

HOW TO USE THE LAW TO BEST EFFECT TO COLLECT MONEY THAT'S OWING TO YOUR BUSINESS

This weather most businesses have bad debts. How you look at bad debts will determine how successful you are at collecting them or not. Some bad debts are a complete write off and it is pointless pursuing them. This applies generally to companies that are in liquidation or in receivership.

There are however a lot of individuals who will plead inability to pay where in fact, if you put enough pressure on them you will end up getting some kind of a settlement of the amount that is owed to you.

Most individuals at this stage ignore debt collection agencies and Solicitors letters mean absolutely nothing.

The first step therefore is to try and get a Court Judgement against the debtor in question, THE DISTRICT COURT, is entitled to mark a Judgment against a company or an individual up to sum of approximately €6,500.00 the CIRCUIT COURT (which operates from Cork City for this area) is entitled to mark a Judgement up to a sum of €38,000.00 and sums larger than that figure requires an application to the High Court.

The advantage of trying to recover a debt via the Courts system is that if the debtor ignores the Court Summons he is in effect deemed to have admitted the debt and the Court can, on an Application by the Solicitor, have a Judgement marked in the Court Office by completing the necessary paperwork.

An efficient Solicitor can generally get a Judgment in the District Court or Circuit Court in approximately 6 weeks from being given the instructions. This is a time limit that we always aim for.

What does a Judgement mean?

A Judgement is in effect an Order of the Court ordering the debtor to pay the amount due plus costs.

How can I use the Judgement or Court Order to greatest effect?

There are a number of avenues open:-

- If the debtor owns property the **Judgment** can be used as a type of **mortgage** and registered against the debtors property and ultimately this property can be sold to satisfy the amount of the Judgement. Such a Judgement also attracts interest of 8% plus costs.
- The Judgement can be registered in Court so the ultimately same will be published in **Stubbs Gazette**. Sometimes the mere threat of this to a debtor will be effective.
- An Application can be made to a Court to have the debtor pay off the Judgments by way of **instalments** on a weekly or a monthly basis if it can be shown that the debtor has an ability to pay then a Court will often make an Instalment Order against the debtor of between €200 and €300 a month. This has the advantage of requiring the debtor to appear in court and give evidence under oath as to what his means are. A Court will generally not make an instalment order against somebody who can prove to the Court that he cannot pay any money due to say being unemployed, ill, these Orders are called Instalment Orders.
- If an instalment order is made against a debtor and he continues not to comply with same then in certain circumstances a further Court Application can be made to have that debtor committed to prison for failure to pay the debt. This is obviously the ultimate sanction which can be used.

- The Judgement Order can be sent to the County / City **Sherriff** who can call out and seize the debtors goods, car, machinery, animals etc.

All of these remedies arise out of using the Court procedure, initially to get a Judgement and working from there.

While the procedure are intricate and can take time it is generally better to start sooner rather than later and likewise it is the creditor that puts the greatest amount of pressure on a debtor that is successful.

Don't bemoan the fact that you have debtors - we all do



- make a list of them
- decide which ones can pay and are refusing to pay
- pursue them by way of legal action.