

The Complete Beginners Guide to Demand Letters

by Kristin Alford
NCS Education and Marketing Specialist

J/S
JONES & SMITH

Robert W. Jones
(555) 555-5555
(555) 555-5556 Fax
rjones@email.com

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ABC Company
1000 Main Street
Cleveland, Ohio 44143

DEMAND FOR PAYMENT

Dear Sirs,

You are hereby notified that Make Believe Industries of Texas, LP has furnished labor and materials to wit: kitchen and bath cabinets and countertops for the Village @ Downtown project in Anytown, Alabama. There is, at present, an outstanding balance of \$50, 232.10. Demand is hereby made that this claim be paid in full within 10 days, or legal action may be commenced to secure payment of the same.

By: _____
Robert W. Jones
Attorney for Make Believe Industries of Texas, LP

cc: XYZ Company
2000 Elm Street
Cleveland, Ohio 44143

The Complete Beginners Guide to Demand Letters

Demand letters can expedite payment, allow you to maintain control of your collection process and save you money. A demand letter is a strongly worded request for payment, most often served upon your customer, advising legal action may be taken if payment is not received within a specified time period.

A demand letter is not intended to be “a-walk-in-the-park-chasing-rainbows-and-butterflies” but rather a stern reminder that monies are past due and there are consequences resulting from non-payment.

What should I include in a demand letter?

In order for a demand letter to be successful, it should contain factual information and be succinct/to the point.

- **Date of the demand**

You should always date the document – this is a good rule for all correspondence.

- **Your company’s name and contact information**

The reason is obvious – It is important to provide your customer with a means to follow-up with you via your preferred method of communication. For example, if you would like your customer to email you, make sure you include your email address.

- **Your debtor’s name and contact information**

Again, this is important for (hopefully) obvious reasons – clearly identify the debtor.

- **A reference to the debt**

Be clear & concise when referencing the debt, so there is no mistaking your claim for another company’s claim. If the debt is in relation to a construction project, provide the project name, purchase order number or contract number. If you have filed a UCC, and the debt is associated with that filing, include the date the Security Agreement was executed, the UCC filing number or purchase order number.

- **The amount of the debt**

This should be a no brainer: you are owed money, that’s why you are sending a demand letter. Include your claim amount and be prepared to show documentation supporting that claim amount. You don’t need to include open invoices or a statement of account with the demand letter, but it’s best to have it nearby in the event someone contests the claim.

- **The due date of the debt**

It’s a best practice to provide your customer with facts about the debt. Including the original due date of the debt is also a cue to the debtor that the debt is “xx days past due” – meaning, if the debt originally came due January 1, 2014 and the demand was served July 1, 2014, the reader will automatically (perhaps subconsciously) determine the debt is 6 months old.

- **How the debt should be paid**

This ties back to how you would like your customer to contact you. Provide your customer with your preferred payment method. An example would be “Please remit payment, via certified check and make the check payable to Make Believe Industries of Texas, LP.”

- **The payment deadline**

Include a deadline. “Payment must be received in this office by MM/DD/YYYY” or “If payment is not received within 10 days from the date of this notification...”

- **The consequence of not paying the debt**

We’ll touch on this again in a moment, but make sure you provide a specific consequence – “If payment is not received, we will proceed with <<description of the next legal action>>.”

Who should receive a copy of the demand letter?

The demand should be served upon your debtor, but it is recommended you also send a copy of the demand to any party that may contribute to you being paid.

- “I supplied to a construction project” If the debt is related to a construction project, the additional parties you may want to include are the project owner, project manager, prime contractor, subcontractor, lender and surety.
- “I supplied inventory to my customer” If you applied for or have filed a UCC as security, we recommend you serve a copy of the demand solely upon your debtor.

I filed a UCC, what information should I include in my demand letter?

Aside from the primary information referenced above, if you have filed a UCC, you should use that filing as leverage within your demand letter. Make sure to include the following information in the demand:

- The date the Security Agreement was executed
- The UCC filing number and the date of the filing
- Reference to the Collateral Description
- Reference to the Default Terms

You also may want to include a copy of the Security Agreement and a copy of the UCC filing as an attachment to the demand letter. Providing “proof” is not necessary, but it supports the validity of the debt.

I filed a mechanic’s lien, what information should I include in my demand letter?

Just like UCC filers, mechanic’s lien filers should include the basic demand letter information, and leverage the lien filing by including the date the lien was filed and the recording information for the lien. Feel free to send a copy of the recorded mechanic’s lien with the demand letter, further supporting your collection efforts.

The Consequences of Not Paying

As mentioned above, any time you send a demand for payment, you need to ensure there is a clear consequence for failing to remit payment.

You may be thinking “A consequence? Why? They should just pay me!” Yes, they should *just* pay you, however, the party(s) involved need to know there is a consequence for not paying you.

Think of it like when a child goes to touch a hot stove, we warn them “Don’t touch that or you will get burned and it will hurt!” – getting burned and the significant pain are the consequences of touching the stove. (Just to be clear, I’m not condoning “bringing pain” to your customer, though I now hear a voice saying “You want I should break your knee caps”...)

Be specific as to a realistic ramification for not paying:

“...If payment is not received, we may pursue all available legal remedies against you, including, but not limited to, filing a lien.”

or

“...If payment is not received, we may pursue all available legal remedies against you under the Uniform Commercial Code.”

Can I send a demand letter if I didn't serve a notice or file a UCC?

Yes, absolutely YES! There are no prerequisites for sending a demand letter, other than the outstanding debt; just remember to word the consequence accordingly. Demand letters are a great alternative to immediately pursuing efforts with a collection agency or initiating litigation. The "threat" of legal action may be the fire needed to get your customer's attention.

At NCS, we often recommend sending a demand letter before pursuing the mechanic's lien/bond claim, suit or repossession, primarily because it is an effective alternative to prompting payment. The cost of a demand letter pales in comparison to the cost for legal and attorney fees, and if it drives results and saves you money then it is well worth it!

When would I send a demand letter?

Demand letters are used in a myriad of ways, so here are just a handful of instances where a demand letter may be the most useful and cost effective tool for recovering an outstanding debt:

- Before proceeding with repossession of goods
- Before proceeding with enforcement under the Uniform Commercial Code
- Before proceeding with a mechanic's lien or bond claim
- Before placing an account with a collection agency

Essentially, use a demand letter when polite tactics have failed. If your customer stops responding to the casual emails and phone calls, it is a signal that you need to step up your game.

Does a demand letter have to be sent by an attorney?

Short answer: No. No, a demand letter does not need to come from an attorney or law office. Demand letters can vary in origination and you need to determine the type that applies best to your current situation.

You may find that a demand letter sent from your company is enough to prompt payment. On the flip side, you may encounter a situation that warrants a stronger force, and the "official" attorney document may be that force. In the business of collecting money, you should never underestimate the power of attorney letterhead!

Psst! Here's a Sample Demand Letter

<<Date>>

Reference:

Balance Due:

Dear Sir or Madam:

We are writing to you in connection with the above balance, which is seriously past due.

It is requested that payment be made in accordance with the terms of <<Claimant Name>> invoice(s). This letter is written to afford you the opportunity to arrange for payment amicably. In the event that payment is not received in full within ten (10) days from the receipt of this letter, all available remedies may be taken. Please contact our office to make the necessary arrangements to pay this obligation.

Sincerely,

<<Claimant Contact>>

<<Claimant Name>>

<<Claimant Address>>

<<Telephone>> <<Email>>

To Learn more:

800-826-5256

SecureYourTomorrow@NCScredit.com

NCScredit.com

