

5 tips when searching for assets

You won your case, now learn how to collect

By Philip Segal

Civil litigation isn't about winning, it's about getting paid. Only in first-year law school does Peter sue Dave, get a money judgment and then proclaim: "We beat Dave!"

Peter doesn't win a thing unless he can collect from Dave. What if Dave says he's broke, or simply defaults and goes into hiding? Enter the fact-finder who looks for assets.

The key things to remember when searching for assets are:

1. **You want to look not just for assets, but for things that will lead you to assets.** Don't just look for Dave's house or car—dig deeper. You want litigation, side companies and security agreements in addition to real and personal property registration. Maybe Dave was sued personally along with two companies he runs, companies you knew nothing about. What do those companies own? What collateral did Dave offer when he leased equipment for his business?
2. **Think flexibly.** Nicknames are not legal names, and names get reversed and misspelled by data-entry clerks. Try to anticipate that in your searching.
3. **You don't know what you don't know.** If you think Dave would never buy anything outside of Cook County, Ill. or Brooklyn, think again. Look for assets across the country and perhaps overseas, if budget permits. If you try to predict too precisely what you may find, you could easily skip right over a great result sitting right in front of your nose.
4. **Don't neglect the briefing stage.** Your client knows more than she thinks she does. Any good asset search starts with a great briefing, and who better to brief an investigator than the person who has done business with the one being investigated? This is especially true in matrimonial cases. Spouses have a ton of information that can jump-start an investigation, but so often they (and their lawyers) think they can't help. When lawyers don't know how to ask their clients the right questions to get an asset search up and running, it is a serious problem.
5. **Follow-up is critical.** You don't go off searching for assets and then report back with only one answer. You will need to communicate back and forth with your client as you discover new information. Investigation often yields a series of rabbit holes and there is frequently not enough time or money to go down all of them. A quick call or email to the client saying, "We found three businesses that could be Dave's, and the partners are Ed, Phil and Tom. Do any of those names ring a bell as friends or business associates?" will never hurt. Your client might tell you that Tom is an old friend and likely collaborator, but that Tom seemingly slipped your client's mind during the initial briefing.

There are a few things that we tell people we can't get when performing asset searches. If you want banking records obtained legally, you need the cooperation of the court. Any investigator who tells you he's got a contact with access to banking records risks getting himself (and the lawyer who hires him) into a mess of trouble.

Some investigators also offer the option of getting cell phone records. These are easy enough to obtain in many cases, but it's illegal to do so under federal law. The same can be said for obtaining and using medical records.

Stick to what is legal: Search the public record, obtain information about people to interview and decide what to ask them about. Follow up consistently with your client. If you want to do something right and to the highest ethical standards, sometimes there are just no shortcuts.