



Welcome to:

What To Do With Your Collection Problems?

Turning delinquent accounts receivable into cash!

The Webinar will begin shortly. Thank You!



Primerus Liquidation of Commercial Debt Practice Group

Robert W. Bivins, Esq. – Bivins & Hemenway, P.A.(Valrico, FL)

Bret S. Clement, Esq. – Ayres Carr & Sullivan, P.C. (Indianapolis, IN)

Christopher Kailas, Esq. – Kohner, Mann & Kailas, S.C. (Milwaukee, WI)

Sidney Friedman, Esq. – Weinstock, Friedman & Friedman, P.A. (Baltimore, MD)



What is Liquidation of Commercial Debt?

Introduction:

One of a series of webinars on commercial topics presented by the Primerus Commercial Law Group (CLG)

- Transactional and litigation topics
- Upcoming topics
- Additional topic ideas
- Focus



What is Liquidation of Commercial Debt?

What is the Commercial Law Group

- One of the newer Primerus practice groups
- Composed of both transactional and litigation firms
- Scope and purpose of the group
- Commercial Debt Liquidation Group
- subgroup of CDLG
- Initiative to provide commercial debt liquidation expertise to businesses on a continuing basis and in a more effective and cost efficient manner than has been available in the past.



Focus of Today's Seminar

1. Why hire an attorney vs. other collection options?
2. Why hire a Primerus member firm?
3. How to contact an experienced Primerus firm in your area?



Liquidation of Commercial Debt Overview

Our Goal:

To provide commercial debt recovery services to clients in every jurisdiction in North America.

Ultimately to expand the service area internationally.



Jurisdictions

Diversity among jurisdictions.

Procedures vary from jurisdiction to jurisdiction.

The laws of various jurisdictions vary – some jurisdictions are more creditor friendly than others.



Reasons

Unless a business deals exclusively in cash, sooner or later, every business, regardless of size, runs into difficulty in collecting obligations owed to it. Nonpayment may result from:

- Valid disputes
- Spurious “disputes” created to buy time
- Financial difficulties
- No intent to pay for goods or services provided
- Fraudulent transfers
- Enforced collection activity by others



Why

Sophisticated debtors know that a collection agency cannot take any direct action but can only harass them. Lawyer involvement means it is time for them to be concerned.

Eliminating the middleman often causes the squeaky wheel to be greased that much faster.



What can be done?

Debt recovery services rendered by an attorney range from:

- Written demand
- Persuasion
- Litigation
- Post-litigation judgment enforcement



What can be done?

Debt recovery litigation services rendered by attorney's include:

- Suits on account to obtain default or summary judgment.
- Negotiated settlements
- Litigation of business disputes
- Replevin actions to recover collateral
- Appointment of a receiver
- Representing the client's interest in bankruptcy proceedings.



What do you do if there is no insurance company to write the check and the judgment debtor does not voluntarily pay the judgment after it becomes final?

Obtaining a judgment is often the easy part. Collecting the judgment is often the challenge.

Contractual jurisdictional clauses may result in judgments obtained in jurisdictions where no assets are located.

It may be necessary to collect a judgment in jurisdictions where assets are believed to be located.

Even when one locates available assets to satisfy a judgment, third parties may assert claims to those assets.

The debtor may have transferred its assets to avoid paying the judgment.



What do you do if there is no insurance company to write the check and the judgment debtor does not voluntarily pay the judgment after it becomes final?

Not all judgments are collectible. Experienced practitioners can determine whether additional collection efforts are likely to be productive.

To paraphrase Justice Stewart, I know a turnip when I see one.

Experienced practitioners can share their knowledge and experience relating to their particular jurisdictions to everyone's mutual benefit.

Many members of the group also represent debtors or have done so in the past. They know how the game is played by the other side.



Collectively, existing Primerus members have a record of business-to-business debt recovery for their clients in the jurisdictions in which they practice. The creation of an active network of Primerus commercial practitioners carrying the “Primerus” brand sends a message of quality, yet affordable services in this practice area.



Primerus has been actively extending its membership. As the number of Primerus members increases, there is a corresponding increase in participation in the network, and the more valuable the network becomes:

- For clients seeking counsel in a variety of jurisdictions
- For counsel forwarding claims to counsel in other jurisdictions



Why we represent an opportunity that may be new to you.

The reason companies do not, by default; turn directly to lawyers to liquidate their debt is an historical accident.

- Historical barriers to advertising, and later barriers to doing so over state lines prevented lawyers from reaching potential clients in a direct manner
- The state-by-state jurisdictional regime also made direct attorney debt liquidation practice on a national basis impractical (or effectively cost-prohibitive). Lay collectors, who were free of such restraints, could historically advertise, make telephone calls or write letters, filling this vast void, and thereby earning great profits.



Why we represent an opportunity that may be new to you.

Over \$20 billion of business-to-business debt is recovered by third party collectors each year; most of this is handled by lay (non-lawyer) collectors. Today, there is no reason why law firms should not be liquidating the substantial delinquent business debt outstanding throughout the USA and the world at large.



Why?

Lay collectors initially attempt to collect and then refer the matter to law firms if amicable efforts for collection prove fruitless. This is a recipe for delay, and evidence is clear, each day reduces likelihood of recovery and the percentage of recovery.



There is nothing a law firm cannot do that a lay collection firm can, and a great deal of important things that only lawyers can do.

- Only lawyers can decide when legal action is appropriate, the form it should take, and the venue most likely to maximize recovery.
- Lawyers quickly identify collateral legal problems and issues at the outset, adding to the protection of the clients' interests, through their legal training and expertise.
- Lawyers are able to apply their skills to increase debt recovery through litigation and well conceived and considered compromise and settlement agreements, often resulting in net recoveries greater than the original principal amount at issue.
- With attorney handling (as opposed to a lay collection agency), the debtor is influenced to pay quickly or face the threat of immediate legal action.



The Advantage

Group members are good examples of firms that have traditionally been the recipients of lay collector referrals to collect commercial debt. There is available Primerus experience in liquidating debt for businesses of all sizes.

Historically, when lawyers must be engaged, lay collection agencies charge an override contingent fees of 40-50% and more, even for recoveries in very small amounts. As direct sources, group members can improve on these percentage figures, even where more than one counsel is involved. Primerus participates have an advantage.



Strategic and Professional Value

What we offer to your firm or business:

A continual resource for collection of a commercial judgment or liquidation of commercial debt, locally, nationally, and internationally, utilizing the available professionalism and expertise of Primerus members that have secured the appropriate “seal of approval” as commercial practitioners.



Strategic and Professional Value

Why this is good for your firm or business:

This is an opportunity to boost profit by recovering judgments more efficiently and cost-effectively than has traditionally been possible on a continental (and increasingly international) basis.



Why is this model good for your business?

Every business has bad debt.

Bad debt is costly, for example:

- If you have a 20% profit margin, five new sales are needed to overcome one bad debt.
- If you have a 10% profit margin, ten new sales are needed.
- If you have a 5% profit margin, twenty new sales are needed to overcome one bad debt.



What Your Business Should Look For

Professional advice and servicing for the liquidation and collection of commercial debt by AV rated attorneys, experienced in this area of the law.

An affiliation of law firms throughout the United States and the world who can be relied upon to deliver high quality and affordable debt collection services.



What Your Business Should Look For

Years of legal experience as Creditor Rights Attorneys, and from membership in Trade Group Associations such as the commercial law League of America and the American Bankruptcy Institute among other groups, to devise efficient and economic means of debt collection by offering a cafeteria of options to choose from such as the following:

- Traditional fee arrangements

 - Contingency

 - Lower hourly rates

- Hybrid fee arrangements

 - Combination of hourly, contingency, flat fees



Professional Standards & Best Practices

As well as fair fee ranges, guidelines or suggestions, have an objective measure of performance and results:

- Develop time lines for debt collection files.
- Develop time line for bankruptcy matters.



Examples of Real World Success

Butcher Brothers Bankruptcy case: Largest banking bankruptcy case in the 1980's

- Offered the US government a contingency fee option of hourly or contingency rates
- Government chose hourly and saved itself millions of dollars in fees to the law firm, as the recovery was over \$40 million in hidden assets consisting of: racehorses, Rolls Royces, buried gold bullion, buried silver, foreign bank accounts, hidden real estate.



Examples of Real World Success

Obtained exclusive contract with one of the top five largest banks in the United States to collect or workout soured commercial loans up to \$3 million. Why? Because of the expertise and reduced hourly rates.



Examples of Real World Successes

Illustrations of how immediate lawyer involvement can provide tangible advantages to creditors.

- Liquidation of business and corporate debt, including accounts, contracts, damage claims, etc., which will be done on either a contingent commission basis or on a time and billing basis.
- Return upon and recovery of chattel collateral available upon various commercial transactions, including liquidation and recovery of monetary damages recoverable and relating to same.
- Defense of various commercial legal actions, including defense of counterclaims on debt liquidation matters, which will generally be handled on a time and billing basis.
- Perfection, foreclosure and liquidation upon construction bond and lien claims under both State and Federal statutes, generally handled on a time and billing basis.
- Litigation and recovery upon insurance premium claims and/or damage claims relating thereto.



Questions?



To learn more about the Primerus Liquidation of Commercial Debt Law Practice Group or to find a Primerus Liquidation of Commercial Debt Law Attorney near you, please

Visit www.primerus.com/liquidation-of-commercial-debt.htm.

To learn more about the International Society of Primerus Law Firms, please visit www.primerus.com.