

▲ **Creditors Beware**

In general, a joint account owner has an unlimited right to withdraw funds in the joint account regardless of who contributes the funds. But what rights does a creditor of a debtor/owner have in the joint bank account vis-à-vis the debtor/owner? Specifically, can a creditor of the debtor/owner garnish funds in the account if the debtor/owner did not contribute any funds to the joint account, but is married to the contributing owner of the joint account? The Multi-Party Accounts Act, Minn. Stat. §524.6-203(a) (2006) determines the rights between joint owners. In general, ownership in the joint account is determined by the party's net contribution to the account (i.e. in general, each party's deposits less withdrawals). A joint account holder's unlimited power of withdrawal does not mean that funds he did not contribute are "due" him within the meaning of the garnishment statute, Minn. Stat. §571.73, subd.3(2) (2006). The Multi-Party Accounts Act abrogates the rule of *Park Enterprises v. Trach*, 233 Minn. 467, 47 N.W.2d 194 (1951). Therefore, a creditor may not garnish funds in a joint account not contributed by the debtor/owner, unless the creditor proves by clear and convincing evidence that the depositor/owner intended to confer ownership of the funds on the debtor/owner. This was the ruling of the Minnesota Supreme Court in *Ronald Enright, as attorney-in-fact for S.E., et al., v. Robert H. Lehmann, et al.*, A06-34 (Minn. 07/19/07).



William Forsberg
Leonard Street and Deinard
Minneapolis
William.Forsberg@leonard.com

▲ **Going "Paperless"**

The paperless office offers a host of benefits—documents always at one's fingertips, search capability, and less storage space, to name a few.

But while a file is open, it doesn't always make sense to throw away a document after it has been scanned.

The paper copy may be useful in a meeting or serve as an exhibit that will have to be photocopied later anyway. Some documents also don't need to be scanned—cover letters to the

half-dozen parties in a case, duplicate copies of motions, voluminous documents produced in discovery with no future value, etc. The problem with keeping all the paper is how to tell when closing a file what has already been scanned, what doesn't need to be scanned, and what was missed.

One solution is to order a custom ink-stamp with two lines: "Scanned/electronic original" and "No scan necessary." After scanning a document (or deciding it isn't worth scanning), I flip over the bottom of the first page, stamp it on the back, and check the appropriate box. When it comes time to close the file, I can quickly go through whatever paper I



Have a bit of sage advice for a newcomer to your area of practice? Send us your "tips & traps"! Your colleagues will be grateful. Email suggestions, cautions, and tales of woe to bb@mnbar.org

have and determine whether it can be tossed.

Eric Cooperstein
Attorney at Law
St Paul
etc@ethicsmaven.com

▲ **Long-Arm Limits**

Claimants bringing defamation and privacy actions may run into obstacles suing some out-of-state defendants in Minnesota. An unusual provision of the long-arm statute, Minn. Stat. §543.19, subd. 1(d)(3), prohibits actions against nonresidents for defamation or invasion of privacy occurring outside of the state, even if the claimants live in Minnesota and the harm occurs here. Thus, if a nonresident commits slander, libel, or invasion of privacy outside of the state, courts in Minnesota may not be able to exercise personal jurisdiction over that person.

There are several arguments that may overcome the statutory shield, including that contacts the defendant has in Minnesota establish his presence here irrespective of the exclusion under subd. 1(d)(3). Under this reasoning,

if a nonresident perpetrator of defamation or invasion of privacy has a significant business presence in Minnesota, long-arm jurisdiction may be upheld under §543.19, subd. 1(b), which covers nonresidents who transact "any business within the state." Out-of-state defendants, however, may point to a number of cases decided by federal and state courts in Minnesota that have proscribed such actions, although most of them have

involved defendants who have little, if any, ongoing presence in this state. Claimants also may assert long-arm jurisdiction for causes of action for different torts, such as interference, although the courts have generally resisted the relabeling of claims that are basically defamation as some other cause of action.

Marshall H. Tanick
Mansfield Tanick & Cohen, PA
Minneapolis
mtanick@mansfieldtanick.com



▲ **CLE Comity**

Voting 4-3, the Wisconsin Supreme Court in December adopted a pure comity rule for CLE requirements for nonresident members of the Wisconsin State Bar. Pure comity respects the CLE requirements of other states without demanding that they be identical or nearly identical to Wisconsin's. Under the rule, nonresidents who do not have mandatory CLE requirements in their home state must meet Wisconsin CLE requirements. The supreme court considered a provisional comity plan but rejected it as too complex. The pure comity rule adopted follows the lead of most other states.

Holly A Wallace
Goldman, Sturtz & Halvorsen
Albert Lea
hwallace@goldmansturtzhalvorsen.com