WHY JUST DO DEBT COLLECTION WHEN YOU CAN HAVE A DEBT COLLECTION LAWYER!

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With the current economic crisis and the increase in the cost of living, debt collection is also on the rise. We have found that creditors are pursuing debt collection, no matter the quantum of that debt. Creditors are becoming less patient and less lenient with informal debt collection and want to see more formal, efficient and effective debt collection methods, sooner.

Debt collection by commencing proceedings tends to be the last resort in the debt collection process. However, in current times plenty of creditors have decided to skip the first few steps, and jump straight to formal debt collection. There are numerous creditors who are simply taking a much "harder" approach with debt collection and commencing proceedings from the "get go." This can be an efficient and effective approach to debt collection, but it would be sensible not to apply a “one size fits all” approach to debt collection. Many of a creditor's debt collection decisions should be made on a case-by-case basis, taking into account the debt collection sum, debt collection fees already incurred, and any known factors regarding the debt or the debtor

which will make a particular debt collection method most effective.

It is often a good idea to consider a variety of debt collection factors before taking a "harder" approach towards debt collection. Some of the factors to consider include:

- the debt collection sum;
- the debt collection fees already incurred;
- the responsiveness of the debtor to past debt collection attempts;
- whether the debtor has requested any payment arrangements;
- whether there is a continuing business relationship between the creditor and the debtor.

Due to the multitude of factors which should be considered, along with the legal issues that come with debt collection, creditors are well advised to engage a good debt collection lawyer rather than going the debt collection process alone.

A good debt collection lawyer can help choose the most efficient and effective debt collection method. For example, a good debt collection lawyer may be able to advise whether it would be worth attempting to contact a debtor first, and also discuss different options for communication, including whether to have the lawyer send a formal debt collection demand, or simply ‘ghost’ a debt collection letter from the creditor. A good debt collection lawyer can assist the creditor in negotiating an effective payment arrangement. Debt collection leading to an agreement between the parties may avoid the costs and uncertainty of debt collection proceedings and might also significantly improve prospects for recovery even if there is a later default on the payment arrangement.

Debt collection prevention is also better than a debt collection cure. It might also be a good idea as a preventative approach to engage a debt collection lawyer at the beginning of a business relationship to review terms and conditions and set expectations early on in customer relationships (such as communicating any payment policies, default terms etc.). Similarly, having a debt collection lawyer identified early in the relationship can sometimes help encourage recalcitrant debtors to know that a creditor is serious about debt collection from the outset. This can even help reduce any animosity between the parties when engaging in the debt collection process – just blame the debt collection lawyer!

In an increasing debt collection market, make sure you have a good debt collection lawyer handy!

Matthews Folbigg Lawyers has a specialist team dedicated to Insolvency, Restructuring and Debt Recovery.

If you would like more information or advice in relation to recovery from debtors, garnishee orders, or in relation to and Insolvency, Restructuring or Debt Recovery practice and procedure, please contact Stephen Mullette or Jeffrey Brown on (02) 9806 7459 or (02) 9806 7446, or email stephenm@matthewsfolbigg.com.au or jeffreyb@matthewsfolbigg.com.au.