

What Documentation Do I Need?

Here is a checklist of documents which will assist us in collecting from debtors:

- A. Credit application or equivalent. This is the most crucial document because it should contain:
- (1) Debtor's full name and physical address (not just a post office box).
 - (2) Debtor's legal identity including whether it is a corporation, limited liability company, partnership or proprietorship.
 - (3) Name(s) and residential address(es) of the owner(s) of the debtor's business.
 - (4) Nature of debtor's business.
 - (5) Debtor's contact and telephone number.
 - (6) Trade references including exact bank name and account number.
 - (7) Names, addresses, telephone numbers, birth dates, Social Security Number and/or Employer Identification Number, and driver license number.
 - (8) A credit application is also the best way to have the debtor agree to the county of venue (location) of legal disputes, pay interest, collection costs and attorney's fees. Above the debtor's signature should be a statement that the credit information above is accurate. Below the signature line should be an agreement to pay interest which is signed separately from the verification of the credit information. Without a specific separate agreement to pay interest, you are limited to suing for the legal rate allowed in the state where suit is brought. Also, if a personal guaranty is expected, it must be in a separate written agreement as must the granting of any security interest. Consult your attorney for proper language.

There may be circumstances where a spouse should be included on these documents. To protect your interest, your attorney should be consulted so that the proper documents can be drafted.

- B. Promissory Note. This is not a usual part of the typical good-sold-and-delivered transaction. However, having a good blank form handy to be filled out by a debtor where a payment plan is required and where the debtor has requested your forbearance of the collection process is a good idea. Legal consideration of forbearance will support a promissory note.

- C. Name, address, telephone numbers, birth dates, Social Security Number and/or Employer Identification Number, and driver license number of any guarantors, co-guarantors, co-signers, or persons or companies liable for payment of the debt.

- D. Documents such as statements showing the exact amount due including principal and interest after all credits are given.

- E. Documents such as handwritten memos kept in the file of all contracts/collection efforts. These become valuable as evidence where a dispute develops. Please keep in mind that some disputes develop the day before the trial. So, be prepared by having a memo which will allow you to testify to the effect: "My notes confirm that I contacted Mr. Debtor on November 1, 2000 at 10:30 a.m. During that conversation, he promised payment in full in the amount of \$2,133.00 would be in my office by November 15, 2000." Document your telephone calls. The best way to do this is to immediately send a letter to the debtor summarizing the date, time, person contacted, topics discussed, names of persons on the line, and any agreements that are made for payment. Keep a copy of your letter.

- F. Contracts, purchase orders, delivery receipts.

- G. NSF checks, notices regarding bad checks required by state statute, notices under Fair Debt Collection Practices Act, written promises to pay.

- H. Letters confirming payment arrangements.
- I. Security documents, security agreements, UCC-1, legal notices for bond or lien rights.
- J. Credit reports, financial statements, annual reports.
- K. Place of employment, vehicle identification number and banks used, particularly on consumer credit cases.
- L. Photocopy of debtor's checks. (You should make it a practice to photocopy checks paid on the account, particularly on marginal and new accounts. Checks showing payment can toll the statute of limitations.)
- M. Memo of any name, address, employment, or telephone number changes.
- N. Notices of bankruptcy, bulk transfer, including bankruptcy of any guarantors or other persons or companies liable for the debt.