



Mesmer & Deleault, PLLC
41 Brook Street, Manchester, NH 03104
Seacoast Office: One New Hampshire Ave., Suite 125
Portsmouth, NH 03801



“Tip of the Month”

COLLECTION LAW: The Nuts and Bolts

Whether you are the one who owes money (the “debtor”) or the one who is owed money (the “creditor”), it is important to know what the rules of the collection game are. Consumers who buy on credit, whether it is with a credit card or a mortgage, must repay the loan or they will hear from the business or financial institution, the creditor, by letter, telephone or other communication. Likewise, the creditor that lends the money or extends the credit or provides the service that remains unpaid will need to determine the most effective way to contact the delinquent debtor and collect payment.

The collection landscape is governed by a slew of rules, including state laws and federal laws. The most noteworthy federal law in the collection arena is the Fair Debt Collection Practices Act, also known as the FDCPA (15 U.S.C. 1692, et seq.). This law was enacted in 1978 because Congress found “abundant evidence of the use of abusive and deceptive and unfair debt collection practices by many debt collectors.” States such as New Hampshire also have laws modeled after the FDCPA.

The FDCPA provides guidelines for businesses and debt collectors to follow when pursuing repayment of a consumer debt. If the creditor does not follow the guidelines, the creditor could suffer significant financial penalties under the statute. Some of the guidelines require notice disclosures to debtors in correspondence, cessation of collection activities if the debtor notifies the creditor in writing of a dispute, and the creditor’s verification of the debt (such as by a copy of a Judgment).

The FDCPA also prohibits certain communications with the debtor, including those at inconvenient times such as early morning (before 8 AM) or mid-evening (after 9 PM), or at the debtor’s place of employment, or direct communications when the debtor has an attorney. Furthermore, the FDCPA prohibits a debt collector from using profane language or threats of violence or repeatedly calling a debtor with intent to “annoy, abuse or harass.”

Although most collection disputes are resolved without litigation, many debt collection disputes do resort to the courts. A creditor usually has the option of proceeding in district court, superior court or federal court, depending on the amount of the debt and the jurisdictional subject matter. Many such collection lawsuits can be settled through mediation with a payment plan.

Whether you are a creditor or a debtor, please call the attorneys at Mesmer & Deleault at 668-1971 or contact us by e-mail at *mailbox @ biz-patlaw.com* for advice on prosecuting or defending a collection case.

Frank B. Mesmer, Jr.
Robert R. Deleault
Steven H. Slovenski
Ross K. Krutsinger
0112

(603) 668-1971
Fax (603) 622-1445
E-mail: *mailbox@biz-patlaw.com*
Website: *www.biz-patlaw.com*