

## Avoiding Lawsuits When Hiring a Repossession Companies

So you're a collection agent, or maybe a bank officer, and you have some repossessions you need to get done. Easy, right? Just open the phone book and call up the repo company with the biggest advertisement. Anyone can do a repo, right? Well, that can be part of the problem; in many states, *anyone can do repossession*, without any special licensing or bonding requirements. It is true that a of repossessions are simple: find the car, tow it away (or even just drive it away if you've obtained a key). However, there are plenty of legal pitfalls involved in making sure each and every recovery is done lawfully. The repossession company's job is to make sure they are legal at all times, but the reality is that you can get yourself into trouble if the company you hire does something wrong when acting on your behalf.

The good news is that there a few simple steps you can take to screen repossession companies and select a reputable operator who will do the job right. You want to find out information in three important areas: Policies, Insurance, and Ownership.

### Policies

When interviewing a prospective repo agency, ask them about their safety and hiring policies. You want to find out as much as you can about what the rules are, but don't forget also to ask how they *enforce* the rules. A company that can show you *written* policies is always a promising prospect, but you'll at least want to find out where the company stands in three key areas.

1. **Guns.** I can't say it any more simply or emphatically: do *not* hire a company that permits their employees to carry firearms on a recovery action. Period. Guns equal trouble, and they do not keep the employee safer. Harry Dean Stanton said it best in the movie "Repo Man" – when someone asks his character why he doesn't carry a gun – "Only an idiot gets killed for a car."
2. **Background Checks.** Does your prospective repo company do background checks on their employees? It's important in this business that you're not sending someone with a criminal record out into the field to recover property. This is especially true if the person in question has a history of theft or violence. There is nothing worse than a repo agent who is likely to *start* a fight rather than avoid one.
3. **Driving record.** Ask your prospective company what they know about the driving records of their agents. An employee with a shaky driving record is not necessarily as bad as one who carries a gun or has a criminal history, but you would still run some risk of having property wrecked and people injured by a poor driver.

### Insurance

Find out who insures your prospective reposessor (it should go without saying that if a company you're looking doesn't have insurance, run, do not walk, in the opposite direction). Call the insurance company and ask for the repo company's *loss run* over the last three year period. Obviously, the more insurance claims the company makes, the less likely you are to want to do business with them. This is an area where you might need to make a judgement call. Even the best company will occasionally have a loss, and bigger companies will have more losses because they do many more recoveries. A rule of thumb I recommend is to avoid a company that has more than two or three claims in the past three years. For larger, multi-state companies, make that two or three *for each state* where the company operates. If possible, also try to find out the nature, or at least the dollar amount, of the losses. A company that has several claims for the occasional ding or dent might be a better bet than one that somehow manages to destroy an entire automobile once in a while during the recovery process.

### Owner

Find out who owns the repossession company, and how long *that person* has been in the repossession business. This can be tricky if you don't get all the details. You may be dealing with a *company* that has been in business for twenty years, but that company could have just been sold last year to a new owner who has no experience in the business. The way I like to figure things, this qualifies as being in business one year, not twenty. I recommend hiring a company that has been in business at least three years, and has a track record of success and safety that you can check. And, just as you want to avoid a company that has employees with criminal records, make sure you check into the *owner* of the company. Avoid doing business with a company whose owner has had past trouble with the law.

Checking policies, insurance, and ownership for a company you're considering hiring does not have to be complicated, and is mostly a matter of common sense and doing your homework. However, there is still one additional trap you can fall into if you're not careful: Forwarders. Forwarders are companies that advertise repossession services, often covering a large geographical area, but then farm out the actual recovery work to individual local repo companies. Forwarders can be reputable, but there is an extra layer of management between you and the person actually doing the recovery, and that can cause problems. You've checked the Forwarder and they have a comprehensive policy to avoid lawsuits, but what do you know about the local company the Forwarder will hire to do your recovery? Does that local company have the same policy? Does the Forwarder enforce their policy on all the companies they hire, and if so, how? Often times a Forwarder will make the recovery company they hire *aware* of their policy, but do nothing at all to ensure the recovery company is in compliance. This can be almost as bad as not having the policy in the first place.

My advice is to be cautious in this area. First and foremost, make sure you understand who is doing the actual repossession work. Don't let yourself in for an unpleasant surprise when you learn, literally *by accident*, that the company you hired is nothing more than a re-marketing clearinghouse. And if you do want to use a Forwarder, get them to tell you everything you need to know about the actual company that will be physically picking up the car or other property you're trying to get back.

An ounce of due diligence can be worth its weight in gold. Don't be caught out in the cold when someone you've hired to do a potentially tricky job gets it all wrong.