INTRODUCTION TO DEBT RECOVERY SERVICES



Bartier Perry LAWYERS

CONTENTS

Debt recovery 03

Letter of demand 04

Court proceedings 05

Enforcement 06

Recovering portfolio of debts and external funding opportunities 08

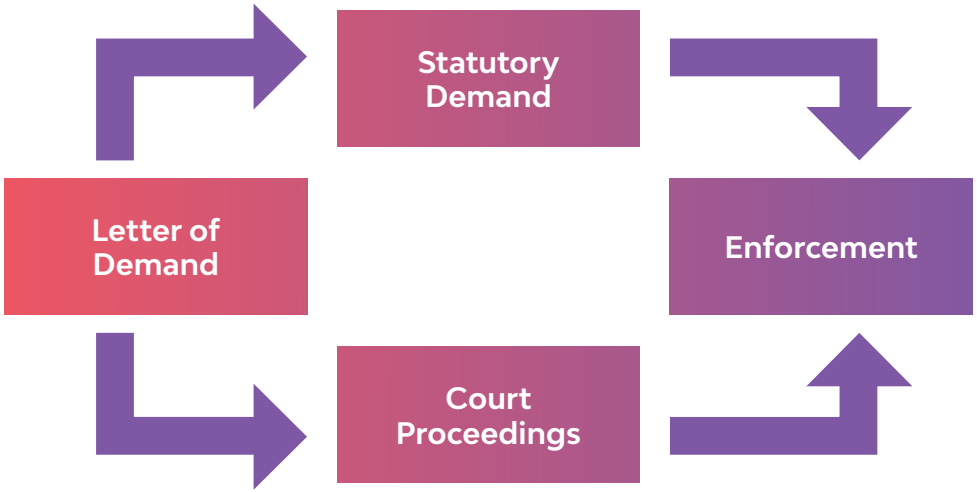
About us 10

Key contacts 11

DEBT RECOVERY

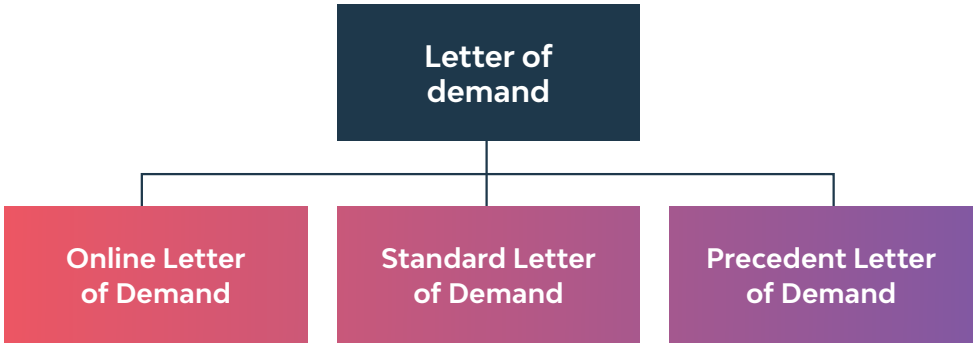
Securing money owed to you can be time consuming, frustrating and ultimately futile if your options are not clearly understood. In extreme cases, an unpaid debt can lead to the failure of the creditor's own business. We are experts in helping clients recover money that is owed by another business. We have a detailed understanding of the legal remedies available to you, as well as a finely tuned commercial sensibility that allows us to create workable solutions without recourse to expensive litigation. We pursue both formal and informal channels until a satisfactory outcome is reached.

The general process is:



LETTER OF DEMAND

A letter of demand can be very effective in having reluctant debtors pay money owed. We offer three types of letters so clients can choose the option that is most suitable and cost effective.



- An online service.
- Available 24/7.
- Sent within one business day.
- Minimise bad debts at a fraction of the time and cost of other alternatives (eg. mercantile agents).
- Low cost makes it a good option for pursuing even minor debts.

- More suited to matters involving complex contracts or facts, or where there are multiple debtors, including guarantors.
- Tailored to the facts and issues of the specific matter.

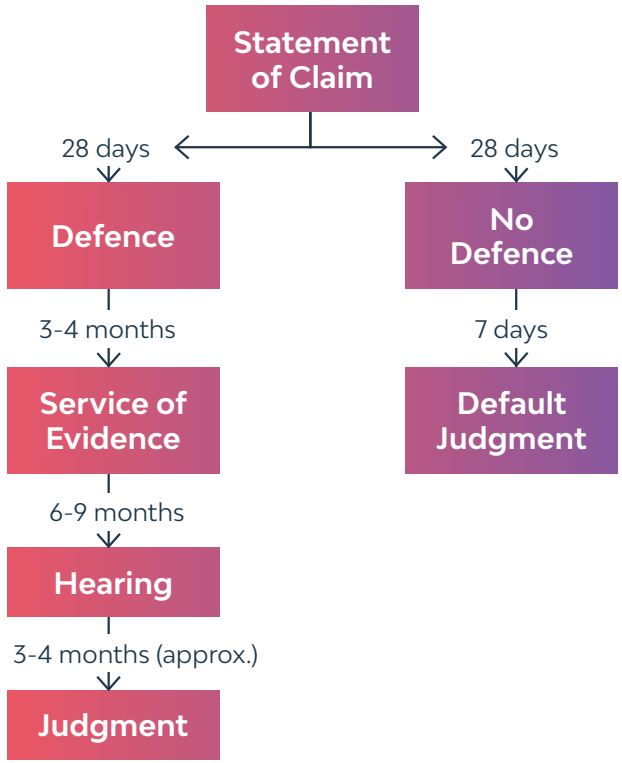
- We work with you to prepare a precedent letter of demand to be used across your portfolio of debts.
- Accessible on our online system and available 24/7.
- Enables you to provide your instructions to us online.

COURT PROCEEDINGS

Bartier Perry routinely advises and appears in matters in all courts throughout NSW. We also conduct matters in the **Federal Court**, **Federal Circuit Court** and the **NCAT**. Many of our team have a broad range of advocacy experience and skills that allow them to often appear in court without the assistance of counsel.

From start to finish, we ensure all involved have a clear understanding on what the right result looks like for you. We also work with you to manage other factors, including potential reputational issues.

To keep costs reasonable, we charge according to the **Local Court** and **District Court** scale for all matters that are simple and undefended.



ENFORCEMENT

We always keep in mind the big picture; namely, that clients don't just want to recover their money, they want to do so efficiently and cost-effectively.

We have a long history of enforcing security interests, recovering debt and providing insolvency, litigation and dispute resolution services. Our multi-disciplinary team has the experience to deliver commercially focused and practical advice and representation. There are many potential avenues of enforcement, as shown here:

AVENUES OF ENFORCEMENT

- **Garnishee Orders**
- **Creditor's Statutory Demand**
- **Writ for the Levy of Property**
- **Writ for the Possession of Land**
- **Charging Orders**
- **Winding Up Proceedings**
- **Bankruptcy Notices**

Writ for the Possession of Land

Enforcement of a judgment by execution of a writ of possession is complex. However, it can be useful where the Judgment Debtor has land that is not being used (ie. has no tenant).

Writ for the Levy of Property

A writ for the levy of property allows for the seizure of certain property of the Judgment Debtor, including money, goods in which they have a beneficial interest and land.

Garnishee Orders

A garnishee order is where someone who owes money to the Judgment Debtor (eg. rent, wages or funds in a bank account) is instructed to pay that money directly to the Judgment Creditor.

ENFORCEMENT (CONTINUED)

Charging orders

Charging orders can be used in relation to a Judgment Debtor's:

- Stocks and shares in a public company.
- Money on deposit in a financial institution (in the Judgment Debtor's name or on trust for the Judgment Debtor).
- Any equitable interests in property.

Creditor's Statutory Demand

A Judgment Creditor may serve a Creditor's Statutory Demand on a Judgment Debtor where the debt is at least **$2,000** and not in dispute. Failure to comply with the demand is a basis for making an application to have a Judgment Debtor company wound up.

Bankruptcy Notice

If a creditor obtains a Judgment against someone for a debt that is more than **$5,000** and no more than 6 years old, the creditor may serve on them a formal demand for payment known as a bankruptcy notice.

Failure to comply with the notice within **21 days** constitutes an act of bankruptcy and bankruptcy proceedings may be started.

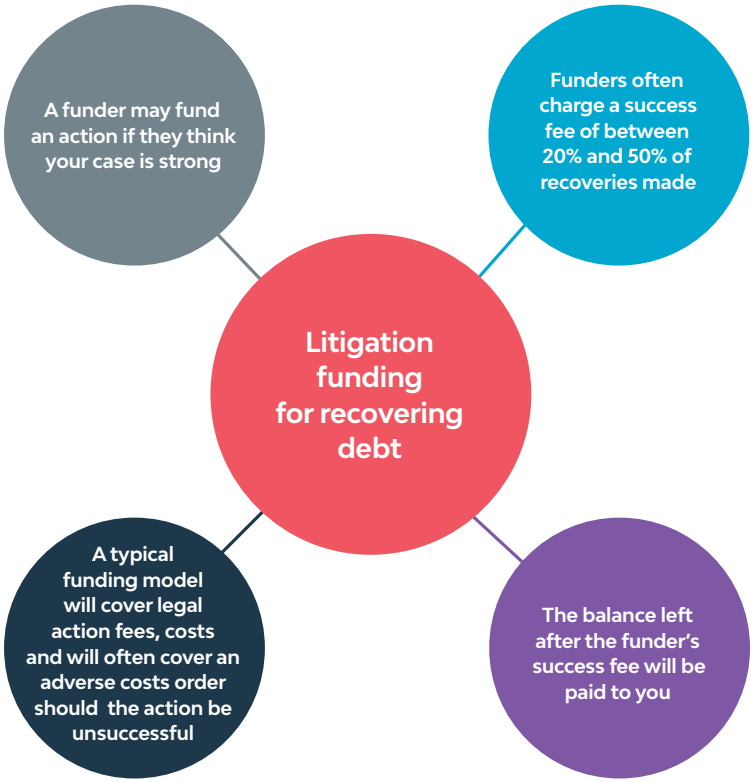
A trustee may be appointed to liquidate the Bankrupt's assets in order to pay debts owed to creditors.

Winding Up Proceedings

If a company fails to comply with a creditor's statutory demand, it will be presumed that the company is insolvent. Proceedings can be started to wind up the insolvent company.

A liquidator may be appointed to liquidate company assets in order to pay debts owed to creditors.

RECOVERING PORTFOLIO OF DEBTS AND EXTERNAL FUNDING OPPORTUNITIES



Litigation funders are becoming more active in assisting companies in recovering debts. But before going down that path, always consider:

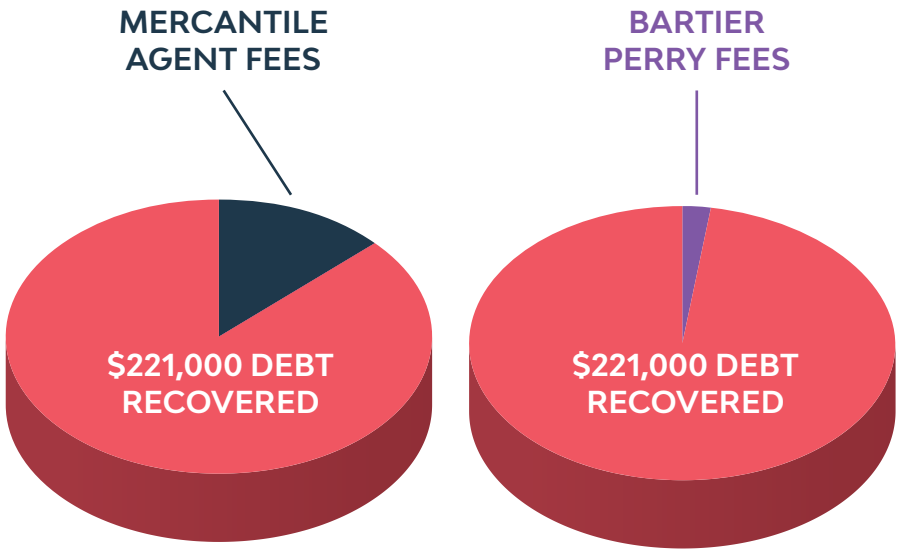
- The prospects of success
- The likely cost to you of pursuing the case
- How much you may be required to contribute to the costs of the defendant if the action is unsuccessful
- The availability of insurance to cover adverse cost orders
- What other funding options have been considered
- Your expected return after the funder's success fee has been paid

CASE STUDY

Our commercial disputes team worked for a client who wanted help in recovering a portfolio of debts.

The debts ranged from **$450** up to **$65,000** and totalled **$244,000**. Our advice was to issue a solicitor's letter of demand to each debtor.

Bartier Perry issued 18 letters of demand. The result astounded our client. Payment totaling **$221,000** was received from 16 debtors. The client paid a small fee for our services (some of which included advice following a response from a debtor). If our client had engaged a prominent Mercantile Agent, **$29,980** in commissions is likely to have been payable. Engaging Bartier Perry saved our client over 87%.



ABOUT US

Based in Sydney's CBD, Bartier Perry is an established and respected mid-tier law firm which has been providing expert legal services for over 75 years.

Commercial legal advice is only useful if it contributes to your enterprise. We look beyond the technicalities of the law and provide insights into what it means for you, your company or your industry. We deliver legal services in a way that's understandable and relevant to you.

We work with organisations of every type and size – including those with interests in many regions. As a member of the Australasian Legal Alliance, Bartier Perry provides many of its clients with access to multi-disciplinary teams across Australia and into Asia, all through a single point of contact.

We act for clients across Australia. Our clients fall into four broad categories:

- Businesses of all shapes and sizes
- Government (including all tiers, as well as agencies and public bodies)
- Insurance (including employers, self-insurers and specialised insurers)
- Private clients (such as entrepreneurs and investors)

As well as debt recovery, our teams work in these areas:



We pride ourselves on being collaborative – not only with our clients, but with each other. Collaboration ensures our clients receive the best legal advice we can offer.

We hire people who demonstrate integrity and respect, and who work well in teams. We are committed to an environment that is high achieving and honest.

We encourage our lawyers to specialise in those areas that interest them, and to collaborate whenever appropriate to obtain the best results for our clients.

KEY CONTACTS

For more information, contact one of our key team members:



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