

## COLLECTIONS: USING AN ATTORNEY VS. A COLLECTION AGENCY

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With the current state of the economy, many businesses are now faced with an ever-growing volume of delinquent accounts receivable from other businesses or individuals. An important question that these businesses face is where to turn when their internal efforts to collect these accounts have proven unsuccessful. It is important that businesses understand the differences between using an attorney and a collection agency in order to make an informed decision as to the method that may work best in different situations.

The first consideration is what efforts will be undertaken to collect your accounts. A collection agency will conduct the same activities in which you have been engaged to collect your accounts – sending letters and making telephone calls – although this will most likely be done on a larger scale. However, an attorney can not only take these same actions, but he can also bring the threat of legal action against the customer. In some cases, the threat of a lawsuit may be the encouragement needed to reach a resolution of the customer's account. Because of this, there are some customers that may respond more quickly to a demand letter from an attorney that would not have otherwise responded to a letter from a collection agency. Also, using an attorney will be the only way to collect from customers who will only respond to a lawsuit.

Another consideration is the cost associated with each collection method. Regardless of the amount of time necessary to collect the account, a collection agency will charge a percentage of the amount collected, based on the amount of the debt and volume of accounts placed with the agency. On the other hand, our office typically handles these matters at the attorney's hourly rate. This means that you could generate a greater net receivable on an easily collectible account by using an attorney. There are also court costs that may be incurred by using an attorney if you decide to file a lawsuit to collect on an account. Depending on the terms of your contracts with customers, any attorney's fees and court costs may or may not be collectible in a lawsuit.

Tied closely to cost, the size and potential success of collecting a delinquent account will also be an important factor. It will likely be more cost-effective to use a collection agency for a small

account due to the fees and costs involved as well as the potential that the account may remain uncollectible. However, a larger account may warrant using an attorney. In all cases, it will not be cost-effective to use an attorney if you feel strongly that no payment will be forthcoming, unless there are internal reasons that would require you to obtain a judgment prior to writing off the account as uncollectible.

There are certainly pros and cons to consider with every account in deciding whether to use an attorney or a collection agency to assist with the collection process. If you have questions regarding the legal process used to collect accounts receivable or to have a discussion regarding which method may be best for you in a particular situation, we would be happy to talk with you.