NACM Credit Learning Center

Out of Court Settlements

Presented by
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Assess Probable Recovery

- Assets
- Liabilities
Out of Court Settlement Basics

• Treatment generally must be unanimous and fair

• If not, bankruptcy will likely result
Out of Court Settlement Basics

• Preference Issues
  – Getting something special creates pressure for others to undo it
Multi-creditor v. Independent Workouts

Multi-creditor

- Initiated by Creditors or by Debtor
- Committee?
Multi-creditor v. Independent Workouts
Multi-creditor

- Detailed and open exchange of information
- Evaluate information (counsel/financial advisors)
Is There a Committee?

- Evaluating information by creditors (counsel/accountants) (costs?)
- Agreement needs to be protected with liens or assignment for the benefit of creditors
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Independent or Small Group

- Usually initiated by creditor trying to force collection
- Need detailed and open Exchange of information with Debtor
Independent or Small Group

• Evaluating of information
  – Risk of other creditors interfering

• Agreement should be protected with liens or payments
Type of Deals

- What is the deal?
  - Cash
  - Compromise
  - Payout
  - Combination
Collateral for Payout

- Consider the discount and the Present Value
Settlement of Litigated Claim

- If disputed, consider costs of proceeding and likelihood of collection against offer of reduction.
- As with composition, come to agreement, fix the amount and get protections for default.
Settlement of Litigated Claim

- Can be secured by:
  - Judgment
  - Stipulation on default
  - Promissory Note
Robert S. Bernstein, Esq.

- Certified by the American Board of Certification in creditors’ rights and business bankruptcy.
- Active member of the NACM and PACM.
- Member of the Association for Conflict Resolution as a trained mediator.
- Past president and treasurer of the Commercial Law League of America.
- Past chairman of the Allegheny County Bar Association in the Bankruptcy and Commercial Law Section, the Professional Ethics Committee and is a member of the Finance Committee.
- Named by his peers as one of The Best Lawyers in America® 2009 in the field of Bankruptcy.
- Writes and lectures for local and national groups on matters of collection, bankruptcy, business law, and professional ethics.
Get P.A.I.D.™ A Guide to Getting Paid Faster
(And What to do if You Don’t!)

In this seminal book, he provides a solution, The Get P.A.I.D.™ System, that can transform a business by increasing profit, enhancing the relationship with the customer and reducing overall marketing costs. Get P.A.I.D.™: A Guide to Getting Paid Faster advances a radical new philosophy, suggesting that credit policy is not just about collections. It is a business strategy to enhance customer relationships and add value to a company.

The strategy discourages businesses from providing easy credit to their customers based upon the commonly held belief that easy credit will lead to stronger customer relationships. It usually leads to added cost and friction. The book outlines Bernstein's 4-Step Program to prompt payment and provides a "Collections Toolbox" to help businesses better manage their credit policies.

www.getpaidsystem.com
Bernstein Law Firm, P.C. is a law firm located in Pittsburgh, Pennsylvania with many satellite offices located throughout the state. The firm concentrates in Creditors’ Rights, Bankruptcy and Restructuring, and Business Law. In addition to its more than forty years of experience in these areas, the firm’s capabilities include Banking, Administrative, Real Estate, Civil and Appellate Law.

Bernstein Law Firm has more board-certified Creditors’ Rights specialists in Pennsylvania than any other law firm.

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Thank you.