101.1(b).

creditor collects his debt out of property of the debtor in the hands of a third party."²⁸ During the execution process, any person may be a garnishee and is deemed to have possession of property of the judgment debtor, *inter alia*, if the person "has property of the defendant in his or her custody, possession or control."²⁹ Service of a writ of garnishment on a garnishee attaches all of the judgment debtor's property in the garnishee's possession, as well as any after-acquired property that comes into the garnishee's possession.³⁰

In appropriate circumstances, the Court either is required³¹ or is permitted³² to stay execution as to all or any part of the attached property of the Defendant. "The grant of a stay of execution is within the sound discretion of the trial court and its decision will not be disturbed absent a clear abuse of that discretion."³³ Upon review of the record before the Court, it does not appear that either party is claiming that this is an instance in which execution "shall be stayed" or, indeed, that the facts available to the Court would suggest a stay is mandatory. Thus, this is a situation in which execution "may be stayed." The Court may enter such a stay upon a showing either (1) of "a defect in the writ, levy or service" or (2) of "any other legal or equitable ground therefor."³⁴ In such a situation, the Court should not stay execution unless the facts warrant such an exercise of judicial discretion, a determination which can be made only after the Court balances the rights of both the debtor and

²⁸ *Brown v. Candelora*, 708 A.2d 104, 107 (Pa. Super. 1998) (citations and quotation marks omitted).

²⁹ Pa. R. Civ. P. 3101(b)(2).

³⁰ Pa. R. Civ. P. 3111(b); *see also, e.g., In re Hantman*, 508 B.R. 339, 343 (Bkrtcy. E.D. Pa. 2014).

³¹ Pa. R. Civ. P. 3121(a) (setting forth instances in which execution "shall be stayed" as to all or part of the attached property).

³² Pa. R. Civ. P. 3121(b) (setting forth instances in which execution "may be stayed" as to all or part of the attached property).

³³ *Riverview Carpet & Flooring, Inc. v. Presbyterian SeniorCare*, 299 A.3d 937, 971 (Pa. Super. 2023) (quoting *In re Upset Sale, Tax Claim Bureau of Berks County*, 479 A.2d 940, 946 (Pa. 1984) (citations omitted)).

³⁴ *Id.*

the creditor.³⁵ Here, Garnishee does not present any legal ground for a stay, so the issue before the Court would appear to require a balancing of the equities among the parties competing for the funds Garnishee admittedly owes to Defendant.

A requirement to "balance the equities" among the parties competing for access to Defendant's property places the Court in an uncomfortable position. On the one hand, Plaintiff made a loan to the Defendant on which the Defendant defaulted, and Plaintiff exercised its rights against Defendant by obtaining a judgment for the amounts owed. On the other hand, the subcontractors actually supplied materials and performed work on Garnishee's Construction Project, for which work the subcontractors have not been paid but for which they have not exercised their available remedies either by filing a lien against Garnishee or by commencing an action in assumpsit against the Defendant.

The law does not appear to supply a definitive answer as to how the equities ought to be balanced. Nearly a century ago our Supreme Court, in *Aarons v. Public Service Building & Loan Ass'n*,³⁶ described a predecessor statute to Rule 3111 as follows:

The interpretation of the statute is well settled. "The service of an attachment execution has the effect of an equitable assignment of the thing attached. It puts the garnishee in the relation to the attaching creditor which he had sustained to his former creditor. He may make the same defense to the attachment by evidence of set-off or of other equities that he might have made if sued by his original creditor."³⁷

The law remains the same, as the Superior Court recently explained:

"[In a garnishment proceeding t]he judgment previously obtained by the judgment creditor works an equitable assignment of the debt owed to the judgment debtor to the extent necessary to satisfy the

³⁵ See, e.g., *City of Easton v. Marra*, 862 A.2d 170 (Pa. Commw. 2004); *Kronz v. Kronz*, 574 A.2d 91 (Pa. Super. 1990).

³⁶ *Aarons v. Public Service Building & Loan Ass'n*, 178 A. 141 (Pa. 1935) (quoting *Roig v. Tim*, 103 Pa. 115, 117 (1883)).

³⁷ *Aarons*, *supra*, 178 A. at 142 (emphasis added) (quoting *Roig*, *supra*, 103 Pa. at 117).

judgment[,] and[] the judgment creditor stands in the same position *vis a vis* the garnishee as would the judgment debtor....”³⁸

It is well-established that a judgment creditor’s right to a debtor’s property is superior to the right of a general creditor to that same property because “[t]he judgment represents a binding judicial determination of the rights and duties between the parties” and because “[j]udgment creditors have a protectable property interest as the judgment is a valuable form of property.”³⁹ Nevertheless, as between a judgment creditor and a garnishee, the previously-obtained judgment is merely an equitable assignment of the debtor’s property, which may not be a superior interest to any other equitable interest, such as a laborer’s or materialman’s lien⁴⁰ held by an unpaid subcontractor.

Plaintiff focuses on the Contract, and argues that because the Garnishee was obligated to pay the Defendant for labor performed and materials supplied by the subcontractors and was neither required nor permitted to pay the subcontractors directly, any payment that Garnishee made to the Defendant became the property of Defendant once funds were remitted and, therefore, was subject to garnishment in accordance with law, even though such funds were remitted based upon work completed by the subcontractors.⁴¹ Under the contract between Defendant and

³⁸ *Jacks Auto Parts Sales, Inc. v. MJ Auto Body and Repair, LLC*, 305 A.3d 162, 168 (Pa. Super. 2023) (emphasis added) (quoting *Wheatcroft v. Smith*, 362 A.2d 416, 419 (Pa. Super. 1976) (footnotes omitted)).

³⁹ *Morgan Guar. Trust Co. of New York v. Staats*, 631 A.2d 631 (Pa. Super. 1993) (internal citations and quotations omitted).

⁴⁰ At common law, laborers and materialmen who performed work on a construction project have a right to payment out of contract funds superior to the rights of general creditors. See, e.g., *Pearlman v. Reliance Ins. Co.*, 83 S. Ct. 232, 237 (1962); see also, e.g., *Himes v. Cameron County Construction Corp.*, 432 A.2d 1092 (Pa. Super. 1981), *aff’d*, 444 A.2d 98 (Pa. 1982) (holding surety, which issued payment bonds, could not be subrogated to rights of materialman against subcontractor unless and until surety paid materialman’s claims for materials sold to subcontractor; that is, under terms of contract, contractor did not receive proceeds until suppliers of material were paid, and as between unsecured subcontractor and unsecured creditor, subcontractor had priority).

⁴¹ Plaintiff’s Brief, at 9-13, 16.

Garnishee, progressive payments became due to Defendant based upon work completed by Defendant and the subcontractors. The funds specifically at issue here arise from payment applications nos. 6 and 7. All of the funds sought in those payment applications represent billings based on materials provided or work completed by subcontractors, and none of it is for work allegedly performed by the Defendant.⁴² Defendant has not submitted a payment application for the remaining work and retainage and, as such, payment for the same is not due from Garnishee.⁴³

Garnishee, in opposition, desires to secure payment for the subcontractors in order to avoid potential legal consequences to itself for non-payment, such as mechanics' liens or suits for breach of contract, and to protect its reputation and prior relationship with the subcontractors.⁴⁴ In support of its position, Garnishee relies heavily on our Supreme Court's decision in *Williard, Inc. v. Powertherm Corp.*⁴⁵ In *Williard*, the owner interpleaded funds payable for completion of a construction project and disclaimed any interest in the interpleaded funds. A judgment creditor and various subcontractors that had not been paid for labor and materials supplied to the project vied for access to the funds. The Court held that the judgment creditor's right to payment under the contract was not any greater than that retained by the general contractor who was to receive payment. In contrast, the owner maintained that it had an interest in ensuring payment of the subcontractors for similar reasons to those advanced by Garnishee here. Ultimately, the Court enforced the contract terms requiring payment of subcontractors before the general contractor was entitled to retain funds for itself.⁴⁶

⁴² Transcript of proceedings held October 30, 2024, at 27-38.

⁴³ Transcript of proceedings held December 10, 2024, at 29.

⁴⁴ Garnishee's Brief, at 9-10.

⁴⁵ *Williard, Inc. v. Powertherm Corp.*, 444 A.2d 93 (Pa. 1982).

⁴⁶ *Id.*

Plaintiff distinguishes *Williard*, on the basis that the funds at issue in *Williard* were contract retainage, and the general contractor had no right to payment of the retainage because it had not satisfied its contractual obligation to satisfy the owner that the subcontractors had been paid, whereas no such contractual provision exists here. More specifically, Plaintiff argues (i) that there is no allegation or proof that Garnishee retained the funds in question to ensure payment of subcontractors; (ii) that there is no allegation or proof that prior to service of the Plaintiff's writ of execution Defendant failed to pay subcontractors; (iii) that there is no allegation or proof that Defendant breached its Contract with Garnishee; and (iv) that Garnishee owes the funds at issue to the Defendant and not to the unpaid subcontractors.⁴⁷

Garnishee also directs the Court's attention to *Trevdan Bldg. Supply v. Toll Bros., Inc.*⁴⁸ In *Trevdan*, a drywall supplier brought suit against the project owner seeking payment for materials supplied to the project on the drywall contractor's behalf. The owner interpleaded funds to pay the supplier and disclaimed any interest in the funds on its own behalf. The Superior Court held that as an unpaid materialman, the drywall supplier had an equitable lien against contract funds that had been withheld by the owner; that the drywall contractor's failure to provide the owner proof of payment of its subcontractors amounted to a breach of contract, where the contract required the contractor to pay its subcontractors and to certify that payment had been made; and that the secured creditor that had a lien on the drywall contractor's receivables was not entitled to payment from funds payable to the subcontractors because its right to payment had not matured where the drywall

⁴⁷ Plaintiff's Brief, at 14-16.

⁴⁸ *Trevdan Bldg. Supply v. Toll Bros., Inc.*, 996 A.2d 520 (Pa. Super. 2010).

contractor had failed to satisfy its contractual obligation to ensure payment of its subcontractors.⁴⁹

Analogously, in *Aarons v. Public Service Building & Loan Ass'n*,⁵⁰ our Supreme Court confronted a situation where plaintiff entered judgment against the defendant and issued and served attachment execution on garnishee bank. The garnishee bank held the defendant's \$25,000 demand note, on which \$11,000 was owing. Defendant had a checking account at garnishee bank with a credit balance in the amount of \$4,966.55. Upon receipt of the garnishment, the garnishee bank exercised its right of set-off on the loan, which was then due, and applied the balance in the checking account toward the demand note, rather than remitting it to the plaintiff. In ruling for the garnishee, the Court noted that the garnishee bank, upon being served with the attachment, had the right to plead any available set-off. Since the note was due, the garnishee bank could properly assert its right of set-off to secure for itself the funds from the defendant's checking account rather than remitting them to the judgment creditor.⁵¹

Here, the Plaintiff attached funds of the Defendant in the possession of the Garnishee. As such, the Plaintiff, as judgment creditor, had no more right to the funds than did the Defendant under the contract. On the other hand, the unpaid subcontractors, payment to whom is overdue, had an immediate right to the funds by virtue of their common law laborer's or materialman's liens, as unpaid subcontractors. The laborer's/materialman's liens have a higher priority than Plaintiff's judgment lien, because Plaintiff's right to the funds at issue is no greater

⁴⁹ *Id.*

⁵⁰ *Aarons, supra*, 178 A. at 141.

⁵¹ *Id.*

than Defendant's right to the same funds. Therefore, Garnishee may exercise its right of set-off as to monies owed to unpaid subcontractors.

Accordingly, the Court will GRANT both Petitions in part and DENY both Petitions in part, as explained in this Opinion. The Court is aware of Defendant's attempts to avoid paying its obligation to the Plaintiff and understands Plaintiff's concern that any payment to the Defendant in trust for the subcontractors may not reach its ultimate destination. "In an order staying execution the court may impose such terms and conditions or limit the stay to such reasonable time as it may deem appropriate."⁵² As such, the Court will make allowances to ensure payment to the subcontractors and not to the Defendant.

III. CONCLUSION AND ORDER.

For reasons explained above, it is hereby ORDERED and DIRECTED as follows:

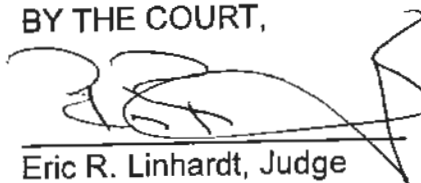
1. The Petition of Lycoming College to Terminate Garnishment and for a Declaratory Judgment is GRANTED in part and DENIED in part, as explained in this Opinion and Order;
2. The Petition of Plaintiff Woodlands Bank to Enter Judgment Against Garnishee Lycoming College is GRANTED in part and DENIED in part, as explained in this Opinion and Order;
3. Garnishee Lycoming College may make any payment due and owing to a subcontractor pursuant to Payment Applications nos. 6 and 7 directly to the subcontractor in question and shall not make any payments due and owing under the Contract between the Garnishee and Defendant directly to Defendant;
4. Garnishee Lycoming College shall not make any payments due and owing to the Defendant under the Contract between the Garnishee and Defendant for work done by the Defendant or otherwise due to the Defendant on its own behalf and not for the benefit of a subcontractor to the Garnishee, but shall make such payments to the Plaintiff;

⁵² Pa. R. Civ. P. 3121(c).

5. Garnishee Lycoming College shall provide a detailed accounting to Plaintiff of all payments made to any person or entity pursuant to this Order;
6. Garnishee Lycoming College shall not make any payments to the Defendant without further order of court
7. Except as expressly set forth in this Opinion and Order, Garnishee's Petition is DENIED; and
8. Except as expressly set forth in this Opinion and Order, Plaintiff's Petition is GRANTED.

IT IS SO ORDERED.

BY THE COURT,



Eric R. Linhardt, Judge

ERL/bel

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