

SA-VIT COLLECTION AGENCY TIPS OF THE MONTH ARCHIVES



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Litigation as a Collection Tool

After your collection agency has exhausted all reasonable in-house efforts to collect your delinquent accounts, it is time to consider what further options are available to increase the amount of recovered dollars.

Litigation (commonly referred to as "suit," or suing the debtor) is commonly used as a last resort, when the debtor has the ability to pay, but lacks the desire or simply refuses to do so.

When considering suit, the balance owed and the ability of the debtor to pay must be taken into consideration. Currently, the balance owed should be \$500 at a minimum, because it is impractical for attorneys to work on smaller balances.

Ability to pay is often difficult to determine. The collection agency will try to determine that in several ways: information supplied by the creditor, discussions with the debtor, credit reports, etc. The most valuable information to the agency is the debtor's place of employment and the debtor's banking information. Home ownership is also a deciding factor. This information is needed not only to determine if suit is appropriate, but is useful if the debtor refuses to pay after being sued, and a judgment is entered. The debtor's assets can be attached through further legal proceedings.

Finally, there may be extenuating circumstances that are unknown to the collection agency, but might be known to the creditor, which might be sufficient reason not to proceed with litigation. For example, payments made to the creditor which somehow were not reported, prior threats of malpractice, extreme hardship known only by the creditor, and sometimes personal reasons between the creditor and the debtor. That is why the agency always notifies the creditor prior to litigation.

While suing a debtor may sound extreme, remember it is the debtor who brought you to this point by refusing not only your collection efforts, but also all reasonable efforts by the collection agency.