

Debt Recovery: Maintaining A Commercial Approach

Ben Pearson
Associate Solicitor

PEACOCK & CO Solicitors

Is the debt disputed?

- If undisputed, insolvency procedures available
 - Bankruptcy
 - Winding up
- Applications to set aside SD/injunction
- If disputed, civil proceedings required

Quantum

- High Court – claims over £100,000
- County Court & MCOL up to £100,000
- Court fees 5% if over £10k

MCOL

- Court fees 4.5%
- Straightforward process
- Brief particulars of claim
- Green
- Applying for judgment

Contested claims

- Allocation to track
 - Multi track
 - Claims over £25k
 - Complex or specialist proceedings
 - Trial over a day
 - Fast Track:
 - £10 – 25K
 - 1 day hearing
 - Fixed costs
 - Small Claims Track

Small Claims Track

- Threshold increased in 2013
- Accelerated procedure
- Shorter trial
- Fewer rules around evidence
- Costs not recoverable, Court fees only
- Unreasonable conduct CPR 27.14

Fast and Multi-Track cases

- Longer process
- Trial process more formal
- Costs are recoverable by successful party*
- Cost budgeting

Maximising recovery of costs

- Fast track & Multi-track
 - Compliance with CPR
 - Part 36 offers
- Small claims Track
 - Limited ability to influence
 - Applications for summary judgment pre-allocation (small claims)

Enforcement

- Pay within 14 days unless ordered otherwise
- Options:
 - Writ of control
 - Charging order
 - Third party debt orders
 - Attachment of earnings
- Order to attend at Court to provide financial information

Risks

- Hollow judgment
 - Location
 - Tracing agents
 - Applications for substituted service
 - Insolvency
 - Limited recovery
 - Applications to claw back, set aside transactions

Practical suggestions

- Know who you are dealing with
 - Proof of address
 - Professional and financial circumstances
- Obtain security or guarantor
- Cut your losses

Thank you

Ben Pearson

Associate Solicitor

ben.pearson@peacock-law.co.uk

Twitter: @peacockandco

Web: www.peacock-law.co.uk

PEACOCK & CO Solicitors