

Shopping for a Civil Recovery Program?

For large retailers, successful civil recovery programs can provide millions of dollars in additional operating funds per year and can help offset the costs associated with retail shrink. An outsourced program can lessen the retailer's recovery cost structure, allowing most of these recovered funds to drop directly to the bottom line. What is the best way to procure a third-party service?

Adequately Fund Your Collection Efforts

Choosing a "low-cost" provider will result in cutting corners during the collection process. In a robust collection effort, incurring additional costs will help ensure a higher amount of recovery dollars. Simply sending a letter and waiting for money orders to arrive is a one-tier, short-sighted approach to a civil recovery program. While it would have a fairly low-cost basis and it would result in some collection, it will not maximize recovery opportunities.

Examples of how a robust collection method can increase collection percentages include the following:

- Address verification being performed when cases are received to increase recoveries by shortening the time before letter receipt and increase first attempt deliveries.
- Sending letters on all cases that meet the state statutes and client parameters, regardless of the socioeconomics of residents in the zip code where the letter is mailed.
- Skip tracing all returned mail with adequate information to increase the chances of reaching hard-to-find people.
- Responding to all opposing party's correspondence and opposing counsel's communications to protect the client and its reputation.
- Timing of letters and outbound calls to maximize the impact.
- Having extended hours, seven days a week.
- Ensuring all collection activity is attorney supervised.
- Multilingual collection and legal staff to promote collections from diverse backgrounds.
- Providing multiple payment options, including credit cards, checks over the phone, web-based payments, and third-party payment solutions such as Money Gram.
- Dedicated IT staff responsible for managing, securing, and backing up important data.
- Following up on older cases to get the most out of each one.



While efforts such as these may have a higher per transaction cost, the likelihood of success resulting from these comprehensive efforts can offset these costs and provide additional funds back to the retailer.

Adequately Protect Your Organization

The pursuit of tort claims on a client's behalf is a different type of collection than debt collection and requires a tailored approach in order to protect the collection law firm and the clients they represent. The collection organization should be organized and operated as a law firm.

Civil recovery companies may drop files once opposing attorneys become involved or even worse, they may continue to send out letters or make calls. Dropping the files of attorney-represented parties will result in reduced recoveries. Ignoring attorney representation and continuing to send letters directly to opposing parties that are represented violates fundamental ethics rules for attorneys and can result in regulatory complaints and inquiries.

Civil recovery organizations may not keep current with the ever-changing state statutes governing the law of this industry. Law firms will be more likely to stay abreast of statutory changes and must comply with state bar regulations, including placing all client funds in bar-regulated trust accounts. Other organizations may commingle these funds, and they will be less likely to support retail organizations' efforts to comply with the requirements of the Sarbanes-Oxley legislation.

The benefits of a well-funded, legally conscious program will reward its clients by returning greater recoveries, but more importantly by providing the peace of mind that comes from the knowledge of having a licensed law firm protecting their best interests. ■

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