

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 30th day of June, 2025, upon consideration of Plaintiff's petition for supplementary relief in aid of execution against Defendant and non-party garnishee BRIX Design Group, LLC and for sanctions against Garnishee (the "Petition"),¹ Garnishee's response to the Petition (the "Response"),² and the arguments³ of the parties, it is hereby ORDERED and DIRECTED that the Petition is GRANTED, as explained below.

I. BACKGROUND.

Plaintiff Woodlands Bank commenced this action on December 21, 2023 by complaint in confession of judgment (the "Complaint")⁴ and, separately, a confession of judgment (the "Confession of Judgment")⁵ against Defendant Pine Ridge Construction Management LLC in the amount of \$11,221,007.33, plus interest, late

¹ "Petition of Plaintiff Woodlands Bank for Supplementary Relief in Aid of Execution Against Pine Ridge Construction Management, LLC, and BRIX Design Group, LLC, Under Rule 3118 and for Sanctions Against BRIX Design Group, LLC, Under Rule 3111," filed October 28, 2024.

² "Non-Party Respondent BRIX Design Group, LLC's Response in Opposition to Plaintiff's Petition for Supplementary Relief in Aid of Execution Against Pine Ridge Construction Management, LLC and BRIX Design Group, LLC Under Rule 3118 and for Sanctions Against BRIX Design Group, LLC, Under Rule 3111," filed December 3, 2024.

³ The Court held a hearing and heard argument on the Petition on February 5, 2025. Scheduling Order dated and entered November 20, 2024. Attorney David A. Fitzsimons, Esq. represented the Plaintiff, and Attorney Michael P. Donohue, Esq. represented the Garnishee.

⁴ Plaintiff's "Complaint in Confession of Judgment," filed December 21, 2023.

⁵ "Confession of Judgment" against Defendant in the amount of \$11,221,007.33, filed December 21, 2023.

charges, attorneys' fees and costs. Plaintiff is a bank chartered in Pennsylvania with a principal address in Williamsport, Lycoming County, Pennsylvania.⁶ Defendant is a limited liability company in the business of construction management with a principal address in Williamsport, Lycoming County, Pennsylvania.⁷

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 \$3,000,000.00,⁸ which was subsequently amended, effective October 5, 2021, to a principal amount not to exceed \$10,000,000.00.⁹ 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. This 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.¹⁰ Plaintiff alleges that Defendant defaulted on the loan agreement by not making interest payments on the loan commencing on July 24, 2023.¹¹ Thereafter, Plaintiff filed its Complaint and confessed judgment against Defendant and its members on December 21, 2023.¹²

In furtherance of its attempts to collect the amounts owed to it, Plaintiff filed a writ of execution against Defendant and BRIX, as garnishee, in the amount of

⁶ Complaint, ¶ 1.

⁷ *Id.*, ¶ 2.

⁸ *Id.*, ¶ 5.

⁹ *Id.*, ¶ 7.

¹⁰ *Id.*, ¶¶ 8-12.

¹¹ *Id.*, ¶ 10.

¹² 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.

\$12,871.01, plus costs. The Court issued a Writ of Execution on the same day, attaching all money and property of Defendant in the possession, custody or control of BRIX.¹³ Subsequently, on October 4, 2024, Rick D. Mahonski, sole member of River Valley Plaza, LLC ("RVP"), placed an unsolicited call to Plaintiff and informed Plaintiff that an agent of Defendant or Garnishee contacted him and instructed him to send approximately \$40,000 due to Defendant pursuant to a construction contract between RVP and Defendant to Garnishee instead of to Defendant. Mahonski and Fulton Bank, RVP's lender for the project, refused to submit the funds to Garnishee, and the payment has not been made yet to any party.¹⁴

On October 28, 2024, Plaintiff filed its Petition,¹⁵ arguing it reasonably believes that Defendant and Garnishee arranged to have RVP and, possibly, other customers of Defendant remit payments due to Defendant to Garnishee in order to evade paying toward Plaintiff's judgment.¹⁶ Further, Plaintiff alleges that at least some of the members of Defendant are members of Garnishee and that Defendant has ceased operating.¹⁷ Plaintiff believes Defendant has transferred at least some of its contracts to Garnishee and that Garnishee operates from a location owned or controlled by an entity affiliated both with Defendant and with Garnishee.¹⁸ As such, Plaintiff contends that Defendant and Garnishee have conspired to divert assets subject to a lawfully issued writ of execution from Defendant to Garnishee.¹⁹

¹³ Plaintiff's "Praecipe for Writ of Execution—Money Judgment (Pa. R. Civ. P. 3251)" against Defendant and against Garnishee, as garnishee, filed April 8, 2024; Writ of Execution issued April 8, 2024 against Garnishee, as garnishee.

¹⁴ Petition, ¶¶ 8-19.

¹⁵ See, *supra*, n.1.

¹⁶ Petition, ¶¶ 20-21.

¹⁷ *Id.*, ¶¶ 22-24.

¹⁸ *Id.*, ¶¶ 25-26.

¹⁹ *Id.*, ¶¶ 27-30.

Plaintiff argues that supplementary relief in aid of execution is warranted and asks the Court, *inter alia*, to enjoin transfer of assets among Defendant and related entities, directing Defendant and Garnishee to disclose assets and preserve collateral subject to levy, directing assets subject to levy to be delivered to the Sheriff and granting such other relief as is necessary or appropriate.²⁰ Plaintiff also suggests that Garnishee's conduct should be punished as contempt under Rule 3111, Pennsylvania Rules of Civil Procedure.²¹

The parties submitted testimony, evidence, arguments in support of their respective positions at a hearing held on February 5, 2025.²² Thus, the Petition is now ripe for disposition.

II. LAW AND ANALYSIS.

A judgment is a judgment or order requiring payment of money.²³ A judgment creditor may execute against a judgment debtor's personal property within the time allowed by law.²⁴ "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 creditor collects his debt out of property of the debtor in the hands of a third party."²⁵ 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."²⁶ Service of a writ of garnishment on a garnishee attaches all of the judgment debtor's property

²⁰ *Id.*, ¶¶ 31-33.

²¹ *Id.*, ¶¶ 35-48.

²² *See, supra*, n.3.

²³ Pa. R. Civ. P. 3101(a).

²⁴ Pa. R. Civ. P. 3101.1(b).

²⁵ *Brown v. Candelora*, 708 A.2d 104, 107 (Pa. Super. 1998) (citations and quotation marks omitted).

²⁶ Pa. R. Civ. P. 3101(b)(2).

in the garnishee's possession, as well as any after-acquired property that comes into the garnishee's possession.²⁷

A. Supplementary relief in aid of execution.

Rule 3118(a), Pennsylvania Rules of Civil Procedure permits the Court to grant supplementary relief in aid of execution, as follows:

(a) On petition of the plaintiff, after notice and hearing, the court in which a judgment has been entered may, before or after the issuance of a writ of execution, enter an order against any party or person

(1) enjoining the negotiation, transfer, assignment or other disposition of any security, document of title, pawn ticket, instrument, mortgage, or document representing any property interest of the defendant subject to execution;

(2) enjoining the transfer, removal, conveyance, assignment or other disposition of property of the defendant subject to execution;

(3) directing the defendant or any other party or person to take such action as the court may direct to preserve collateral security for property of the defendant levied upon or attached, or any security interest levied upon or attached;

(4) directing the disclosure to the sheriff of the whereabouts of property of the defendant;

(5) directing that property of the defendant which has been removed from the county or concealed for the purpose of avoiding execution shall be delivered to the sheriff or made available for execution; and

(6) granting such other relief as may be deemed necessary and appropriate.²⁸

²⁷ Pa. R. Civ. P. 3111(b); see also, e.g., *In re Hantman*, 508 B.R. 339, 343 (Bkrtcy. E.D. Pa. 2014).

²⁸ Pa. R. Civ. P. 3118(a).

" 'Rule 3118 authorizes summary proceedings in aid of execution for the purpose of maintaining the status quo of the judgment debtor's property and may be used only for that purpose.' "29 The Superior Court commented as follows:

As the comment to Rule 3118 indicates, the value of proceedings in aid of execution is that they provide a speedy means for the judgment creditor to obtain satisfaction of his judgment without resort to "full dress equity proceedings." It is the streamlined nature of a Rule 3118 proceeding, however, which militates against its use for any purpose other than to maintain the status quo with respect to the debtor's assets.³⁰

As such, proceedings under Rule 3118 may not be used for any purpose beyond preserving the *status quo*, such as to question the validity of the underlying judgment or to bring property into the Pennsylvania when there was no evidence it was ever removed from the state in the first instance.³¹ A court's order granting or denying supplemental relief will be reversed only if the court abused its discretion.³²

B. The February 5, 2025 hearing.

At the hearing, Rick Mahonski testified that he is the principal of RVP; that work was being done for RVP by Defendant and Garnishee, with Defendant doing construction work and Garnishee doing design and construction management work; that the final invoice in the amount of about \$36,000 was due and owing; that he was told to make payment to Garnishee, even though the amount was due to Defendant; that his lender would not approve the payment it believed potentially was fraudulent; that he contacted Plaintiff because he believed the money was due to Defendant

²⁹ *Kaplan v. I. Kaplan, Inc.*, 619 A.2d 322, 325 (Pa. Super. 1993) (quoting *Greater Valley Terminal Corporation v. Goodman*, 202 A.2d 89, 94 (Pa. 1964)).

³⁰ *Chadwin v. Krouse*, 386 A.2d 33, 37 (Pa. Super. 1978) (footnote omitted).

³¹ *Kaplan, supra*, 619 A.2d at 325-26.

³² *Id.*

and not to Garnishee; and that he has not made the payment to date because he does not know whom to pay.³³

John J. Engel, Jr., Plaintiff's commercial lending manager, testified that he contacted Mr. Mahonski regarding the outstanding payment and that he spoke with Mr. Mahonski's lender; that he believed the payment was due to Defendant; that he was not aware of any outstanding invoices to Garnishee; and that payments due to Defendant should not be made to another party.³⁴

Gerald Lariviere, a principal of Defendant and managing member of Garnishee, testified that Garnishee began work on the RVP project as design architect and finished as construction manager; that Defendant was the original construction manager for the RVP project; that it performed services but was not paid for all of them; that an employee of Defendant oversaw work on the RVP project for Garnishee; that Defendant stopped all work in 2024; that Garnishee was entitled to about \$15,000 for design work and about \$35,000 for construction management on the RVP project; that when Defendant ceased operation, construction management would be provided by Garnishee because it had an existing contract for the project and the necessary expertise; that a change order was prepared transferring responsibility for construction management to Garnishee; that RVP never executed the change order.³⁵

Brion Green testified that he is employed by Broad Street Management Company, a shared administrative service provider for construction and architectural companies; that Broad Street provides such services for Garnishee; that Jerry Lariviere is the managing member of Broad Street; the he previously worked for the

³³ Transcript of testimony taken February 5, 2025 (the "Transcript"), at 5-21.

³⁴ *Id.*, at 21-26.

³⁵ *Id.*, at 31-61.

Defendant in a number of roles; that Garnishee completed Defendant's work on the RVP project after Defendant had been shut down and was unable to do so; that he contacted Mr. Mahonski for Garnishee concerning open change orders and funds owed on the RVP project; that he contacted Mr. Mahonski and others working on his behalf after completion of the services provided to the RVP project; that he never told Mr. Mahonski to pay funds due to Defendant to Garnishee; that the outstanding funds were due to Garnishee.³⁶

C. The dispute between the parties.

Plaintiff argues that it filed for garnishment on April 8, 2024; that, at best for Garnishee, the testimony demonstrates that Garnishee completed work originally contracted to Defendant; that there is a commonality of directorship throughout the involved entities; that the primary purpose of Plaintiff's Petition is to preserve the *status quo*; that there is an outstanding payment due to Defendant for which there is not an executed change order; that the Garnishee should not be working with the Defendant to change the *status quo*; that Plaintiff is entitled to an accounting and discovery; and that sanctions may be appropriate based on the facts that emerge through discovery.³⁷

In response, Garnishee argues that Rule 3118 allows only relief limited to preserving the *status quo*; that it may not be used to determine or adjudicate ownership claims; that competing claims of ownership exist here; that Plaintiff is not entitled to use Rule 3118 for purposes of investigation; that Plaintiff is required to demonstrate existence of assets subject to execution; that the testimony demonstrates the outstanding invoice is due to Garnishee and not to Defendant; and

³⁶ *Id.*, at 61-74.

³⁷ *Id.*, at 75-77.

that Plaintiff's Petition should be dismissed because Plaintiff has not established the prerequisites necessary to invoke Rule 3118 and has not demonstrated that Garnishee has property in its possession subject to execution.³⁸

The prerequisites a creditor must demonstrate to obtain supplemental relief are (1) existence of an underlying judgment and (2) property of the debtor that is subject to execution.³⁹ The Court finds that Plaintiff has satisfied these prerequisites here. There is no dispute that Plaintiff has an underlying judgment against Defendant and a judgment against Garnishee as garnishee.⁴⁰ Further, as explained below, the Court finds that Plaintiff has demonstrated existence of property of Defendant subject to execution.

D. Findings and conclusions.

Based on the testimony and evidence presented at the hearing on the Petition, the Court makes the following findings of fact:

1. RVP had a contract with Defendant for construction management services related to RVP's construction project.
2. RVP had a contract with Garnishee for design services related to RVP's construction project.
3. The construction management services for RVP's project have been completed and an outstanding balance of approximately \$36,000 is due and owing for those services.
4. The persons who completed the construction management services for RVP's project are current or former employees of Defendant or of entities owned or controlled by the persons who own or control Defendant.
5. Garnishee is owned or controlled entirely or in part by the same persons who own or control the Defendant.

³⁸ *Id.*, at 77-80.

³⁹ *Marshall Ruby and Sons v. Delta Min. Co.*, 702 A.2d 860, 862 (Pa. Super. 1997) (citing *Kaplan*, *supra*, 619 A.2d at 326).

⁴⁰ *See, supra*, nn. 5, 12-13.

6. Defendant or Garnishee prepared a change order to RVP's contract with Garnishee purporting to amend the contract to transfer the responsibility for performing the construction management services from Defendant to Garnishee.
7. The change order was not presented to RVP until after the construction management services were completed, and it was never signed by RVP.
8. The outstanding balance due and owing from RVP in the amount of approximately \$36,000 for construction management services for RVP's construction project is due and payable to the Defendant and not to the Garnishee.
9. The outstanding balance due and owing from RVP in the amount of approximately \$36,000 for construction management services for RVP's construction project is the property of the Defendant and is not the property of the Garnishee.

The testimony and evidence presented at the hearing has convinced the Court that Defendant is engaging in an effort to shield assets from execution and, thereby, is attempting to avoid accountability for its debt to the Plaintiff. The Court will not countenance such behavior and will enter an appropriate Order granting Plaintiff supplemental relief in aid of execution pursuant to Rule 3118.

E. Contempt.

With respect to Plaintiff's request for a finding of contempt pursuant to Rule 3111(e), Pennsylvania Rules of Civil Procedure,⁴¹ Plaintiff acknowledged at argument that this is a matter within the Court's discretion.⁴² The Court will deny the request for a finding of contempt at this time.

"It is axiomatic that courts have always possessed the inherent power to enforce their orders and decrees by imposing sanctions for failure to comply with said orders."⁴³ Contempt of court may be civil or criminal. The contempt is civil if

⁴¹ Pa. R. Civ. P. 3111(e) ("Violation of the mandate and injunctive orders of the writ may be punished as a contempt").

⁴² Transcript, at 76-77.

⁴³ *Rouse Philadelphia Inc. v. Ad Hoc '78*, 417 A.2d 1248, 1257 (Pa. Super. 1979) (citations omitted).

the dominant purpose of the contempt proceeding is to punish the offender for past misconduct, and it is civil if the dominant purpose is to coerce compliance.⁴⁴ Should the Court chose to make a finding of contempt here, the principle purpose most likely would be to achieve compliance with court directives.

The objective of civil contempt is remedial—*i.e.*, to obtain compliance with the Court's order. The court may impose sanctions to coerce compliance with the court's order. In some instances, however, the court may also impose sanctions to compensate the complainant for losses sustained as a result of the non-compliance.⁴⁵

Here, the Garnishee's contumacious conduct involves failure to comply with a writ issued by the Prothonotary upon praecipe of the Plaintiff rather than failure to comply with an order issued at the behest of the Court, itself. As such, the Court will not make a finding of contempt at this time but may revisit the issue after the discovery directed in the Order filed with this Opinion. Should the Garnishee or the Defendant materially fail to comply with the Court's Order, the Court will not hesitate to impose an appropriate sanction. Similarly, should facts emerge suggesting that the disobedient conduct extends significantly beyond the RVP project, the Court reserves the right to revisit the issue of contempt. Finally, should the Garnishee or the Defendant fail to cooperate with discovery and, thereby, cause further loss to the Plaintiff, the Court may enter an award to impose the remedial punishment of a fine payable to the Plaintiff as compensation for the special damages it may have sustained by virtue of the in compliant conduct.⁴⁶

⁴⁴ *Schnabel Associates, Inc. v. Building and Const. Trades Council of Philadelphia and Vicinity, AFL-CIO*, 487 A.2d 1327, 1332 (Pa. Super. 1985) (quoting *Rouse Philadelphia, supra*, 417 A.2d at 1258).

⁴⁵ *C.R. by Dunn v. Travelers*, 626 A.2d 588, 592 (Pa. Super. 1993) (citations omitted).

⁴⁶ "The imposition of counsel fees can serve as a sanction upon a finding of civil contempt. '[T]he court may, in a proceeding for civil contempt, impose the remedial punishment of a fine payable to an

III. CONCLUSION AND ORDER.

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

1. The approximately \$36,000 owed by River Valley Plaza, LLC for construction management services at its construction project is owed to the Defendant and not to the Garnishee. RVP shall make this payment directly to the Plaintiff and shall provide a voucher to the Defendant indicating that payment was made. Garnishee shall make no further efforts to collect these funds, as they are not owing to the Garnishee.
2. Supplementary relief in aid of execution under Pa. R. Civ. P. 3118 is awarded as follows:
 - a. Garnishee BRIX Development Group, LLC ("BRIX"), is HEREBY ENJOINED from receiving any money or any other consideration paid by or on behalf of any person or entity in lieu of paying Defendant Pine Ridge Construction Management, LLC ("PRCM");
 - b. Defendant PRCM is HEREBY ENJOINED from instructing, requesting, suggesting or otherwise communicating with any person or entity that they should pay money or any other consideration to BRIX—or any other person or entity—in lieu of PRCM;
 - c. PRCM is further enjoined from transferring any property to BRIX or any other person or entity for purposes of carrying out any business or activity relating or regarding any business or activity once undertaken by PRCM;
 - d. BRIX is further enjoined from receiving any property from PRCM;
 - e. Within 10 days of this Order, PRCM shall provide to the Bank a full accounting of all expenditures, transfers, or withdrawals of money since December 21, 2023 (the date judgment was entered against PRCM), including, for each expenditure, transfer, or withdrawal: (i) the date; (ii) the amount; (iii) the identity of the person or entity to whom the money was paid, transferred, or withdrawn; (iv) the purpose

aggrieved [complainant] as compensation for the special damages he may have sustained by reason of the contumacious behavior of the offender." *Sutch v. Roxborough Memorial Hosp.*, 142 A.3d 38, 68 (Pa. Super. 2016) (citations omitted) (quoting *Stahl v. Redcay*, 897 A.2d 478, 487 (Pa. Super. 2006), *alloc. denied*, 918 A.2d 747 (Pa. 2007) (citations omitted)) (citing *Rhoades v. Pryce*, 874 A.2d 148, 153 (Pa. Super. 2005) (en banc), *alloc. denied*, 899 A.2d 1124 (Pa. 2006)).

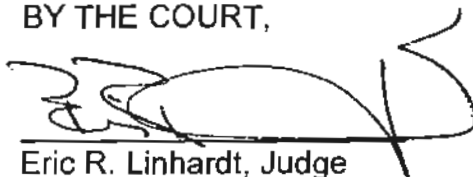
of the expenditure, transfer, or withdrawal, including the identity of any agreement, invoice, purchase order, or any other document related to the expenditure, transfer, or withdrawal; and (v) the identity of all individuals who authorized the expenditure, transfer or withdrawal;

- f. Within 10 days of this Order, BRIX shall provide to the Bank a full accounting of all money received from any source since April 8, 2024 (the date when BRIX was served as garnishee with a Writ of Execution), including, for each instance when money was received: (i) the date; (ii) the amount; (iii) the identity of the person or entity that paid the money to BRIX; (iv) the purpose of the money being paid to BRIX, including the identity of any agreement, invoice, purchase order, or any other document related to the money being paid to BRIX; and (v) the identity of all individuals who accepted the money on behalf of BRIX; and
- g. BRIX is enjoined from disbursing or transferring any funds received as a result of "intercompany transfers" between PRCM and BRIX; including proceeds of any project formerly of PRCM and subsequently conducted as or identified as a project of BRIX.

- 3. The Court finds BRIX's conduct in violation of the "mandate and injunctive orders" of the writ of execution that the Bank served on BRIX via sheriff. However, Plaintiff's request for a finding of contempt pursuant to Pa. R. Civ. P. 3111(e) is DENIED, without prejudice, pending discovery pursuant to this Order. Plaintiff may renew its request for a finding of contempt after discovery, if appropriate.

IT IS SO ORDERED.

BY THE COURT,



Eric R. Linhardt, Judge

ERL/bel

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