

**Contract Drafting
& Review**

**Commercial
Litigation**

Collections

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**Get Paid What
You've Earned**

*Remember: It's
always better to
negotiate a strong
contract before
doing any work
for a customer
you do not know.*

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BUSINESS & COMMERCIAL LITIGATION

How can I get paid by a Deadbeat Customer?

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WHAT CAN I DO TO COLLECT ON ACCOUNTS SHORT OF FILING SUIT?

Do Your Homework Up Front

- Conduct a thorough background and credit check on a potential customer BEFORE doing any work. That way, customers don't become debtors.
- Get financial information from a potential customer. If the customer won't give it to you, there's probably a reason.
- Retain an attorney to draft or to review your contracts. Spending a few hundred dollars to make sure you have a solid contract will help to avoid spending several thousand dollars in collection costs later.
- Negotiate a liquidated damages clause.

Send Collection Letters

- Advise the debtor of how much is owed and your identity.
- Provide a statement that the debtor has thirty days to dispute the debt in writing.
- REMEMBER that the Fair Debt Collection Practices Act applies to you. *See*, 15 U.S.C. §1601 *et seq.*

Make Phone Calls

- Call during normal hours (8:00 a.m. to 9:00 p.m.)
- If a debtor makes a written request that you stop calling, STOP CALLING.
- Do not call a debtor at his or her place of employment if you know that such calls are not acceptable to the employer.

SHOULD I HIRE A COLLECTION AGENCY OR LAW FIRM?

- Yes. A collection agency or law firm will know what to do and what not to do in collecting debts owed to you.
- Many collection agencies and law firms work on a contingency fee basis (typically 33 1/3% of the gross amounts collected). Make sure you agree upon a fee percentage UP FRONT.
- Negotiate an indemnification provision if you can.

IF I HAVE TO SUE A CUSTOMER TO GET PAID, WHERE SHOULD I FILE THE LAW SUIT?

Small Claims Court

- If the debt owed is less than \$3,000, file in small claims court.
- An attorney is not necessary.
- The forms for filing are relatively simple to understand and to complete.
- The filing fee is nominal, and a hearing will be scheduled quickly.
- Recovery is strictly limited to no more than \$3,000.
- No jury is available.

Municipal Court

- A county municipal court has jurisdiction to hear cases with a value of no greater than \$15,000.
- An attorney is necessary to represent a corporation, partnership or limited liability company.
- Hearings are generally scheduled quickly but not as quickly as Small Claims Court.
- Jury trials are available upon demand.

Court of Common Pleas

- A court of common pleas has no limit on the amount of recovery.
- An attorney is necessary to represent a corporation, partnership or limited liability company.
- It will likely take a year or more to have your case heard.
- Jury trials are available upon demand.

IF I GET A JUDGMENT, HOW DO I COLLECT?

Wage and Non-Wage Garnishment

- If you have information about a customer's employment, you can have the customer's wages garnished. A garnishment order will require the employer to pay a certain portion of the customer's wages to the court until the judgment is satisfied.
- A non-wage garnishment order will require the bank to forward all deposits to the court until the outstanding judgment is paid in full.

Judgment-Debtor Examinations

- If you do not have any information about the customer's employment or bank accounts, you may have to conduct a judgment-debtor examination. The examination is held in the presence of a referee, who will permit counsel for the judgment creditor to obtain information about a debtor's financial status, obligations and assets.

Judgment Liens

- A judgment lien places a cloud on title, which means a transfer of real estate cannot close until the judgment is paid.

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