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BUSINESS LAW SUMMARY

NEWS AND IMPORTANT INFORMATION FOR YOUR BUSINESS



IN THIS ISSUE

- Collections 101:
What To Do With
Old AR
.....Page 1
- Commercial Courts:
Coming To A County
Near You
.....Page 3

**BEERS MALLERS
BACKS & SALIN, LLP**
ATTORNEYS AT LAW



COLLECTIONS 101: WHAT TO DO WITH OLD AR? *by Kara A. Graham*

Another year has passed.....now what do you do with your old AR? Beers Mellers Backs & Salin, LLP expanded its areas of practice to include collections recognizing a need for our business clients to have all their legal needs provided for in one place. Beers Mellers Backs & Salin, LLP has a dedicated collection staff ready to help clients capitalize on old AR. In working with business clients, I address several issues on a daily basis. I have included some of the popular questions that are posed to our collection staff.

How do I place a lien on property?

Placing liens on properties is a common request we receive from our clients. In collection, in order to place a lien on real estate, we have to file a lawsuit and obtain a judgment. Once a judgment is obtained, a lien is automatically placed on the property for 10 years.

How long is my judgment good for?

In one word...forever. By statute, judgments are effective for 20 years.

However, at the expiration of the 20 years, as long as you provide evidence that the judgment is not paid in full, the judgment continues.

What is the statute of limitations?

The statute of limitations sets a time limit within which to file your claim with the court. For Promissory Notes and contracts that are not in writing, you have 6 years from the date of default or the date of the last payment to file a lawsuit. For written contracts you have 10 years from the date of default or last payment date to file a lawsuit. For Personal Injury, Medical Malpractice and Legal Malpractice cases, you have 2 years from the date of injury to file a lawsuit.

Can I collect my attorney fees?

You can only collect attorney fees from a debtor if you have a signed contract with a provision providing for attorney fees to be paid in the event of default or a specific statute allows for attorney fees.

(continued on page 2)

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COLLECTIONS 101: WHAT DO DO WITH YOUR OLD AR? *(Continued)*

Can I collect interest?

Yes. The courts will look to your signed contract to determine what the interest rate is. If your contract doesn't list a specific interest rate or you don't have a signed contract, Indiana laws allow a creditor to collect 8% pre-judgment interest.

What if I don't have a contract, can I still collect?

Yes. Most Oral contracts are enforceable in Indiana. There are exceptions that require certain contracts to be in writing. The most common one is for the sale of real estate.

As with all areas of laws, there are always exceptions to each of the above questions. Please contact Beers Mellers Backs & Salin, LLP for all your collection needs and questions. If you would like more information about a specific topic in collections, please feel free to email me at kagraham@beersmellers.com.

Kara A. Graham, an attorney at Beers Mellers Backs & Salin, LLP and concentrates her practice in the area of Creditor's Rights/Collections. She represents business and individuals in many areas of collections including: commercial, medical, homeowner's associations, retailers, and financial institutions.





COMMERCIAL COURTS: COMING TO A COUNTY NEAR YOU *by Micah J. Nichols*

In July of 2015, the Indiana Supreme Court issued an order that began the process of establishing a new kind of specialty court in Indiana known as a “Commercial Court”. As part of that Order, Allen County was selected as a “test county” for this type of specialty court, and beginning in July of 2016, Judge Craig Bobay began hearing cases in Allen County’s Commercial Court. The purpose of the Commercial Court, according to the Indiana Supreme Court, was to improve predictability, both in procedure and in results, and to increase the efficiency by having a Court that specializes in commercial matters hear and adjudicate commercial legal issues.

Thus, as of July 2016, the Allen County Commercial Court hears the following cases: (1) disputes between/among two or more business activities relating to contacts, transactions, or relationships between or among them; (2) the formation, governance, dissolution, or liquidation of a business; (3) the rights or obligations between or among owners, shareholders, or officers; (4) trade secret, non-disclosure, non-compete, non-solicitation, or employment agreements involving businesses, employees, owners, and/or shareholders; and (5) the rights, obligations, liabilities, or indemnities of owners, shareholders, and/or officers owed to or from the business.

The Allen County Commercial Court’s jurisdiction is limited to those above matters and those matters only. Therefore, it cannot hear personal injury, survivor, or wrongful death cases, consumer claims against business entities or insurers of business entities (including product liability and personal injury cases), routine collections cases, environment cases, eminent domain cases, employment law cases, discrimination cases, administrative agency, tax, zoning and other appeals, name change, mental health, or guardian cases, individual residential real estate disputes, any case subject to the domestic relations, juvenile, or probate courts’ jurisdiction, any case subject to city, town, or small claim courts’

exclusive jurisdiction, any criminal cases, any case involving only wages, hours, occupational health or safety, workers’ compensation or unemployment compensation, or any case required by statute or law to be heard in some other court. As you can see, the jurisdiction of the Allen County Commercial Court is very limited.

But if your case falls within the scope of the Allen County Commercial Court’s jurisdiction, the Allen County Commercial Court could provide a number of benefits. For one, all commercial courts will endeavor to utilize a specific case-management practice, special to commercial court cases, which will include: (1) a more detailed case-management plan, (2) more periodic case-management conferences, (3) more joint status reports, (4) more electronic filing of documents, with a special emphasis on electronic discovery, (5) more court availability upon short notice, and (6) the utilization of court masters, which are independent attorneys, senior judges, or a non-attorneys that hear certain parts of a case, like discovery and/or evidentiary disputes. The purpose of this special, commercial court case-management plan is to move cases along more efficiently, save costs for the parties, and make cases more predictable for the parties.

To be placed in the Allen County Commercial Court, you must file this request when your Complaint is filed (if you’re the Plaintiff) or you must file your request when your attorney files his appearance (if you’re the Defendant). If you feel you have a case that suits the new Allen County Commercial Court, please contact us to discuss whether you might benefit from this type of specialty court. The Allen County Commercial Court may be a more cost-effective and efficient way for you to handle your commercial disputes.

A native of Fort Wayne, Micah J. Nichols is an attorney at Beers Mellers Backs & Salin, LLP and counsels clients in a wide array of corporate and personal matters.