

LAW OFFICES OF LEONARD KOMEN, P.C.
7733 Forsyth Blvd., Ste. 2000
St. Louis, MO 63105

Tel: (314) 862-3535
Fax: (314) 726-2340
Cell: (314) 651-1601
lenkomen@komenlaw.com

COMMERCIAL COLLECTION SERVICES WE PROVIDE:

First, please understand that our office does not handle what are commonly known as “retail collections,” or claims against individual consumer debtors. Our specialty is in resolving disputes, and collecting, commercial claims arising out of business-to-business transactions. We will be happy to recommend several excellent consumer retail collection attorneys in our area if you wish.

Mechanics Liens is an area that deserves an entirely separate discussion and is found in the Real Estate archive section.

For commercial collections, we certainly first contact the debtor company to see if the claim can be paid or resolved short of litigation. Clients should be aware, however, that since they have already used frustratingly unsuccessful efforts to collect the debt, a “lawyer letter” is of doubtful effect. After the one and only demand letter is not met with success, we strongly recommend you file suit at the earliest opportunity. Fees, whether on an hourly basis or as a percent of the amount collected will vary with the size of the case and we are always available to structure them to your situation.

Collection litigation takes the following form:

1. The Petition (suit)
 - a. Based on the nature of your claim, for example, but not limited to:
 - Breach of contract
 - Implied contract
 - Personal Guaranty
 - Quantum Meruit (implied contract to pay the reasonable value of Goods and services delivered)
 - Suit on open account
 - Promissory Note
 - Real Estate lease
2. Discovery devices pre-trial: [the first three are utilized in almost every case]
 - a. Interrogatories served upon the debtor to elicit all defenses and admissions

- b. Requests for Production of Documents served - to obtain all documentation of defenses and admissions.
- c. Requests for Admissions served - to compel the debtor to admit significant facts.
- d. A deposition (out of court sworn testimony) of adverse parties and witnesses to discover evidence and preserve testimony)

3, The trial

By utilizing steps 2(a) through (d) effectively, the “trial” often does not occur since the debtor has been placed in a position of admitting enough facts to justify a settlement short of trial. If a trial is necessary, the use of steps 2(a) through (d) significantly reduce the length and cost of trial and increase the chance of success.

4. Methods of collection of the judgment if not by consent

We have access to a variety of means of discovering assets of debtors so as to satisfy a judgment. After identifying those assets, the following methods are typically effective:

- a. Garnishment against others who owe or are holding funds for the debtor.
- b. Attachment of the debtor’s vehicles and foreclosure sale
- c. Attachment of the debtor’s actual inventory, equipment, fixtures, etc and followed by foreclosure sale.
- d. Court-ordered examination of the judgment debtor to compel disclosure of assets. (While a common tactic is for the debtor to plead the Fifth Amendment privilege to avoid testifying about assets, we have been successful in obtaining a grant of immunity by the Prosecuting Attorney that prevents invoking the privilege.)

Use of this Web Site and review of this Article does not create an attorney-client relationship. The law and its application by the courts is constantly evolving and changing. As with all memoranda in these archives, the discussion of the law is for general informational purposes, is in general summary form, is not to be taken as a definitive guide, and should not be relied upon to determine all fact situations. Each set of facts must be examined separately with the current case and statutory law analyzed and applied accordingly.