



MORE is better than less.

## Dear Friends:

When litigation is the only option to collect a debt, it pays to understand the process and how the courts operate. This quarter's article sheds light on how the process currently works, including the incorporation of technology, and will help you obtain the best possible collection outcome should you need to pursue litigation.

It was great to see old friends and make new ones at the 2025 MFM Annual Conference held in Arlington, VA, May 18-21. Szabo co-hosted the opening night party, creating a wave of excitement on the Potomac river cruise!

It's going to be a busy summer starting with the Nebraska Broadcasters Annual Convention, August 12-13 in La Vista, NE. That's followed by Szabo's annual Quality Awards Banquet in Atlanta on August 25, where we will celebrate the Szabo employees who have truly excelled in the past year. On August 23, we are participating in the Lekotek Run in Atlanta, supporting this organization that assists disabled children through play. And this fall, we're once again headed to the Georgia Association of Broadcasters' GAB-CON 2025, held September 19-20 at Atlanta's Truist Park.

Best wishes for a healthy and happy summer!

Robin Szabo, President  
Szabo Associates, Inc.

## How to Navigate Litigation to Achieve the Best Collection Outcome

It's part of operating a business: sometimes – hopefully rarely – a client can't pay their bills. This can be due to a number of reasons: an unexpected decline in business conditions, poor management, or even just an occasional bad actor. Should a company find themselves in the position of needing to pursue litigation to collect, here are some tips on making the process as smooth as possible in an evolving court system.

### What Litigation Involves.

Litigation begins with sending a claim - in these cases, of monies owed - to an attorney in a debtor's locale. Clients can work with their collection agency to determine the best venue in which to pursue a lawsuit. This can be less straightforward than it seems due to the national nature of some sales – for example, where a client signed a contract, where they do business and where the business principals reside can all be different locations – so the best possible venue needs to be identified right at the start.

This is also a good reason to employ a professional collection agency. Agencies, such as Szabo Associates, carefully follow compliance regulations, have good legal partnerships and can direct clients to highly competent collection attorneys with whom they have long-standing relationships, and they know how to navigate both their clients' businesses and the legal system.

Once a venue is determined and a law firm is retained, the attorney will then make a verbal and written

demand on the debtor and verify the debtor's legal entity for suit. In addition to the debtor's legal entity, they make sure that the debtor is operating and still in the location in which they initially claimed to be. Once all of that is determined, the attorney will make a recommendation on whether it makes sense to move forward. Collection attorneys are typically paid on contingency, meaning they receive a fee for collecting, so if they do not think they will be able to collect on a lawsuit, they tend to not want to pursue it. These fees, which are often negotiable, can range between 25% and 50% of the debt depending on its age and the difficulty of collecting it.

If the attorney feels it makes sense to sue, they will request suit requirements. Suit requirements are the court costs needed to move forward with a lawsuit. They also can include an affidavit and a request for additional information. Once a client makes the decision to sue, and the attorney has the suit requirements in hand, the attorney will file the suit in the appropriate court, and have the suit, or complaint, served on the debtor. The lawsuit must be served in accordance with the local laws; mistakes made here can delay the process before it even gets started. It's also important that once a lawsuit gets underway, all communications – whether email, phone, certified mail or other method – are routed through the attorney's office. This is to ensure that the attorney

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has control over the narrative, including any negotiations regarding the balance due.

After the debtor has been served with notice of the suit, they have a statutory – depending on the court and the state in which the suit is being pursued – number of days to file a response. If no response is filed, the client can ask the court to enter a default judgment. Once that judgment is entered, post-judgment collection efforts can begin.

If the debtor does respond, discovery begins. Discovery is when both the plaintiff and the defendant can ask the other party to disclose the evidence they will be using to establish their claim. Evidence can take the form of admissions (written statements that must be admitted or denied), interrogatories (questions that must be answered), or production of documentation. Occasionally, an actual deposition may be requested. If the claim has not been settled or ordered to mediation or arbitration once discovery is completed, it is set for trial.

### How Technology is Changing the Courts.

Technology is slowly being incorporated into the public court system. Electronic filing, online case management and videoconferencing are especially impacting the way lawsuits are conducted across the country, with some districts relying more on these technologies than others.

In the past, an attorney had to draft a complaint and then have it typed, proofed, signed, and sent as a physical document to the court by a process server or associate to be filed with the court. These tasks are still performed this way in some areas; however, e-filing has been generally accepted in the larger courts with some even requiring it. Today, a suit can be drafted, reviewed by counsel, electronically filed, and sent out to be served.

Costs for filing a complaint have increased across the country. E-filing tends to be more expensive

than paper filing, but the benefit is often that e-filing is quicker and more seamless. In addition, e-filing is a key part of online case management, and that makes it easier for plaintiffs and attorneys to track a case's status.

Videoconferencing also has made the process more efficient in some courts. Due to the necessity of using videoconferencing during the pandemic, the practice has remained in place in many courts and is now used for hearings, arbitration, mediation, and even trials in some areas.

Videoconferencing can save both time and money for plaintiffs, particularly when it comes to witnesses. If video conferencing is allowed, companies no longer must pay to send a witness to a trial location, eliminating the costs of the flight, hotel and loss of work and instead replacing that trip with a much simpler and more affordable videoconference. Videoconferencing is not allowed in all areas or in all courts, but it can be a game-changer when it is allowed.

While technology is speeding up processes in some cases, other factors are slowing them down. As states have increased regulation, courts are increasingly crowded with both criminal and civil cases, slowing the resolution of all cases. In the meantime, courts are often having to manage this increased caseload with less personnel due to budget cuts at both state and local levels. Some court systems have been consolidated regionally to try to gain efficiencies.

Reduced personnel can cause delays across the entire litigation process. Delays in scheduling hearings, processing filings or issuing judgments can mean that it takes longer for creditors to obtain court orders or default judgments. This is why it's important to hire a collection agency and/or a law firm that is committed to persistence and staying on top of cases.

### Protecting Your Interests.

Businesses that do their due diligence with new clients from the start of their business relationship stand a solid chance of avoiding debt collection, but not all circumstances are controllable. Keeping careful track of the sales

and implementation process is key when it comes to collecting.

"Good documentation and asset information obtained by the creditor at the beginning of the relationship usually means better success in getting claims collected," said Gil Singer, attorney and shareholder in the law firm of Marcadis Singer, PA in Tampa, Florida.

When possible, documentation should include a formal credit application with business name, address and contact information; the legal structure of the client's business; tax ID number; bank references; references from other vendors with whom the company has worked; an authorized signatory with name and title; and consent to run a credit check. A personal guarantee from the owner of the debtor company is something that's nice to have as well, especially if the client in question is a new business without much of an established credit history.

"Sales sells, credit accepts. When sales comes to you with a big deal, credit should do the investigation and then approve," said Ronald Rich, managing partner at Ronald B. Rich & Associates in Farmington Hills, Michigan.

Once the completed credit application is in hand, the creditor should run a credit check on the prospective client. If they pass that check, a credit arrangement can be agreed upon. That formal and documented arrangement should include the client's credit limit; payment terms (such as net 30 or net 60); late fees or finance charges that will be incurred if payment is missed; the creditor's right to revoke credit or demand prepayment; and the expected jurisdiction and venue should a legal issue arise.

Companies also can include language in their contracts' terms and conditions that allow for attorney fees, interest and recovery of costs if they find they need to collect. These terms allow companies to increase the amount of the judgment they are seeking in order to cover attorneys' contingency costs. Having all of these in place can serve as a deterrent for clients to withhold payment.

If a need to litigate a case arises, all relevant documents from all

departments will need to be gathered and forwarded to counsel. It's important to ensure no documents are lost or destroyed in case they are needed to prove the facts of the lawsuit.

### Speed, Persistence Pay Off.

"Persistence is probably the biggest weapon in companies' arsenal when it comes to getting paid. While some people will go to great lengths to avoid paying debt, most people are fundamentally honest," said Singer.

"What we rely upon is persistence," said Singer. "Sometimes things don't move that fast in the court system. It's not unusual once or twice a week to collect an old matter that was previously uncollectable. Sometimes simple persistence pays off."

Persistence, in collection cases, means everything from just staying on top of a case and continuing to send emails and letters, to tracking down all potentially liable parties and pinning responsibility for payment on them as well.

"We try to dig down as deep as we can and be as creative as we can to bind liability on people who think they are insulated from it. There are different ways to do

that," said a collections attorney in Texas, who requested not to be quoted. "Most people think they are insulated when they have a company or an LLC, but they make mistakes along the way. They sign things wrong, they don't dot their i's and cross their t's. That's the difference between a good creditors' rights and collection attorney and a great one."

Still, the longer bills are allowed to lie fallow, the more likely it is that payment will fall into arrears.

"The quicker we get the work after the company doesn't want to pay, the better," said Rich.

"Creditors very often wait too long. When they see that an obligation isn't being paid within 30 days or 60 days, as the agreement determines, they should immediately turn the matter over for collection. The longer the creditor waits, the more chance that assets will just dissipate," said Robert Saxon, partner at Meyers, Saxon, Cole in Brooklyn, New York.

### Adapting to the Venue.

Many states have legislation or regulations in place that over time has increasingly favored debtors. This is truer on the consumer side, but there are laws in place in some

states that can apply to business-to-business collection. It's important to work with a law firm that stays up to date on these changes.

In addition, most states have laws on the books that protect debtors from aggressive collection practices, which is another reason to have all paperwork in order.

"There is an anti-creditor virus spreading across the country and many courts are hostile toward collection cases," said Robert Pollak, managing partner at Glassberg, Pollak and Associates in San Francisco, California.

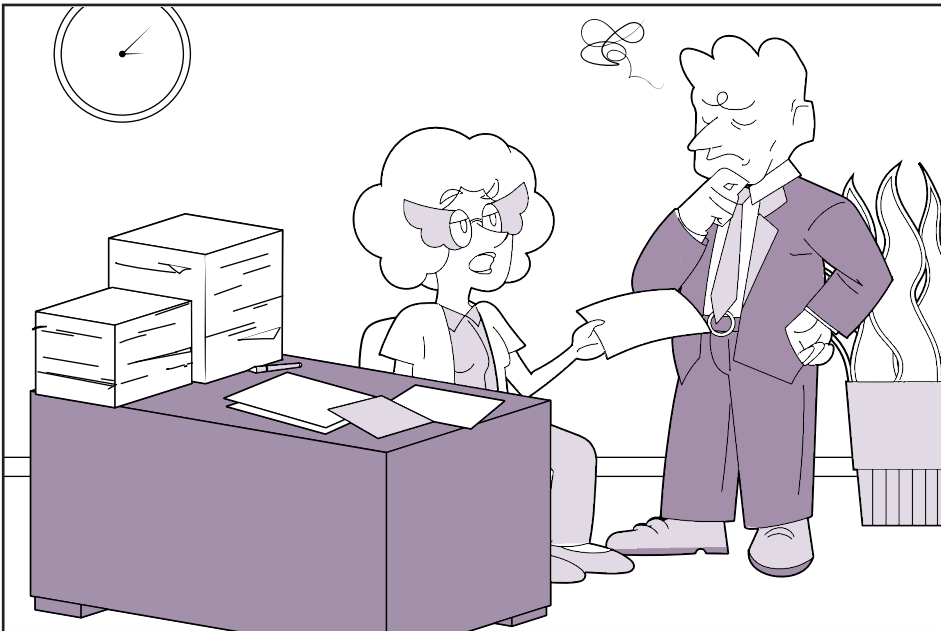
While collection attorneys are permitted and encouraged to be persistent, mistakes on the parts of plaintiffs can lead to countersuits being filed by defense attorneys as a tactic to tie up the lawsuit. And in some states, the options for defense attorneys to do this are greater than in others.

"Defense attorneys are smart and are quite aware of these conditions and therefore by interposing bogus answers with bogus counterclaims, they easily can create years of waiting during which time defendants are of course free to go out of business," said Saxon.

### Winning the Case.

Should a company find themselves in the position of needing to sue, money can still successfully be collected. Protecting your interests upfront with signed contracts that refer to established terms and conditions can reduce collection difficulties down the road. Similarly, so does having all required documentation. Should the need to go to court arise, working with a well-established professional collection agency and attorneys will ensure that the court proceeding runs smoothly and correctly, heightening the chance for success.

Once these pieces are all in place, simple patience and persistence will help secure the best possible outcome. ♦



Sure we can sue. Just to recap, the invoice was sent from our Georgia branch, the client signed in Nevada, the breach happened in Delaware, and their owner is hiding in New Jersey. I've narrowed it down to Nevada, Delaware and the moon. Come to think of it, suing them on the moon is probably the least complicated option.



Collective Wisdom® is a publication of  
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