



BookReview

Complete Guide to Credit and Collection Law

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(Aspen Publishers, 2004 Edition)

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To discover how comprehensive this complete analysis of the collection industry actually is one need only pay close attention to the additions that are added with each new edition to reach the conclusion that it clearly is the definitive guide to the industry. The authors react to developments in the industry through updating on a regular basis with evaluations as to statute, court decision, court procedure, and office management changes affecting the evolution of the industry.

Beginning with an insight into the operation of the office of a collection attorney which is directed toward providing an understanding of the law office procedures for those who are not lawyers but who must deal with the collection attorney office, it sheds insight into day to day considerations which shape the operating procedures of such offices. In addition to the non-lawyers who need an overview, the book is of extreme value to younger collection lawyers who are starting practices away from seasoned mentors and rural lawyers who handle collection matters but are unable to generate sufficient business to concentrate solely in the collection field. With an extensive index, which is the result of extreme efforts by the authors to enable a reader to find a response to an inquiry promptly, the book is a must for anyone in the collection industry. A strong advantage of the book is the authors' annexing to many of the chapters of an appendix or more than one appendix, which contains statutes, regulations, forms and other information that is, relied upon heavily by collection agencies and collection law firms. The authors have sought and received excellent contributions from various industry experts and industry groups to be able to include reprints of information in a single volume that otherwise would require resorting to many sources to obtain. Among the items provided through an appendix is a complete listing of this league's Operative Guidelines for Forwarders and Receivers.

Difficulty exists in determining which of the outstanding comments of the book are worthy of use as an example to demonstrate how a reading of it can benefit a collection profession-

al. The book not only sets forth the basic guidelines to follow to establish and maintain a successful collection practice, it fine tunes many standard procedures to provide greater success. For example, the book, in discussing settlement negotiations regarding retail collections notes that such debtors often attempt to settle claims prior to selling real property suggesting that upon settlement of such type of claim to obtain satisfaction of a judgment, the collection attorney should insist on language that "the debtor has not entered into any negotiations or executed any contract of sale with regard to any real estate." The authors comment that if a debtor refuses to sign a document including such language, the collection attorney may want to reconsider the offer of settlement as he may be in a position where full payment could be imminent. Other comments regarding stipulations for settlement and why certain terms should be included is effective in causing the collection lawyer who reads them to provide a better result for a creditor he is representing.


If the book has any flaws, they would be difficult to find other than, through no fault of the authors, the dynamic changes of the industry keep making material obsolete. President Bush's signing of the Servicemembers Civil Relief Act on December 19, 2003 completely revised the Soldiers' and Sailors' Civil Relief Act of 1940 and this book will need to wait for the next edition for replacement materials regarding such new legislation to ease economic burdens on active duty military personnel.

As the nation's bankruptcy court system converts to its new Electronic Case Files System (CM/ECF) to provide twenty-four hour access to case file documents over the Internet and to obtain automatic e-mail notice of case activity, collection professionals will change their methods of handling matters. This book has adapted to such changes. While prior editions suggested that, when filing of a proof of claim, the filer should provide a self-addressed stamped envelope for return of a stamped copy of a claim, the current edition notes that the option of electronic access to the claims register is available to determine whether a proof of claim

has been filed to replace the procedure used for many decades.

In the event that a collection attorney is called upon to justify the procedures employed by his office in regard to a claim for damages under the Fair Debt Collection Practices Act, this book is beneficial in its discussion as to what is bona fide error and its suggestion that a key to such defense is the maintaining of a procedure manual and monitoring staff activity. Implementing of many of the suggestions of this book will clearly create the ability to adopt procedures that are well within those permitted by the statute.

Discussion of how the Gramm-Leach-Bliley Act may apply to collection attorneys is provided with a notation that the Federal Trade Commission states a consumer has a customer relationship with a debt collector that purchases an account, but does not have such relationship with a debt collector who is simply retained for collection. The book notes that the American Bar Association is involved in attempting to create an attorney exemption to this statute and comments that the issue will likely be visited by the FTC again and by the courts before it is resolved.

In the future this treatise clearly lends itself to an on-line edition that can be updated as the authors deem appropriate. The book is clearly a must for anyone in the collection industry. 



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