

Making Sure You Get Paid: Practical Tips for New Jersey Businesses

by Peter Yarem on May 7, 2012

As highlighted by the recent troubles of New York law firm Dewey & LeBoeuf, unpaid client bills can drastically impact a business's bottom line. Therefore, it is important to have collection policies and procedures in place to ensure that you are paid in full and on time.

This post offers some practical tips that New Jersey businesses can employ before resorting to a lawsuit. Of course, it is still a good idea to consult with an experienced collections attorney along the way to make sure your efforts comply with any applicable debt collection laws.

Obtain Some Payment on Account: Where you have previously invoiced the client or customer, if you eventually wind up in court, obtaining some payment on account (even a relatively small payment) will go a long way in convincing the court that the invoiced amount was owed in full and that you are entitled to judgment on an account stated. So, the first thing you should do in establishing the incontestability of the outstanding amount owed on invoices, assuming your own cash flow allows for it, is to convince your client or customer to make some payment.

Send a Demand Letter: The next step in collecting an unpaid debt should be to send a statement or demand letter requesting payment of the invoice and detailing all outstanding amounts due, including any penalties for late payment. It is often helpful to set up an invoice system that generates automatic alerts 30, 60, and 90 days after the invoice is due.

Follow Up With a Call: In many cases, your initial collection attempts will be unsuccessful. Therefore, it is important to follow up. Because it is often easy for clients or vendors to ignore a demand letter, it is sometimes more effective to contact the client or vendee directly via telephone. If you are dealing with a large company, the accounting department is a good place to start, although you may have to escalate your demands up the chain of command until you find someone with the authority to settle the debt. Of course, it is important to refrain from threatening or harassing the client or vendee, as this could result in legal liability on your part. And, keep in mind that, if the response to your call is an explanation of cash flow difficulties, obtaining even a small payment on account is very important in establishing the bona fides of the debt.

Maintain Written Records: Be sure to keep accurate, written records of all of your debt collection efforts, including those made in person or over the telephone. These documents will be important should you have to file a debt collection lawsuit.

Pursue Legal Recourse: In some cases, it will be necessary to file a lawsuit to collect the unpaid debt. In other cases, simply knowing that you have retained legal counsel to enforce your rights may be enough to convince the client or vendee to pay the debt.

Draft Clear Debt Collection Policies. As the saying goes, an ounce of prevention is worth a pound of cure. Therefore, it is equally important to draft clear and effective debt collection policies. For example, all of your business contracts should clearly outline the terms of payment, including fees and interest that may be imposed if the party does not pay in full or on time.

If you are experiencing debt collection problems or would like assistance drafting business contracts and procedures that reduce the risk of future litigation, or that improve the likelihood of success in litigation, please contact Scarinci Hollenbeck's experienced debt collection attorneys at 201.397.1776.