

Get Your Money

A Newsletter by Assegai Communications

www.getyourmoney.co.za

Volume 18 / 2005

Dear Reader

Wow! This newsletter is late – my apologies. Life has been hectic. I am not complaining – business has been really good. Good for me, and good for you. Yes, You! The busier I am, the more companies and businesspeople I see, the more I learn and the more I can pass on to you.

Reading time: 4 minutes

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GET UP, TRY AGAIN

Sympathies to the South African rugby fans – our team sure got a thrashing when we played against Australia last week. It is hard to imagine that our boys can turn this around and beat the Aussies in less than two weeks, but watch them – I believe they can do it.

I am constantly in awe of professional sportsmen and women. Nobody can win all the time. Occasionally, even the greats get beaten. What do they do? They get back up, re-focus and try again.

Did you see Venus Williams win at Wimbledon? What a fantastic display of courage, skill and staying power. She came back from personal problems and a long lay-off, to win from way down the field, at 14th seed – the lowest ‘seed’ ever to win at Wimbledon. Life gets tough for all of us, and business is no different. It often takes the guts of a champion and practiced consistency, to get up and fight when all seems lost.

Collecting money can be like that, too – keep going, never let your guard down, nor your determination (nor your system) falter. Persistence will lead you, and your company, to success.

LEGAL NOTE: SUMMARY JUDGMENT

Some debtors seem to have no shame! They owe you the money, but they withhold payment for so long that your patience gives in and you issue summons. Then, when the summons is finally served, they have the cheek to defend the case! This tactic drives creditors wild. They curse, they stamp their feet; throw their hands despairingly in the air – what can be done? Good news. There is a procedure called ‘summary judgment’, which is designed for exactly this situation.

If a debtor defends a case and you believe he is doing it solely to cause a delay, you need to act quickly. You have only ten court days from the time the defence is noted. Within that time period, a Notice of Application must be lodged, informing the court and the debtor that application is to be made for summary judgement. The notices must be supported by an affidavit (sworn declaration) made by a person who:

- Has knowledge of the facts;
- States that the money is indeed owing;
- States that the defendant has no defence and is defending solely for the purpose of delay.

The debtor may oppose the application. If he is to be successful, he must lodge notice indicating that he wishes to defend, together with an affidavit in which he denies that he is defending solely to delay. He must give details of the defence, sufficient to persuade the court to deny the application.

A good percentage of the time, an application for summary judgement succeeds. The rest of the time – in perhaps half the cases – the debtor is forced to disclose the nature of his defence to the claim. At least, the creditor knows what is going on.

Applications for summary judgement are usually made by attorneys, but it is just as well for the creditor to understand the procedure, so as to be able to remind the attorney to act quickly.

*Summary judgement is only available for certain types of claims, including – a liquidated amount in money; a liquid document (e.g. a cheque); the delivery of specified movable property; ejectment.

LEGAL COLLECTIONS TRAINING

We are now running courses for people involved in legal collections, alongside our courses to help businesses get by without debtors. Generally, these courses constitute in-house training; we are busy presenting a course for 130 personnel at African Bank!
