



DEBT COLLECTION: WITHOUT BLACK AND WHITE

If the collector cannot prove of owning the debt, can he or she recover the said debt? It is common for people to think that if there is no proof, then no collection or recovery of debt can be made. But how far does this truth go? Before we go any further, it is vital to understand what a debt recovery is. Fundamentally, it is a legal action to recover debt from individuals or companies in the event of their refusals or delays in the payment of debts. The process of this legal action is devised to ensure that any such action is taken on a timely basis without undue delay. In other words, the faster someone initiates the legal action, the higher the chance for him or her to be able to recover their debts.

In light of this, what can you do as a creditor or debt collector to recover the debt when you fail to provide supporting documentation in verifying the debt? You may have encountered a situation where you had provided a huge sum of loan to your friends or acquaintances without entering into a proper agreement or a valid contract. You unwittingly agreed to loan the money to the individuals in the interest of kindness and empathy because the person asking is someone that you know personally. In return, they promised to pay the debt but only through verbal communication without entering into any contract whatsoever. Sooner or later, they either disappeared or refused to return your money. Now, you feel hopeless as you might think that there is no other way to recover the debt on the grounds that there is no 'black and white' or specifically, no valid written contract.

Is it even possible to recover or collect the money without having a valid contract or any written agreement? The answer is – YES. The minimum documentation that needs to be provided includes any billing, receipt, or just about anything that can prove the transaction. However, many of you might wonder that if the debtor is failed to be located, can I still proceed with the legal action? Yes. Even if you are unable to locate

the debtor anymore, you may still initiate legal proceedings and obtain judgment against the debtor. In situation like this, upon pronouncement of judgment against the debtor, you may apply to the Court to enforce the judgment against assets of the debtor, and the debtor may be summoned before the Court for an examination of the debtor's financial status. If the debtor still refuses to appear in Court, he or she can be arrested.

You might also want to consider the time frame for the process to obtain a judgment against the debtor. From the issuance of a letter of demand to obtaining a judgment in default (JID) of appearance against the debtor, it takes approximately three months. However, if the claim is disputed i.e. defence is filed, the process could take about four to five months to obtain a judgment summarily. It may also take a longer time if the claim involves a full trial (need to call upon witnesses, etc). Nonetheless, the above time frames are merely estimations as it will vary depending on various factors including the Court's schedule.

In conclusion, no matter what the circumstances are, or how difficult you may think it is to recover your money without having a written or proper documentation, by following the rule of law, solutions can be found accordingly. It is also our commitment here in EzriLaw Firm to make sure that you succeed in recovering your debt legally or anything similar.

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