

LAWYER'S BOOKSHELF

Complete Guide to Credit and Collection Law (2006-2007 Edition)

Arthur Winston and Jay Winston

Aspen Publishers, 2007

If you are looking for one book to provide a comprehensive overview of credit and collection law, *Complete Guide to Credit and Collection Law* will fit the bill. The authors, who have practiced credit and collection law for some 30 years, have written a helpful, practical volume that is now in its 10th printing. Their work combines not only an overview and explanation of applicable legal principles, but also practice tips, and business advice. The book will be useful to both inexperienced and experienced practitioners, and also to parties frequently dealing with credit and collection issues, such as business owners and credit managers.

The organization and style of the book is geared toward non-lawyers involved in credit and collection issues, from the perspective of the creditor. Throughout this rather large volume, the chapters are written in a clear, concise style that is easily understandable for both non-lawyers and novices to a collection practice. Nevertheless, experienced lawyers will benefit from the authors' collected wisdom, and their cut-to-the-chase approach that stresses practicality and problem solving.

The first four chapters orient the reader to the world of credit and collection issues. Chapter 1, titled "An Explanation of Legal Terminology in a Collection Case," takes the reader through the life of a collection case from inception to completion, with a detailed explanation of each step and concept, including but not limited to jurisdiction, pleadings, discovery, motions, settlement, trial, judgment, and enforcement of judgment. Chapter 2, titled "Legal Concepts of Business," provides an overview of pertinent legal concepts related to credit and collection matters such as forms of business (individual, partnership, corporation, and limited liability company), apparent authority, basic contract principles, assignment of debt, and the like. Chapter 3 covers the spectrum of legal remedies available for the business creditor. In Chapter 4, the authors provide an overview of legal issues of consumers, which addresses legal exemptions for consumers.

From there, the remaining chapters address virtually all, if not all, of the major issues involved in credit and collection

law, including legal issues involved in contract liability, basics of bankruptcy law, use of law firms and collection agencies, checks, notes and guarantees, privacy issues, secured lending involving real estate and mortgages, Article 9 secured lending, Fair Credit Reporting Act, Fair Debt Collection Practices Act, Truth-in-Lending Regulation Z, e-commerce technology, repossession, and skiptracing.

This book does not purport to cover all issues in complete depth, and specifically notes that there may be substantial differences in applicable law from state to state. Nevertheless, each of the chapters sets forth clear explanations of the basic legal concepts with footnotes to statutes and cases illustrating the principles. Although the footnotes are not lengthy, they are numerous, and provide the practitioner with a starting point for follow-up research on particular issues.

Throughout each chapter, the authors have liberally included practice tips relating to the particular issue discussed, immediately following the discussion of the legal principle. These practice tips are conspicuously set off in different typeface so they are easy to locate and read. They provide helpful, experience-based suggestions to address problematic aspects of the issues at hand.

Besides the practice tips, most of the chapters include appendices that provide helpful amplification of the matters discussed. Many of the appendices set forth pertinent statutes discussed in the preceding chapter, such as the Fair Credit Reporting Act, Fair Debt Collection Practices Act, and portions of the Bankruptcy Code. For some chapters, pertinent state statutes or forms from more populous states, such as California, Illinois, Texas, and Florida, are included. A number of appendices include helpful surveys of state law on particular issues, such as an alphabetical listing (by state) of each state's statute of limitations, with citations, and the survey of laws affecting attorneys in collection practice.

Of particular interest to non-lawyers and newer practitioners are chapters focused on practical aspects of collection. Besides the first four chapters noted above, the last two chapters, titled "Letters and Telephone Calls" and "What to Do When You Are Served," provide specific step-by-step examples and how to advice drawing upon the authors' experience. These chapters include checklists that address frequently recurring issues in credit collection in a variety of circum-

stances, and what the creditor should do to minimize problems and have the best chance of success.

My favorite is "10 Frequently Used Excuses and How to Respond to Them." This subpart of Chapter 18, titled "Letters and Telephone Calls," takes the reader through 10 common excuses encountered by creditors, with specific advice on how to respond to each in a legal but collection-oriented manner, and includes examples by way of hypothetical telephone dialog between creditor and debtor. Not only have the authors heard every story in the book, but they have answers on how to best handle such stories.

Similarly, Chapter 19's subpart, "What Do I Do When I Am Served," sets forth a specific, plain language list of steps to be taken in response to a lawsuit. Whether used as a guide by a client or outside counsel, the advice would certainly seem to increase the likelihood of success for the client while minimizing expenses.

In sum, *Complete Guide to Credit and Collection Law* is a useful book for lawyers and non-lawyers alike. It pulls together a broad scope of applicable statutes and issues, and combines years of insight and practical advice in an extremely user-friendly volume.

Reviewed by James J. Ferrelli
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2008 New Jersey Local Government Deskbook

Thomas P. Scrivo

New Jersey Law Journal Books, 2008

This volume, by its promotional materials, indicates it is to be an annual publication, designed to be a practical guide not just for lawyers but primarily for orienting newly elected municipal officials. Written by a seasoned municipal attorney, Thomas Scrivo, it reflects a joint effort of various lawyers within McElroy, Deutsch, Mulvaney and Car-

penter, as well as a contribution from Beth Hinsdale-Piller of Fox Rothschild. Notwithstanding its stated purpose of being written for laypersons, the volume nonetheless fulfills the expectations of a deskbook for attorneys; the table of cases itself runs some 47 pages. It is not meant to be an exhaustive treatise, but an orientation, a starting point, and it does that.

It is organized in intuitive fashion, beginning with an introduction to the forms of municipal government and running through local legislative procedure. From there, the chapters proceed to a discussion of the Open Public Meetings Act, public access to records, powers of municipal officials, and autonomous agencies. The chapter on ethics is welcome; the opening sentence is important to new officials since it addresses not merely technical legal issues, but the broader need for ethical behavior: "Integral to the survival of a representative form of government is public trust and confidence in elected officials."

The book further addresses specialized subject areas, such as procurement, condemnation and redevelopment, real property taxation, and labor and employment.

Finally, separate chapters discuss the municipality's relationships with other governmental entities, public utilities, election law, and claims against public utilities and employees. A chapter titled "Miscellaneous" discusses the Local Fiscal Affairs Law, public safety and police department issues, and code administration and enforcement.

Practitioners may be familiar with the extended treatise by the late Michael Pane (and now continued by his son, Michael Pane Jr.) as part of the New Jersey Practice Series. That excellent text is geared more toward lawyers. The *2008 New Jersey Local Government Deskbook* attempts to synthesize much, but not all, of the essential framework with

which elected officials (and lawyers who work with them) must be familiar. As such, it is not a book filled with forms, and statutes are often simplified in discussion to identify issues for further research, rather than trying to run down or explore their ramifications. This, too, is fine; a little knowledge can be a dangerous thing, and it is important that lay elected officials understand that the identification of legal issues is often simply the first step. In this regard, the book also does a public service.

This is the kind of book that can be carried around and thumbed through for quick overviews, and it provides sufficient statutory citation for further review. As future editions are prepared, undoubtedly some topical areas will be expanded (I would like to see more discussion of the interaction between planning boards and municipal governing bodies, for example), and others deemphasized. I have no doubt the author and publisher would welcome such feedback. In the meantime, this is an excellent, useful and necessary book that provides an accessible foothold to the newcomer to municipal government (and even to more experienced hands) by putting in one place the panoply of relevant issues, agencies and law. ♪

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