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Individual & Corporate Debt Recovery

Civil Litigation Practice Series

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What to do when someone owes you money but refuses to pay up?

Individual & Corporate Debt Recovery

At WMH Law Corporation, our lawyers routinely represent both individuals and corporations in various debt recovery claims.

In this article, we seek to provide a roadmap of the debt recovery process to hopefully help guide you (i.e. the creditor) through your own debt recovery journey.

Time Limit for Bringing a Claim

As a start, a creditor should be keenly aware that a claim for a debt cannot be brought after the expiration of six (6) years from which the cause of action accrued.

Simply, if a creditor chooses to sit on his / her rights for six (6) years without making

a claim or trying to recover monies from the debtor, the creditor may lose the right to claim for that debt.

In legal terms, in such event, the creditor's right to claim for his / her debt is said to have been "*time-barred*".

The Court of Appeal in **Chuan & Company Pte Ltd v Ong Soon Huat** [2003] SGCA 15 explained; "*Therefore, our scheme of things does not render a debt which is time-barred non-existent; it only renders the debt irrecoverable if limitation is pleaded.*"

In this regard, it is significant to note that where there is an "*acknowledgement*" of such debt by the debtor, the 6-year time limit for the creditor to make his / her claim will start running afresh. (**Chuan & Company Pte Ltd v Ong Soon Huat** [2003] SGCA 15)



"Individual and Corporate Debt Recovery Claims"

“Measured Escalation of Claim”

Letter of Demand

Before commencing Court proceedings against a debtor, a creditor ought to first issue a formal Letter of Demand to the debtor.

The Letter of Demand will stipulate clearly a deadline within which the debtor must repay the debt to the creditor.

Should the debtor refuse to comply with the same, the creditor can then consider commencing Court proceedings.

Please do refer to our article on Letters of Demand for more information.

Negotiations (If any)

After receiving a Letter of Demand, it is not uncommon for a debtor to approach a creditor to try negotiate a settlement or request for a repayment installment plan.

It may be worthwhile for a creditor to explore any arrangements that may help you avoid resorting to Court proceedings.

Though a creditor should be mindful to mark all such settlement negotiations / correspondence with the words; “*Without Prejudice*”.

Also, do note that some debtors may abuse the negotiation process and simply be trying to buy time to delay payment (and have no genuine intention of repaying the debt).

Commencing Court Proceedings

Should a debtor refuse to comply with your Letter of Demand, parties are unable to agree to a repayment arrangement or if the debtor defaults on a repayment agreement, the creditor may decide to commence Court proceedings against that debtor. There are several forums to commence a formal action against a debtor:-

- a) Small Claims Tribunal – for claims up to S\$10,000. If parties agree, the Tribunal may hear claims of up to S\$20,000.
- b) Magistrates’ Court – for claims up to S\$60,000.
- c) District Court – for claims up to S\$250,000.
- d) High Court – unlimited jurisdiction.

Enforcing Judgment / Court Orders

Even after the Court rules in your favour and a judgment is made against the debtor, in certain circumstances, a creditor may still need to make formal application(s) to Court to “enforce” such judgment or Court order against the debtor.

Please do refer to our article on the Enforcement of Judgments / Court Orders for more information.



Should a creditor consider engaging debt recovery companies?

Whilst there are many debt recovery companies in the market that claim to specialize in the recovery bad debts, a creditor ought to note that such companies / individuals are rarely (if ever) legally trained.

A debt recovery company's lack of appreciation of (1) the legal issues underlying the debt and (2) the potential consequences of their debt recovery methods may lead to unexpected complications and, often, difficulties for the creditor who engages their services.

Illustration – Based on True Events

Company A engages a debt recovery company ("X") to recover a bad debt from Company A's customer. In preparing the Letter of Demand, X threatens the debtor that if he/she fails to make repayment, the debtor's credit rating will somehow be affected and will be "*blacklisted from future credit facilities*". This threat was wholly without basis and untrue.

To make matters worse, X had sent the Letter of Demand to the wrong residential address. As such, third parties opened and read the Letter of Demand.

Eventually, because of various other mistakes made by X, the debtor counter-sued Company A for defamation. As a result, Company A chose to forgo the debt in order to settle the matter with the debtor.



For more information on the article, or if you wish to learn more about the topics discussed, please contact:-

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