**25 Bits of very useful Case Law for dealing with Bailiffs and**

**DCA’s, also pertains to the Police and /or anyone else turning**

**up on your doorstep unexpected and uninvited.**

1. A Bailiff **CANNOT** remove the "tools of your trade" OR "your means of transport to and from work, absent/without the Verdict of a Jury.
2. A debtor/Person can remove right of implied access by displaying a notice at the entrance to the property. This was endorsed by Lord Justice Donaldson in the case of ***Lambert v Roberts[1981] 72 Cr App R 223*** - and placing such a notice is akin to a closed door but it also prevents a bailiff entering the garden or driveway, ***Knox v Anderton [1983] CrimLR 115 or R. v Leroy Roberts [2003] EWCACrim 2753***
3. Debtors/Persons can also remove implied right of access to property by telling him to leave: ***Davis v Lisle [1936] 2 KB 434* similarly, *McArdle v Wallace [1964] 108 Sol Jo 483***
4. A person having been told to leave is now under a duty to withdraw from the property with all due reasonable speed, failure to do so he is not thereafter acting in the execution of his duty and becomes a trespasser with any subsequent levy made being invalid and attracts a liability under a claim for damages***, Morris v Beardmore [1980] 71 Cr App 256.***(Note: Again this applies to any person).
5. Bailiffs cannot force their way into a private dwelling, ***Grove v Eastern Gas [1952] 1 KB 77***
6. Otherwise a door left open is an implied license for a bailiff to enter***, Faulkner v Willetts [1982] CrimLR 453*** likewise a person standing back to allow the bailiff to walk through but the bailiff must not abuse this license by entering by improper means or by unusual routes, ***Ancaster v Milling [1823] 2 D&R 714 or Rogers v Spence [1846] M&W 571***(See red note at item 13)
7. Ringing a doorbell is not causing a disturbance, ***Grant v Moser [1843]5 M&G 123 or R. v Bright 4 C&P 387*** nor is refusing to leave a property causing a disturbance***, Green v Bartram [1830] 4 C&P 308 or Jordan v Gibbon [1863] 8 LT 391.***
8. Permission for a bailiff to enter may be refused provided the words used are not capable of being mistaken for swear words, ***Bailey v Wilson [1968] CrimLR 618.***
9. If the entry is peaceful but without permission then a request to leave should always be made first. ***Tullay v Reed [1823] 1 C&P 6 or an employee or other person can also request the bailiff to leave, Hall v Davis [1825] 2 C&P 33***
10. Excessive force must be avoided, ***Gregory v Hall [1799] 8 TR 299 or Oakes v Wood [1837] 2 M&W 791***
11. A debtor/person can use an equal amount of force to resist a bailiff from gaining entry, ***Weaver v Bush [1795] 8TR, Simpson v Morris 1813] 4 Taunt 821, Polkinhorne v Wright [1845] 8QB 197.***Another occupier of the premises or an employee may also take these steps: ***Hall v Davis [1825] 2 C&P 33.***
12. Also wrongful would be an attempt at forcible entry despite resistance, ***Ingle v Bell [1836] 1 M&W 516***
13. Bailiffs cannot apply force to a door to gain entry, and if he does so he is not in the execution of his duty, ***Broughton v Wilkerson [1880] 44 JP 781***(Note; Simply by operating a door handle to open a door requires the application of force. Therefore Bailiffs cannot open a closed, latched but unlocked door, however they can come through an already open door, as in ajar).
14. A Bailiff may not encourage a third party to allow the bailiff access to a property (ie workmen inside a house), access bythis means renders the entry unlawful, ***Nash v Lucas [1867] 2QB 590***(This can also be applied to Bailiffs whom try to involve the Police, as any Police Officer at the scene would also be a 3rd Party).
15. The debtor's home and all buildings within the boundary of the premises are protected against forced entry, ***Munroe & Munroev Woodspring District Council [1979] Weston-Super-MareCounty Court***
16. A bailiff may climb over a wall or a fence or walkacross a garden or yard provided that no damage occurs, ***Longv Clarke & another [1894] 1 QB 119***
17. It is not contempt to assault a bailiff trying to climb over a lockedgate after being refused entry***, Lewis v Owen [1893] The TimesNovember 6 p.36b (QBD)***
18. If a bailiff enters by force he is there unlawfully and you can treat him as a trespasser. ***Curlewis v Laurie [1848] or Vaughan vMcKenzie [1969] 1 QB 557***
19. A debtor/person cannot be sued if a person enters a property uninvitedand injures himself because he had no legal right to enter,***Great Central Railway Co v Bates [1921] 3 KB 578***
20. If a bailiff jams his boot into a debtors door to stop him closing, any levy that is subsequently made is not valid: ***Rai&Rai vBirmingham City Council [1993] or Vaughan v McKenzie [1969] 1QB 557 or Broughton v Wilkerson [1880] 44 JP 781***
21. If a bailiff refuses to leave the property after being requested to do so or starts trying to force entry then he is causing a disturbance, ***Howell v Jackson [1834] 6 C&P 723 - but it isunreasonable for a police officer to arrest the bailiff unless hemakes a threat, Bibby v Constable of Essex [2000] Court ofAppeal April 2000.***
22. ***Vaughan v McKenzie [1969] 1 QB 557*** if the debtor strikes the bailiff over the head with a full milk bottle after making a forced entry, the debtor is not guilty of assault because the bailiff was there illegally, likewise ***R. v Tucker at Hove Trial Centre Crown Court, December 2012*** if the debtor gives the bailiff a good slap.
23. If a person strikes a trespasser who has refused to leave is not guilty of an offence***: Davis v Lisle [1936] 2 KB 434***
24. License to enter must be refused **BEFORE** the process of levy starts, ***Kay v Hibbert [1977] CrimLR 226 or Matthews v Dwan [1949] NZLR 1037***
25. A bailiff rendered a trespasser is liable for penalties in tort and the entry may be in breach of Article 8 of the European Convention on Human Rights if entry is not made in accordance with the law, ***Jokinen v Finland [2009] 37233/07***

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