Letters of Demand: Why they are beneficial, and why they should never be ignored!

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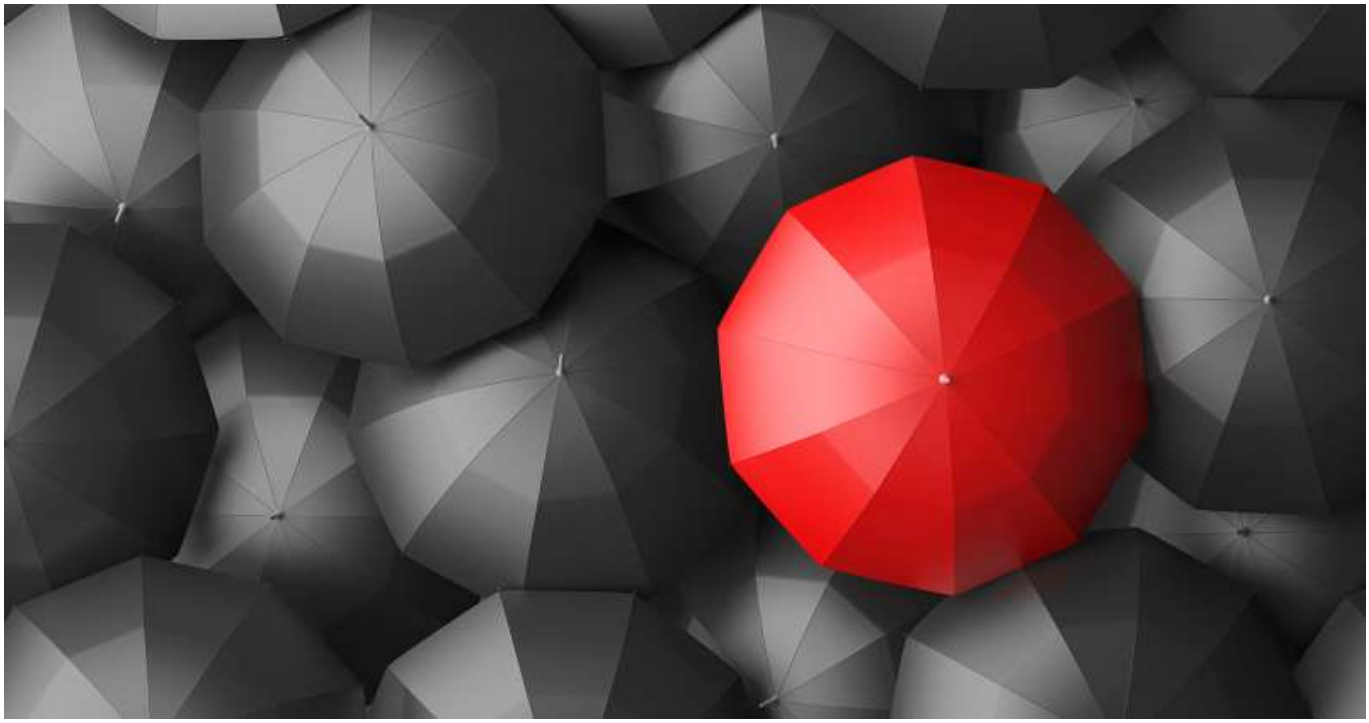

Letters of Demand: Why they are beneficial, and why they should never be ignored!

A letter of demand may be sent to debtor who owes money to a creditor. It is a formal notice of debt collection that is required to be paid and can often include a caution that if the money is not paid to the creditor by a certain date, legal action will be taken.

What should be included in a Letter of Demand?

1. How much money is owed;
2. Who is liable to pay the debt;
3. Who the debt is to be paid to;
4. How the debt was incurred and what the debt relates to;
5. A date and approximate timeframe in which the debt should be paid/resolved (which should be reasonable in relation to the debt and history of the debt);
6. Contact details of the debtor; and
7. What will occur should the debt not be paid within the stipulated timeframe.

There are additional features of a demand which can make the demand more effective and more reliable as a genuine attempt to resolve the debt should the debt proceed to court.

Should it be important that the relationship between the creditor and the debtor remain intact, there are additional techniques that can be utilised to recover a debt without damaging the relationship. As such, letters of demand should be considered carefully before being issued to a debtor.

Why are Letters of Demand Beneficial?

Apart from being effective to resolve disputes, letters of demand can also serve to identify the key issues between opposing parties as:

- It provides an opportunity for resolution before court proceedings or alternative legal action is taken;
- It is identifying a genuine attempt of the creditor to try resolve the debt before taking such action (this might be of benefit when the question of awarding legal costs arises);
- It may act as a reminder for a debtor who has genuinely forgotten to pay the creditor;
- Court proceedings can be expensive and time consuming – letters of demand can reduce the expense of commencing such proceedings or alternative legal action.

Why you shouldn't ignore a Letter of Demand…

A letter of demand can be very effective – whether to resolve the debt or to provide evidence in favour of the creditor of the sincere intention to resolve the debt prior to taking further legal action.

Avoiding a letter of demand could result in court or tribunal proceedings being commenced, which could potentially result in additional amounts being claimed against the debtor (such as interest and costs). These costs could be avoided by the debtor by responding to a letter of demand.

A letter of demand will also allow the parties to have an opportunity to negotiate.

It is recommended that a letter of demand be issued prior to commencing any court action.

If you would like to discuss any demands you may wish to issue, please contact our team at Matthews Folbigg Lawyers.

For more information on how to approach letters of demand, visit the debtor and letter of demand checklist on Matthews Folbigg's website at:

https://www.matthewsfolbigg.com.au/services/debt-recovery/letter-of-demand-checklist/

At Matthews Folbigg Lawyers, we have a full service debt recovery department and may assist in sending letters of demand (at fixed fee rates).

Through our experience, we have seen that a creditors may not be aware of the correct person

or legal entity actually liable for the debt owed to them. By allowing your lawyer to review your debts, you can ensure that the correct debtor liable for the debt is pursued in order to avoid incurring significant delays and costs by chasing the wrong entity.

If you would like more information or advice in relation to insolvency, restructuring or debt recovery law, contact a Principal of the Matthews Folbigg Insolvency, Restructuring & Debt Recovery Group:

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Get in touch