

How to Find Debtors and Their Assets

Prepared by:
Melissa A. Jones, Esq.
Frantz Ward LLP

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How to Find Debtors and Their Assets

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A. PREJUDGMENT DISCOVERY METHODS

Clients are Excellent Sources of Information!

Before conducting your debtor / asset search, ask your client or contact for information:

- What is known about the debtor, such as a last known address, copy of a recent check, etc.
- What is known about the debtor's financial affairs?
- Did debtor ever complete a credit application? If so, that could be a good source of information (bank references, assets, etc.).
- Did debtor ever make any payments? If so, how? Check? Credit card? Wire transfer? This is a good source of information regarding bank accounts and where the debtor banks.

Client Documentation

When a commercial debtor contests a debt, its dispute is often unfounded. The following documents, from the creditor's own files, are effective ways to prove that the claimed debt is true, accurate and owing:

- contracts
- mortgages
- credit applications and/or agreements

- personal guarantees of commercial debt
- security agreements
- UCC filings
- promissory notes
- cognovit notes
- estimates
- order forms
- purchase orders / agreements
- invoices
- written notices of default, with evidence of receipt
- other required written notices, with evidence of receipt
- bills of lading
- delivery tickets
- accounting documents (account and payment summaries, AR aging reports)
- checks, wire transfer receipts, credit card receipts, or any payment records
- copies of bounced or "stop payment" checks
- daily time sheets / time cards
- payroll reports
- work tickets
- meeting minutes
- email communications between the creditor and the debtor (including employees)

- written letters or faxes between the creditor and the debtor (including employees)
- notes memorializing telephone calls or meetings
- designs / drawings / plans (if applicable)
- photographs
- public record information (real property transfers, mortgages, UCC filings, Secretary of State business records)

These documents can be used to 1. establish the existence of the underlying contract, 2. confirm the accuracy of the charges, 3. confirm the current amount of the debt, 4. defeat the debtor's defenses or counterclaims, and 5. establish any veil piercing or fraudulent transfer claims.

B. LOCATING DEBTORS

In today's transient world, locating the current location of your debtor can be a challenge. However, in today's electronic world, there are many sources of information available to assist you in your search.

Phone Numbers and Addresses:

Numerous on-line directories are available, all of which purport to provide the phone numbers and addresses of the individuals or entities you are looking for. Many of these sources are out-of-date, or are not all-inclusive. Furthermore, most of these sources do not provide any information for any unlisted debtors. However, there are some decent fee-based, and some decent free, sources available to you.

Fee-Based Sources:

Westlaw and LEXIS are two good, fee-based sources which provide relatively thorough information regarding the current whereabouts of your debtor. However, use with caution! While convenient, these records are not always current. Check your search results of interest against the actual records.

Other low-cost recommendations are:

- OpenOnline.com: each search is approximately \$8.00
- Accurint.com – each search is approximately \$5.50
- KnowX.com
- netronline.com

General Search Engines:

General search engines, such as Yahoo, Google, etc. are actually excellent sources of information. When searching, be sure to include name in quotes (i.e., “Melissa Jones” or “Jones Corporation”) to obtain:

- current whereabouts.
- involvements in any projects which may be a future source of income.
- employment information for wage garnishments.

To narrow a search, include the state and/or city of the debtor, if known.

Other Free Sources

Other free sources are available. Standing alone, each may not be the most complete, but it is often possible to piece together information gleaned from different sources to obtain the full picture. Examples include:

- public library directories
- free web people finders
- Pipl.com
- Whitepages.com (which includes a reverse look-up)
- Superpages.com
- Switchboard.com (a prior favorite of mine, but not as accurate as it once was)
- Infospace.com
- Ultimatewhitepages.com
- Zabasearch.com
- Spyidentity.com (requires password, and I've not personally used, but I've heard good things)
- isearch.com – find new articles about people, shows relationships
- Zoominfo.com – gathers info about a person's professional capacities and about companies

On-line sources to obtain information about businesses:

- Hoovers.com
- Answers.com

- Manta.com – good for small business searches
- Macraesbluebook.com – good for industrial searches

Other Sources:

There are countless ways to locate information about your debtor on the internet. With time, patience, and knowing where to look, it is amazing what you can find. Examples of my preferred sources are as follows:

Court Dockets. You can search service address and returns of service to determine current, accurate addresses. A search of **bankruptcy court dockets** is also helpful. Often, if you are tracking down a debtor, others are as well, which may prompt lawsuit filings but other creditors or a bankruptcy filing by the debtor. A national bankruptcy court docket search can be performed via pacer.gov, although a log-in and password is necessary. Other sources include:

- Bankruptcydata.com
- BSI, Inc.
- Daily Legal News

County / Parish Property Records (Auditor / Tax Assessor Records). You can search real property tax records of the county or parish where you believe the debtor may be located. If the debtor owns any real property in that county, the current mailing address, or the tax mailing address, for the owner of that property is usually provided. This mailing address is typically a current address. Most, but not all, counties are available on-line. Most (again, but not all) internet searches can be performed via a name search.

County / Parish Recorder records. These records contain real property mortgages, tax liens and other possible helpful information which can provide a current address for your debtor.

State Business Records. A review of these records is an excellent way to determine a corporate debtor's incorporation status. They may also provide information regarding your individual debtor's ownership interest in a company, or whether your debtor is an officer or a statutory agent of a company. This information may provide the most recent contact information.

Voter Registration Databases. These databases can be used to locate current addresses. Examples of voter registration databases include:

- Accurint
- Lexis and Westlaw
- Boards of Election
- Some Secretaries of State
- Searchsystems.net – search for term “voter registration” and the jurisdiction

Drivers License Databases. These databases permit access to driver's licenses, title and registration information. Lexis and Westlaw provide on-line access, as do some states. However, you must have a permissible use under the Driver's Privacy Protection Act to access these records. Permissible uses include information necessary for litigation or arbitration, debt recovery or fraud, insurance, government use, motor vehicle use.

Accident Reports. Accident reports typically contain addresses. To obtain an accident report, send a request to the Department of Public Safety, or to a local police department. Some jurisdictions are located on-line. Policereports.us is also a decent source.

Professional Licenses. If your debtor is a professional (doctor, attorney, stockbroker, accountant, insurance agent, real estate agent, etc.), you can search the records of the governing bodies for his or her license information. For example, in Ohio, the Ohio Supreme Court maintains all records for registered attorneys, including their most current personal and business addresses. Lexis and Westlaw is another decent source. Other sources are:

- Attorneys:
 - Daily Legal News
 - ABA Directory of Disciplinary Agencies
 - National Regulatory Databank
 - State Lawyer License Databases
- Physicians
 - Doc Finder
 - Public Citizens
 - Medical Board Disciplinary Actions
- Stock Brokers
 - SEC – Check Out Brokers and Advisors
 - FINRA Broker Check
 - Certified Financial Planner Look-Up

- National Futures Association’s Background Affiliation Status Info Center
- Departments of Commerce: Securities Division
- Accountants
 - AICPA – State Boards of Accountancy
 - AICPA Disciplinary Actions
 - Accountancy Boards

Neighbors, Friends and Relatives are also good sources of information. Many databases list them. A real property search can also be used to locate neighbors. Infospace.com and Peoplefinder.com are decent sources for locating relatives and neighbors. Social networking sites (i.e., Facebook) can provide information on friends.

Social Networking Sites. These are one of my favorite sources of information. Granted, if a privacy setting is set, I am not able to access that person’s profile. However, often, debtors do not set their privacy settings properly, which permits me to freely review information. Facebook and LinkedIn are the two most common, and are excellent for at least locating current personal whereabouts and employment information.

Blogs. Blogs, personal and professional, are more common than in the past, and can be very helpful. A simple internet search of the person’s name can lead to a blog, but other sources for locating a blog are:

- Justia Blog Search
- U.S. Law Blog Directory
- 3L Epiphany Taxonomy of Legal Blogs

- ABA Law Blog Directory

Locating Social Security Numbers. Sometimes, knowing a debtor's social security number can assist with locating the debtor. Or, you may need to obtain that number to locate current employment information. Lexis, Westlaw, Open Online, Accurint and KnowX, and others, have removed SSNs from databases. However, you can "piece" them together from a database that provides the first digits of the SSN (LEXIS) and database that provides last digits (Pacer). You may also find partial SSNs in court dockets, marriage records, professional licenses, etc. Several sources are available for verifying a social security number:

- Carnegie Mellon Social Security Number Watch
- Social Security Number Validator
- Social Security Number Verification
- Social Security Death Index provides SSNs for deceased since 1963
- Westlaw, Lexis, OpenOnline

Problems:

Certain problems exist which interfere with your ability to locate a debtor. These problems include a name change, the use of an alias name, or the use of a cell phone. However, these challenges need not necessarily halt your efforts.

Name Changes. A marriage or a divorce will often cause problems in your search, due to the corresponding name changes. A review of marriage license records, divorce dockets and probate court records can be invaluable in finding the most current name of your debtor.

Alias Names. Alias names can also present problems. LEXIS and Westlaw both offer the ability to conduct “people searches.” These searches which can also provide alias, alternative, “aka” or former names. Numerous fee-based services are also available. However, a search of civil, property or marriage records can also reveal alias or former names. A general internet search can also provide relevant information.

Cell Phone and Unlisted Numbers. Most databases do not include cell phone or unlisted numbers. Exceptions include OpenOnline, Accurint and Lexis Smartlink. However, some decent resources include:

- merlin.com: fee-based database, but good for obtaining cell phone numbers
- peoplesearchamerica.com: note that the legality of this site has been questioned, so read the disclaimers carefully!
- Intelius.com
- MobilePhoneNumber.com
- National Cellular Directory
- Google Phonebook

C. LOCATING ASSETS

General Search Engines

Searching the debtor by its name on general search engines, such as Yahoo, Google, etc., can provide great sources of information. However, to perform an accurate search, be sure to include the name of debtor in quotations (example “Melissa Jones”). To further narrow the search, include the state or city where the debtor is located (example “Melissa Jones” Ohio). These searches can provide information regarding:

- current whereabouts. For example, once you determine where your individual debtor lives, locate the nearest grocery stores. You can then subpoena the stores for any and all information and documentation linked to their “store advantage cards,” which will often include payment information (paid in cash, by credit card, bank card, etc.).
- involvements in any projects, business developments, contracts, from which you can garnish proceeds or subpoena relevant parties for information
- employment information. For example, an internet search revealed a corporation’s press release about its involvement in a charity walk. The press release also included the names of the participating employees, one of which was the debtor. From that, the judgment creditor was able to subpoena payroll records, and issue a wage garnishment.

County Auditor / Tax Assessor (Real Property Tax Records)

County Auditor / Tax Assessor records can be searched to determine:

- if debtor owns any real property;
- who owns the property at which debtor is located or resides;
- the tax value of any real property; or
- if debtor transferred any real property, and, if so, the details of the transfer (to whom, when, and the amount of the transfer).

County / Parish Recorders

County / Parish recorders records can be searched to determine:

- if any mortgages or other encumbrances exist on debtor’s real property;

► **Practice Tip:** The recorded mortgages may contain the name of the title company who handled the transaction. You can then subpoena the title company for payment records, which will provide you with information regarding where debtor banks.

- if any other lien or security interest may exist on that real property;
- debtor's business dealings (example: a debtor's recorded mortgage as collateral for a business loan reveals debtor's business ownership).

► **Practice Tip:** If debtor recently transferred property, subpoena the buyer, bank or title company for transaction (and payment) records.

► **Practice Tip:** www.netronline.com offers a national property records search. You can also obtain a comprehensive property report for \$3.95.

► **Practice Tip:** googlemaps.com and zillow.com are also good sources for real property information.

Secretaries of State

A search of the Secretary of State records is helpful to determine debtor's business involvements, which is useful as follows:

- The debtor could be listed as the statutory service agent of a limited liability company. Your further investigations conclude your debtor is a member of that LLC. You may then be able to

place a charging order against the debtor's membership interest in that LLC, which is a court order commanding the LLC to issue all membership distributions due the creditor you instead.

- The debtor could be listed as the incorporator of an entity, which could be a source of recoverable assets.
- The debtor could also be an authorized agent of an entity, which could provide contact information.

A search could also reveal whether any superior security interests exists which may trump your recovery efforts.

All states have a Secretary of State, or its equivalent, which provides records which can be searched. Most, but not all, can be searched on-line. Simply type in the state name followed by "Secretary of State" on any search engine (example: search California Secretary of State).

Divisions / Boards of Liquor Control

A search of Division or Boards of Liquor Control records can provide information as to whether Debtor owns any businesses to which a liquor license is issued to. These licenses can be very valuable assets.

Clerks of Court

A review county or municipal court dockets is helpful to:

- determine if any other civil or criminal lawsuits pending against debtor. Also, if you locate other civil or criminal lawsuits, determine if your debtor is represented by legal counsel. You can then subpoena that attorney for payment records on how your debtor is paying for that legal representation.

- determine if debtor's assets are subject of any lawsuits (motor vehicles, watercraft, real estate, aircraft, etc.) – these lawsuits may help you identify assets appropriately for execution.
- obtain asset itemization of assets in domestic court cases (if available).
- determine if other judgments or judgment liens in place against debtor, or if other lawsuits are pending, and what for, to determine whether your recovery efforts are worthwhile.
- determine if any executions have taken place against pending judgments, and, if so, the result of those executions.
- determine if debtor is the plaintiff in a lawsuit. If so, then lawsuit recovery could be source of payment (and a recoverable asset). Also, subpoena representing attorney for fee payment records, which are *not* privileged or protected. *United States v. Haddad*, 527 F.2d 537 (6th Cir. 1975) (court required production of records regarding fees paid by a client; fees were not protected by the attorney-client privilege, as they were not a matter of confidence).
- determine if debtor has any business involvements which are subject to a lawsuit.

Searches can be performed via on-line court dockets throughout the nation.

LEXIS or Westlaw

A LEXIS or Westlaw public records search can assist with:

- obtaining motor vehicle, watercraft or aircraft registration
- obtaining real property ownership information
- obtaining existing security interests against your debtor

► **Practice Tip:** Use with caution! While convenient, these records are

not always current or complete. Always check your search results against records from the originating source. However, LEXIS or Westlaw is a very good “jumping off” point.

Social Networking Sites

For individual debt recovery, social networking sites, such as Facebook, are also valuable tools. Often, debtors do not maintain adequate privacy settings, and all postings are available for the world to see. Examples of information located through Facebook:

- Debtor indicated his relationship status as “engaged.” The link to his fiancée provided a photo of the engagement ring. Subpoena to fiancée revealed where debtor purchased the ring, and with what resources.
- Debtor posted about boating over a summer holiday weekend. Debtor also posted a photo of his boat, from which the creditor could obtain information to execute against the boat.
- Debtor posted about his new car, from which the creditor could obtain information to execute against the vehicle.

Bankruptcy Search

Searching the bankruptcy docket to determine whether the debtor is currently in, or ever was in, bankruptcy is invaluable.

If debtor is currently in bankruptcy:

- Stop all collections activities immediately!
- Timely file your proof of claim.

- Review the bankruptcy documents to determine whether the bankruptcy is liquidation (7 or 11) or reorganization (13).
- Determine if your debt is non-dischargeable, or if you have grounds to object to the dischargeability of your debt in the bankruptcy.

If debtor previously filed bankruptcy:

- Review the schedule of assets and statements of financial affairs. Often, the debts are discharged, but the debtor is permitted to keep assets, which may be available to you. The schedules may also identify bank accounts, which debtors often continue to use.

A nationwide bankruptcy search can be performed at www.pacer.gov. However, a login and password is required.

UCC Search

A UCC search will provide you with information as to whether any assets of the debtor are subject to a superior security interest. These records may provide specific information regarding and descriptions of the assets secured. Whether the secured interest has been released is also reflected on these records.

► **Practice Tip:** If a search reveals an encumbrance against a specific asset, such as equipment with a serial number or a vehicle with a VIN number, that information can be used to determine debtor's current ownership of the specific asset.

UCC records must be filed with the secretary (or its equivalent) of the state where the debtor resides or is incorporated. Most of the records are available on-line by the specific state secretaries.

Motor Vehicles, Boat and Aircraft Registrations

Motor Vehicles:

A search of county title bureau Bureaus of Motor Vehicles records may identify vehicles or other motorized items owned by the debtor.

► **Practice Tip:** To conduct an on-line search of these records, you must know the identification or registration number, which you likely do not have. You can, however, subpoena these bureaus for that information.

Boats:

An on-line search of watercraft registrations may be performed via the appropriate state agencies. If the registration information for your particular state is not on-line, contact the appropriate state agency to inquire how to search and obtain registration records.

► **Practice Tip:** In Ohio, you must have either the title number or identification number (VIN) of the vehicle or watercraft to conduct this online search. But, you can subpoena these records.

Aircrafts:

An on-line search of aircraft can be performed via the Federal Aviation Administration website at:

faa.gov/licenses_certificates/aircraft_certification/aircraft_registry/interactive_aircraft_inquiry/

This search can be performed by the debtor's name. The registry will also reveal any encumbrances against the aircraft.

Unclaimed Property Search

An "Online Treasure Hunt" of unclaimed funds or property can be performed at: www.missingmoney.com. This website links you to a nationwide database, from which you can search by debtor's name in all participating states. The database will tell you the originating source of the funds, and whether the amount held is more or less than \$100.00.

The property identified on this website is the debtor's property held by the specific state.

Credit Bureau Reports

Credit reports are a good source for asset, liability and employment information. However, if the report relates to a consumer, you must have permissible purpose per Fair Credit Reporting Act, 15 U.S.C. §1681 et seq. A permissible use includes " . . . review or collection of an account of the consumer." Recommended reports include Dunn & Bradstreet reports for corporate debtors, and Equifax, Experian and TransUnion are the three largest consumer creditor reporting agencies in the United States.

Determining Whether a Commercial Debtor is Worth Pursuing

Often, determining the collectability of the debtor before you begin your collection efforts is prudent. After you, spending time and money (both yours and your client's) pursuing a debtor from whom you ultimately cannot recover anything is a waste of everyone's resources. Thus, I will often research the debtor's assets (using the methods discussed above) and advise my client of my research results, along with

my recommendations regarding pursuing the debtor. Thoughts to consider:

- The amount of the debt will determine how much time and effort I will put into researching the debtor's assets; the larger the debt, the more extensive my research will be.
- Although a debtor may not be collectable now, future circumstances and collectability may change. Accordingly, it may be prudent to obtain a judgment against the debtor now, and monitor the debtor's collectability over the following months/years and execute on the judgment when the debtor becomes collectable. Of course, you must ensure the judgment does not expire or become dormant, and be sure to know all applicable deadlines or statutes of limitations so that you don't miss your opportunity to collect. For example, in Ohio, a judgment becomes dormant after 5 years from the date of the last judgment execution effort, and a judgment lien becomes void/ expires after five years from the date of filing, although it can be renewed provided this is done before the lien expires.

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