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Results Oriented



Lam Lyn Philip is a Texas-based law firm. Lam Lyn Philip's core area of practice is the handling of Commercial Collection Litigation matters. The firm also specializes in Insurance and Business Immigration law. Among the firm's clients are Governmental entities and private companies, including more than a third of the Fortune 100. Our representation spans across a broad range of industries, including oil & gas, power, financial institutions, and manufacturing companies.

The firm has a uniquely flexible and entrepreneurial culture that fosters mutually-beneficial relationships with our clients. Our attorneys make it their job to understand our clients' business goals while utilizing the law to achieve real results. We have consistently earned a reputation for being a trusted business partner who is willing to share the risks of litigation. Our commitment to superb client service is unyielding and permeates throughout the firm. We are cognizant of the fact that we are often the face of our client in the eyes of the public and we must carry and conduct ourselves in a manner that reflects the expectations of our clients.

Consistent with the principles of the founding partners, the firm **requires** its attorneys to actively participate in bar associations and community-based organizations. The firm has funded scholarships for numerous local schools, not-for-profit entities, and other organizations in Houston. We are seriously committed attorneys with a focus on our Clients' best interest at all times!

Newsletter

June 2011

LAM, LYN & PHILIP, PC

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Firm Activities

- On April 26, 2011, **Pauline Higgins** spoke at The American Association of Blacks in Energy (AABE) in New Jersey on "Generational Diversity in Law Firms, Corporate Legal Department and Work Place in General, and on Substantive Development of Young Attorneys."
- Carlos Peniche, Lowri Thomas** and **Angela Garcia** participated in law readings at local elementary schools.

LOWRI THOMAS WINS UNANIMOUS JURY VERDICT

Lowri Thomas, a third year associate with Lam, Lyn & Philip, had her first jury trial victory on April 19, 2011. Representing our client, Centerpoint Energy, on a negligence collection related matter, Lowri was successful in convincing the jury to return with a unanimous verdict in favor of our client. The jury deliberated for less than twenty-five minutes. The Defendants were represented by their respective attorneys from Farmers and Allstate Insurance. The trial was in the County Court At Law No. 1 in Harris County, Texas before Judge Cagle. Assisted

by **Carlos Peniche**, a board certified civil trial attorney at our firm, Lowri admits that she was somewhat nervous, but fairly confident of victory because she was well prepared. Lowri believes that her numerous appearances in different Texas courts over the last two years prepared her well but it still wasn't the same as appearing and arguing her case before a jury.

When Partner, **Sherly Philip**, jokingly

asked about her next trial Lowri responded with a gasp, "what next trial?"



LAM LYN PHILIP SPONSORS HISBA DINNER

Lam, Lyn & Philip was a major sponsor this year of the Hispanic Bar Association President's Day Festivities and Annual Dinner. The dinner was held at the Inter-Continental Hotel in Houston on May 12, 2011.

The President's day activities raises funds for scholarship for local Hispanic-law students. This year, more than \$25,000 was awarded for scholarships.

At the Dinner, **Angela Garcia**, an associate at Lam Lyn Philip, who is also a board member of HisBA, was presented with the President's Award in recognition of her exemplary ser-



vice and dedication to the Hispanic Bar Association.

This year's dinner was one of the most successful in the organization's existence. "The support of the legal and business community has been tremendous this year and we are very grateful for all the corporate

and legal sponsorships, especially in light of the current economy" says Garcia.

In addition to the dinner, HisBA also hosted a judicial luncheon. Judge Michal Gomez of the 129th Judicial District Court was the keynote speaker.

The Hispanic Bar Association was formed in 1988. The purpose and mission of the organization, which has over 100 members, is to empower the Hispanic community by developing strong leadership through financial scholarships and mentorship programs.

David Lam, a partner at the firm noted that "it is with and through programs like these that you see measurable and tangible results".

ENFORCING JUDGMENTS

Creditors may often obtain effortless Judgments. However, transforming Judgments into real recovery can be quite challenging unless the creditor is very well prepared. The law provides various avenues to aid Judgment creditors, but the key to maximizing recovery is developing a well-thought out road map from the outset.

1. Identify Assets

Perhaps the most important information gathering allows the Judgment creditor to identify potential assets that the debtor may have to satisfy the Judgment. The conventional method may involve engaging a third-party vendor that specializes in asset searches. This approach can be effective, but can also be very costly. In

today's cyber age, your own and independent research may prove to be most effective as public records become readily available on the internet.

An often-overlooked benefit of self-conducted research is how much information the Judgment creditor may already possess based on its prior interactions with the debtor. Depending on the nature of the relationship, the Judgment creditor may already have access to the debtor's banking information, real properties, or a general idea of the geographic location of potential and executable assets.

2. Formulate a Plan of Action

Given the numerous remedies available to enforce a Judgment, a Judgment creditor should carefully formulate an enforcement plan. Careless actions may delay or even jeopardize recovery. For example, some creditors prefer to notify (or give notice to) the debtor for post judgment deposition, otherwise known as the Debtor's Exam, immediately upon Judgment. However, information gathered at the Debtor's Exam are seldom accurate or reliable once the

debtor exits the room. Instead, if the Judgment creditor suspects the debtor may have an active bank account or non-exempt properties, the creditor should proceed with garnishment or execution immediately in order to avoid alerting the debtor.

Regardless of the recovery methods utilized, the Judgment creditor must create a well-tailored and effective plan in the initial planning stage.

3. Periodic Recycling

Sometimes the debtor is simply insolvent and a Judgment may remain uncollectible for a period of time. Judgment creditors should periodically revisit the file to ensure that new developments and opportunities are not missed. This periodic review holds particularly true for individual debtors as time passes.

Prior to additional action, Judgment creditor must also ensure that the Judgment remains alive and enforceable in its jurisdiction. In Texas, a judgment becomes dormant if a writ of execution is not issued within 10 years after its rendition. *Tex. Civ. Proc. & Rem. Code §34.001.*



"Judgment creditor may already have access to the debtor's banking information"

HELPING HABITAT FOR HUMANITY

Angela C. Garcia and **Lowri Thomas**, associates with Lam, Lyn & Philip, participated in the construction of the Houston Bar Association's 14th house was built through Habitat for Humanity on April 9, 2011. Bright and early on a Saturday morning, with hammers in hand, they quickly appreciated the time and sweat that goes into building a home. Although, they soon discovered the power and efficiency of a nail

gun, especially in framing a house.

Both associates volunteered alongside the future homeowners, the Cole Family. As part of the program, The Coles were donating "sweat equity" hours to their future home.

The home is located in the Milby Park subdivision and will definitely stand up to Houston's unpredictable weather. As a result of eager

volunteers, it is said that Habitat Houses have on average 30% percent more nails than neighboring houses. The Coles will receive the keys to their new home this summer.



Service of Process by Publication: Desperate Times Call for Desperate Measures

The statute of limitations is about to run and a defendant who owes your business substantial sums of money cannot be found. While this situation is more common in a tort scenario where a stranger has caused damages, it can apply in commercial collections too. What do you?

Texas Rule of Civil Procedure 109 allows for service of process by publication. The party is required to file an affidavit stating that the defendant's whereabouts are unknown and must demonstrate proof of "due diligence" (hiring a skip trace, attempting service at last

known address).

Once granted by the court, the citation must be served by a peace officer or clerk of the court upon a newspaper that is published within the county where the suit is pending for publication of the citation once a week, for four consecutive weeks. The return of citation must have copies of the four publications attached. The Daily Court Review, in Houston, Texas, provides this service for \$450.

If the defendant does not answer the suit, the court is required to appoint an attorney to defend the case *Tex. R.*



Civ. P. 244. The attorney's fees are taxed as costs, but under case law the plaintiff will have to pay those costs in order to achieve its legally binding judgment.

It is important to be timely and to pay attention to details in this situation.

DID YOU KNOW THAT GARNISHMENTS CAN BE FILED IMMEDIATELY AFTER OBTAINING JUDGMENT?

Post -Judgment Garnishment is a remedy allowing a judgment creditor to seize property or assets of a judgment debtor that is in the hands of a third-party garnishee. Unlike other post judgment remedies, a judgment is final and subsisting for garnishment purposes from, and after, the date it is signed. *Tex. R. Civ. P. 657.* In other words, providing all other requirements are met, a garnishment may be filed on the date the judgment is signed!!! This is in contrast to other remedies –such as Writ of Execution, where the judgment creditor must wait for at least 30 days after judgment.

Since garnishment is a harsh remedy, strict compliance with all requirements is necessary and failure to

comply with the statutes will void the garnishment. Some debts that are held by third parties subject to garnishment are: Bank deposits, stocks, trusts, and safety deposit boxes.

Once a garnishee is served with a garnishment, the garnishee must file a verified answer. Failure to file an answer can result in the court rendering a default judgment for the plaintiff against the garnishee.

Although in our experience, the overwhelming majority of attorneys representing garnishees will not seek fees, if no funds are trapped by garnishment, it is important to note that garnishee is entitled to reasonable compensation –including attorney's fees, whether or not funds are trapped. Another concern for garnishor should be the possibility that garnishee may have right of

offset. Garnishment is an extremely effective tool in collecting on a judgment. Whereas the best case scenario is one where the judgment creditor has trapped enough funds in the garnished asset in order to cover the full judgment, the use of garnishment is very useful and effective in getting the judgment debtor's immediate or prompt attention.



"Garnishment may be filed on the date the judgment is signed"