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Showdown at the OK "Debtors" Coral

Paul Brennan

You get the run around from a customer's Accounts Department one time too many and, as in the Western films, you decide to strap on your Colt .45 and collect the sawn off shotgun from the rack on the wall. No longer are your kin folk gonna starve while them debtors are down at that there saloon drinking chardonnay.

Your old peaceable lawyer has a weapon that will have your debtor customers a' hollering and a' begging for mercy within the month. It is called, disappointingly, the "statutory demand". But do not let the name fool you; it is deadly and cheap.



No proceedings need to be issued or court fees paid. Your lawyer prepares a form called a "Statutory Demand" and sends it to the registered office of the debtor by post. They have 21 days to pay up or you can issue a winding up petition, the company's bank account will be immediately frozen and all their debtors will form a posse and hunt them down. Debtors will pay up on receiving a statutory demand, even if it is from their credit card, to avoid this.

There must be no possibility that the debt will be contested otherwise you could end up in court embroiled in costly emergency proceedings. You could be sued for the customer's loss if you get it wrong. So this is not for the lily-livered or the disputed debt.

It is used frequently in a sure fire case, where for some reason the debtor is not paying its debts. If the company cannot pay its debts when due, that is an act of insolvency and the court will wind the company up.

Does a Statutory Demand work with an individual who owes you money rather than a company? I am afraid not, but a Colt .45 does.

If you are owed money or if someone is threatening to sue you speak to your solicitor.

[For more legal tips click here to go to the Law & Disorder website](#)

Trustees in the firing line



Paul Brennan

A person who was about to become a trustee wanted me to assure him that he was not taking any personal risk. I told him "Absolutely not". Of course, I was joking.

Trustees know that if they are fraudulent, reckless or negligent, they can be pursued by the beneficiaries of the trust. But, sporting beneficiaries need to catch them first.

**ENERGY CRISIS WORSENS:
LAWYERS RUNNING
OUT OF HOT AIR**

However this is not their only problem. Consider the following:

1. When you sue a person and they refuse to pay after you have got a judgment/court order, the last resort is to make them bankrupt but it is a little bit fiddly.

2. When you sue a company, if it does not pay up, you threaten to wind it up. This is surprisingly easy to do.

But what about a trust? It is a separate legal entity. It's the sort of place that you put your money to try and shield it from other people e.g. your daughter's layabout husband. It cannot be wound up or made bankrupt.

Fortunately, for the trust's creditors they do not need to sue the trust, they only need to sue you, the trustee. The good news is that you, as trustee, can rely on the trust to indemnify you against such a claim. This is the bad news if the trust doesn't have enough money.

One solution is to have a company acting as a trustee. However, creditors can wind that company up and then pursue the directors if they have done a lousy job or made payments to one creditor, usually themselves or their families, in preference to another creditor.

Most people become a trustee at sometime in their life, for instance being the executor and trustee of another's will. Is it a mug's game? Well, no more than being a parent.

If you have a legal problem stop digging and speak to your lawyer

[click here to visit Brennans solicitors and migration agents website](#)

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The importance of avoiding legal potholes

Paul Brennan

In 1895, "The Importance of being Earnest" was opened to packed theatre audiences. The playwright, Oscar Wilde received rave reviews except from the Marquis of Queensbury, who was the father of Oscar's "partner", Lord Alfred Douglas ("Bosie").

What was acceptable homophobia in those days is probably illegal today and what was an illegal practice then is "A" ok now, which just shows you how fickle the law can be, especially if you are on the wrong end of it.



The Marquis added his then understandable, but now unreasonable, righteous indignation, to his eccentric, cantankerous and feisty (he did invent the Queensbury Rules) nature and tried to make their life a misery. Oscar considered having the Marquis bound over to keep the peace, but wanted to avoid scandal.

The Marquis finally went too far when he left a card at Oscar's club which said, "To Oscar Wilde posing as a Somdomite".

Either the insult or the misspelling or both drove Oscar over the edge. He decided to have the Marquis charged with criminal libel. Oscar's lawyer, exercising caution, required Oscar to swear on a bible that the insult was not true, which he did.

The trial was abandoned after the defence threatened to produce evidence from rent boys, to support the allegation. However, the lawyers for the Marquis sent the papers to the Director of Prosecutions. Oscar was convicted of gross indecency.

You would need to be very unlucky if your legal dispute resulted in your financial ruin, divorce, two years hard labour and caused you to leave the country in disgrace, quickly followed by your early death in poverty.

But what was a disaster for Wilde, regrettable for his own lawyer and a

tragedy, was probably considered a good result for the other lawyer.

Avoiding disputes in the first place, especially with the cantankerous, violent, mad and bad is often the most effective, but least popular option.

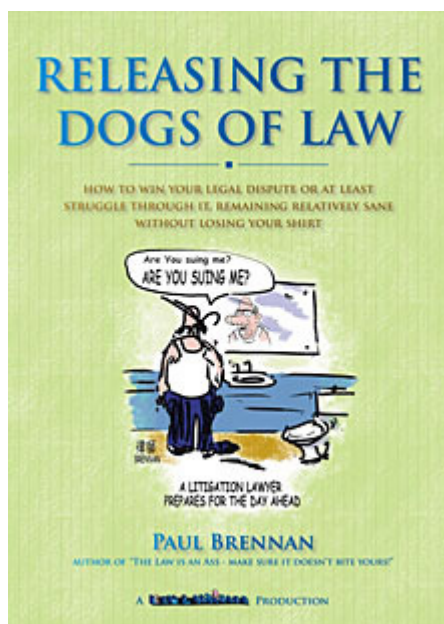
Paul Brennan

This is an extract from Paul Brennan's new eBook which shall be released next month:

"RELEASING THE DOGS OF LAW...

How to win your legal dispute or at least struggle through it, remaining relatively sane without losing your shirt"

[click here for information on Releasing the Dogs of Law](#)



You can write a book

Paul Brennan

If in the present credit crunch your phones are ringing less often then one solution to fill your time is to write a book.

If anyone ever asked me how many books I had written the answer would probably be "6, sort of".

There have been two "real" books:

The Law for IT Professionals

The Law is an Ass-Make Sure it doesn't bite yours!

Four eBooks:

1. We have the time if you have the money-How to promote your legal practice . This includes an easy guide to writing a book.
2. The 10 Greatest Legal Mistakes in Business...and how to avoid them.
3. Legal Guide to Dying...Baby Boomers Edition.
4. RELEASING THE DOGS OF LAW...How to win your legal dispute or at least struggle through it, remaining relatively sane without losing your shirt. This is coming out next month.

Also, I have made two Audio CDs:

The Art of Law

The 10 Greatest Legal Mistakes in Business...and how to avoid them

Next year, I will be releasing the book of my blog "101 Reasons to Kill All the Lawyers" <http://www.101reasonstokillallthelawyers.com/> (only 60 reasons to go).

What about my long awaited novel? When I say long awaited, I mean, by me.

In the next few issues I will set out my experience in writing and promoting books and in particular the reasons I have moved to eBooks.

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