

Dealing with Deadbeats: Getting the Money You Are Owed Fast and Legally

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When Good Clients Go Bad

- Sooner or later, it happens . . . and few things “eat at your insides” worse than when a client stops paying you
- You have three goals when it comes to problem clients:
 - Keep them at an absolute minimum
 - Keep small “receivables” from becoming bigger ones
 - Treat problem clients ruthlessly

The Four Types of Creditor

- People who are “essential to the operation of the business” (almost always get paid)
- People who make such a nuisance of themselves that debtors pay them just to get them off their backs (most get paid)
- “Friends and Family” (sometimes get paid)
- Everyone else (they have to wait . . .)
- Your goal is to be in category # 1 or # 2

How to Avoid Bad Debts

- Get money up front – the client should “pay early, pay often”
- Get an airtight contract that leaves the client with no “wiggle room”
- Stop working or hold back product the MINUTE bills become overdue
- Don’t do business with crazy people!
 - For significant amounts, do credit checks

Making Sure Your Contract is “Airtight”

- Without a good contract, you have no hope of being paid
- Your contract should be clear about:
 - How much you are to be paid
 - When payment is due
 - Interest will be charged on overdue payments
 - Whether business owners will be “personally liable” if their companies don’t pay
 - Mediation or arbitration of disputes

The Four Steps of Collecting an Overdue Debt

- Step 1: Make a Demand for Payment
- Step 2: Try to Negotiate a Solution
- Step 3: Mediate/Arbitrate If You Can
- Step 4: Sue in Small Claims Court

Step 1: Make a Demand for Payment

- You cannot legally enforce a debt unless you first make a “formal demand” for payment
- See handout for an example of a demand letter
- Have your attorney draft and send this – it has more impact (most attorneys will do this for a 1 hour fee)

Step 2: Negotiate a Solution

- “Compromise” – offer to forgive part of the debt if the client pays the rest quickly
- “Extension” – offer to a payment schedule (many small claims courts will rule against you if you haven’t at least offered this)
- If the client agrees to a compromise or extension, **GET IT IN WRITING!**
- Stop working/deny service until the problem is resolved to your satisfaction

Step 3: Mediate/Arbitrate If You Can

- Mediation: a “brokered agreement”
- Arbitration: a “mini-court case”
- Online mediation and arbitration services
 - www.adr.org (sponsored by AAA)
 - eBay, PayPal and SquareTrade mediation
 - National Franchise Mediation Program (www.franchisemediation.org)
- Only works if both parties agree to mandatory mediation/arbitration
- Can cost as much as litigation, especially for smaller claims

Step 4: Surviving Small Claims Court [Part 1]

- Where do you sue?
 - Always where the client is located, not where you are located
 - Courts are required to enforce judgments from other states, but not “default” judgments
- “Do I Really Have to Go Through That?”
 - It sends the client a signal that “you really mean business”
 - The travel and lodging expenses are 100% tax-deductible!

Step 4: Surviving Small Claims Court [Part 2]

- Get the Forms
 - www.uslegalforms.com/smallclaims
 - Search for “[your state] small claims”
- Watch Lots of Television ☺
 - www.tvjudgeshows.com
- “Prepare, Prepare, Prepare”
- Surviving “Your Day in Court”
 - Be on time
 - Keep it simple (“just the facts, ma’am”)
 - Stay away from lawyers

Enforcing Your Small Claims Judgment

- Apply to the court clerk’s office for an “execution” to be issued against the party’s wages, property, or bank account
- Once the “execution” is issued, hand it over to the county sheriff’s office, and watch the fun ☺

Going Medieval/Postal

- Better Business Bureau
- “Flaming” debtor on websites, blogs, etc.
- Press releases to local newspapers where the client conducts its business
- But . . .
 - Everything you say has to be 100% factually accurate
 - Best to wait until small claims judgment issues

Using a Collection Agency: Pros and Cons

- Pro: They are unemotional, and know the rules a lot better than you do
- Pro: They are usually more (ahem) aggressive than you might want to be
- Con: They cost money
- Con: The minute the client says they “dispute” the debt, the collection agency ceases their efforts and tells you that you need an attorney

Things You CAN'T Do to Collect Overdue Debts

- Fair Debt Collection Practices Act (FDCPA)
 - Can't call before 7 am or after 10 pm
 - Can't say you are a government employee
 - Can't say you are a lawyer (unless you are)
 - Can't threaten client with jail or criminal penalty if he only owes you money
 - Basically, you can't misrepresent or embellish the facts

Knowing When to “Cut Your Losses”

- Managing your emotions is the key to successful debt collection
- Sometimes pursuing small debts at a loss gives you the reputation as a “mean motor scooter and a bad go-getter”
- But most small debts aren't worth the effort – remember that “time is money”
- And . . . you can write worthless debts off on your taxes, as long as you've made a reasonable effort to collect them.

Suggestions for Further Reading

- “The eBay Seller's Tax and Legal Answer Book” by (ahem) Cliff Ennico (AMACOM, \$19.95)
- Several good books by Nolo Press (www.nolo.com) – they even have forms!
- “Small Claims Court: Step by Step” by Ted Rothstein and Isaac Druker (Barron's, \$21.95)
- “Become the Squeaky Wheel: A Credit and Collections Guide for Everyone” by Michelle Dunn (Self-Published, \$29.99)

Thank You!


