

# **PLAINTIFFS ARE ENTITLED TO DISCOVERY ON SUPERSEDEAS**

## **The Law:**

[E]ither party may, for the purpose of obtaining information relevant to motions allowed by Texas Rule[] of Appellate Procedure [24] initiate and maintain in the trial court . . . **any discovery proceeding authorized by these rules for pre-trial matters.**

— TEX. R. CIV. P. 621a (emphasis added) (The rule refers to Texas Rules of Appellate Procedure 47 and 49, which were replaced by Rule 24).

## **The Facts:**

- Plaintiffs seek discovery directly related to supersedeas.

# **DEFENDANTS OFFERED NO EVIDENCE ON THE RENTAL VALUE OF REAL PROPERTY**

## **The Law:**

**“[T]o determine the proper amount of security, the trial court must hear evidence of ‘the value of the property interest’s rent or revenue.’”**

*—Reyes v. Credit Based Asset Servicing and Securitization*, 190 S.W.3d 736, 741 (Tex. App.—San Antonio 2005, no pet.) (Duncan, J., concurring) (emphasis added).

## **The Facts:**

- Defendants say rental value is **\$0**.
- Defendants’ documents say insured value is **\$84,336,278**. (SC 4051-4056).

## **DEFENDANTS OFFERED NO EVIDENCE ON THE VALUE OF PERSONAL PROPERTY**

### **The Law:**

**“[T]he amount of . . . security must be at least . . . the value of the property interest on the date when the court rendered judgment, if the property interest is personal.”**

—TEX. R. APP. P. 24.2(a)(2)

### **The Facts:**

- Defendants have provided no discovery on congregation accounts.
- Diocesan accounts alone contain **\$2,560,706**. (SC 3786-3853).
- Defendants’ documents say insured value of tangible property is **\$10,680,927**. (SC 4051-4056).

# DEFENDANTS CANNOT SHOW SUBSTANTIAL HARM

## The Law:

“As to . . . the determination of whether the Judgment Debtors are likely to suffer substantial economic harm, the **Judgment Debtors have the burden of proof.**”

—*Ramco Oil & Gas v. Anglo Dutch (Tenge) L.L.C.*, 171 S.W.3d 905, 910 (Tex. App.—Houston [14 Dist.] 2005, no pet.) (emphasis added).

## The Facts:

- Defendants want the bond set at **\$0**.
- Defendants have made no effort to propose a bond of any reasonable amount or show that any bond would cause them substantial economic harm.

# **DEFENDANTS HAVE OTHER SOURCES OF FUNDS FOR POSTING A BOND**

## **The Law:**

To assess likelihood of substantial economic harm, trial courts should consider “**other sources of funds available**” to the judgment debtor.

—*Ramco Oil & Gas v. Anglo Dutch (Tenge) L.L.C.*, 171 S.W.3d 905, 917 (Tex. App.—Houston [14 Dist.] 2005, no pet.) (emphasis added).

## **The Facts:**

- Defendants’ “litigation costs have been made mostly from gifts and contributions.”
- Defendants have a “**Moncrief Legal Fund**” consisting of “[f]unds contributed for the payment of litigation expense.” (SC 3778).

# **DEFENDANTS SHOULD BE ENJOINED FROM DISSIPATING OR TRANSFERRING ASSETS**

## **The Law:**

“The trial court may enjoin the judgment debtor from dissipating or transferring assets to avoid satisfaction of the judgment, but the trial court may not make any order that interferes with the judgment debtor’s use, transfer, conveyance, or dissipation of assets in the normal course of business.”

—TEX. R. APP. P. 24.2(d)

## **The Facts:**

- During this lawsuit, Defendants signed a “Deed of Trust” over Diocesan property to secure **\$3.5 million** in credit. (A1438-1454).
- Defendants have signed multiple mineral leases and collected bonuses for church property during this dispute. (A1502-1541).