



THE ASSET DEPOSITION

By David I. Grunfeld

It was one of those obscure exits off of the Atlantic City Expressway before you get to the shore, a town name I probably had never heard of on a sign I probably had never looked at. But I was following written directions and, thereafter, made a number of turns, first, going through farmland and, now, seemingly out in the middle of nowhere, past unimproved land with no street signs or traffic lights.

What was I, a young lawyer, doing in the South Jersey countryside, hunting now for an unmarked turn down a narrow dirt road a certain number of feet from the last unmarked intersection? To answer that, I have to step back a few months.

A business deal went bad, and my office represented the plaintiff in a lawsuit against the other side. I was “second chair” at the non-jury trial, and, although vigorously defended against, we prevailed. Naturally, the next thing to do after the appeal period ran was to ask adverse counsel when we were going to be paid. He laughed and said, “Never. My client has no assets and minimal income; you’re on your own.”

I conferred with my senior partner. Of course, we wondered why someone who can’t pay seemed to expend so much fighting the case. And we knew we had served him with our Complaint at his last known address, his mother’s house at the South Jersey location where I was now heading.

So I asked my opposing counsel to produce his client for a post-judgment asset deposition under the Pennsylvania Rules of Civil Procedure. He got back to me and said it was okay, so long as it was taken at his mother’s house. I got a court reporter through the local service we used and gave her the directions.

Now, I’m driving down a one-lane rocky road when all of a

sudden, I’m out of the woods and in front of a mansion. A man dressed in all black and wearing sunglasses and an earpiece welcomes me and tells me where to park before escorting me through the house to a pool area at the back.

When I get to a table and am given a cold glass of iced tea, I look around and notice similarly dressed men on the perimeter of the property and several attractive young women in the pool. I feel like I’m in a James Bond movie.

What did I learn from the friendly defendant who answered every question with a smile? He lives, when he’s around here, in this house, which has been owned by his mother for several decades. He works, from time to time, as a 1099 consultant to her various companies, earning a few thousand dollars here and there. He has no assets whatsoever and drives a company car. All the people in and around the pool are his friends or his mother’s employees (security and otherwise). He does not intend to pay my client anything.

There was more, but that was enough, although I really didn’t believe him. I found my way back (in an age long before GPS), made my report, and we closed the file after advising the client. I never heard anything more.

In today’s high-tech world, I might have a better chance of collecting, but in this case, it was just an adventure. ■

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