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Seasons Greetings



“Tip of the Month”

Interest and Attorney Fees in Collection

Business owners sometimes encounter unpaid receivables. Sometimes the debtor appears to have no good reason for refusing to pay. This can be annoying. The business owner would like the attorney to go after this debtor for the balance due plus interest and attorney fees.

This might not work. In fact, it might be illegal.

Under State and Federal law, the debtor has to agree in advance to the addition of interest, attorney fees and other costs of collection. These terms must actually be written in the contract the debtor signs. They are not something the business owner can add onto the invoices later.

A debt collector (including an attorney) can run into some serious trouble by threatening in a demand letter or lawsuit to collect extra costs and fees (other than court costs) that were not authorized. This collection practice is prohibited by the Federal Fair Debt Collection Practices Act and by New Hampshire RSA 358-C:3, Unfair Collection Practices. In the event of a violation, the debtor might turn around and go after the debt collector.

Without the right language in the signed contract, the business owner is at a disadvantage. The debtor might think the cost of collection is too high for the business owner to bother chasing the debt. On the other hand, the prospect of paying interest and a business owner’s attorney fees could be a significant disincentive to the debtor holding out on payment (unless the debtor truly has no ability to pay).

Experience has shown that customers are not scared off by having these provisions in the contract. Indeed, clarifying that the customer will be responsible for the business’s collection costs, interest and attorney fees are a common feature in many contracts. If a customer did object to such terms, that customer might better be avoided.

If you need help fixing up your contracts, please feel free to give us a call at 668-1971 or contact us through the Internet at *Meslaw @ aol.com*. We’re here to help.

Happy Holidays!

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