



**COLLECTING MONEY IN
THE TIME OF COVID**

CFI



DARRYL J. HOROWITT

Darryl, the managing partner of the Firm, is an experienced trial lawyer, mediator and arbitrator. He has tried over 40 jury and non-jury cases to verdict in state and federal courts as well as numerous arbitrations in complex commercial, banking, consumer finance, class action, real property, unfair competition, construction and intellectual property disputes throughout California.



SHERYL D. NOEL

Sheryl is part of the Firm's litigation department and head of the Firm's collections department. She has tried numerous court and jury trials and has also served as lead counsel in numerous mediations and arbitrations. She represents clients in businesses and financial institutions in commercial and consumer collections (secured and unsecured), commercial, real estate, business and construction defect litigation, business and real estate transactions, wills and trusts, and creditor representation in bankruptcy and represents financial institutions. She is also licensed as a C.P.A.

Today we are covering:

- Learn how to avoid a collection problem
- Identifying a collections problem
- Steps to take if a collections problem arises
- Legal remedies, including provisional remedies
- Alternatives to litigation
- What every creditor should know about bankruptcy
- Questions



HOW TO AVOID A COLLECTIONS PROBLEM - INFORMATION

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HOW TO AVOID A COLLECTIONS PROBLEM - INFORMATION



Getting information

- Credit application
- Get all information
- Trust – but verify

Knowing your customer

- Go to client's place of business
- Check the references

Rating your customer

- Check on-line to check for any ratings (Yelp, Google, BBB, etc.)
- Check commercial services such as Dun & Bradstreet

Documenting your credit granting

- Credit agreement
- ACH or e-payment authorization
- Personal guaranty
- Take collateral where appropriate
- Prepare formal agreement
- Bill promptly and in an understandable format





**IDENTIFYING A
COLLECTIONS PROBLEM —
DON'T LET IT GET STARTED**

QFT

IDENTIFYING A COLLECTIONS PROBLEM – DON'T LET IT GET STARTED

- Slow Payment
- Returned checks
- Non-payment
- Return Mail and e-mail
- News about your customer – even large companies have problems
- Increase in accounts receivables – review every 21-30 days at minimum
- Customer not returning calls or responding to e-mails



**STEPS TO TAKE IF A
COLLECTION PROBLEM
ARISES — TAKE ACTION**

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STEPS TO TAKE IF A COLLECTION PROBLEM ARISES

– TAKE ACTION

When? Now! What steps?

- Calls
- Letters
- Small claims court
- Nothing
- Hiring a professional
 - **Collection agencies**
 - Letter writing
 - Full service (even hire lawyers)
 - **Lawyer**
 - Calls, letters, file suit
 - Alternative fees available





LEGAL REMEDIES

Q&A

Self help

- Recovery of secured collateral
- Right of reclamation under UCC
- Deem yourself insecure under UCC

Lawsuit or arbitration

- Claims available – breach of contract and money on common counts
- If secured – replevin
- Other claims

Provisional remedies

- Writ of attachment
- Writ of possession
- Receiver
- Foreclosure
 - Judicial
 - Non-judicial

Be careful of inadvertent election of remedies





**ALTERNATIVES TO
LITIGATION - YOU MEAN I
DON'T HAVE TO SUE?**

Q&A

ALTERNATIVES TO LITIGATION - YOU MEAN I DON'T HAVE TO SUE?



- Negotiation
- Mediation
- Arbitration
- Judicial Reference



BANKRUPTCY ISSUES -

YES, YOU CAN DO

SOMETHING IN

BANKRUPTCY

Q&A

BANKRUPTCY ISSUES - YES, YOU CAN DO SOMETHING IN BANKRUPTCY

Types of Bankruptcy

- 7 - Liquidation
 - Asset vs. No-Asset
- 13 - Wage earner reorganization
- 11 - Business reorganization
 - Small business reorganization
 - Business reorganization
- 12 - Family farmers and family fisherman reorganization



BANKRUPTCY ISSUES - YES, YOU CAN DO SOMETHING IN BANKRUPTCY



Be Aware of Automatic Stay

Common Motions

- Relief from stay
- Objection to use of cash collateral
- Objection to plans
- Abandonment of property



QUESTIONS?

GET

THANK YOU!



Thank you for joining us. If you have questions, comments, or ideas for other webinars please send us an email.

Darryl J. Horowitz

dhorowitz@ch-law.com

Sheryl D. Noel

snoel@ch-law.com

LOCATIONS & CONTACT

WWW.CH-LAW.COM

FRESNO

499 West Shaw Avenue, Suite 116
Fresno, CA 93704
Phone: (559) 248-4820

LOS ANGELES

1901 Avenue of the Stars, 2nd Floor
Los Angeles, CA 90067
Phone: (310) 286-0233

NEWPORT BEACH

4695 MacArthur Court Suite 1100
Newport Beach, CA 92660
Phone: (949) 798-5500

SONORA

22902 Twain Harte Drive, Suite D
Twain Harte, CA 95383
Phone: (209) 323-7676

VISALIA

2330 West Main Street
Visalia, CA 93291
Phone: (559) 248-4827

BAKERSFIELD

2032 17th Street
Bakersfield, CA 93301
Phone: (661) 325-1300

CALL US

(559) 248-4820

TOLL FREE PHONE NUMBER

(800) 891-8362

EMAIL

info@ch-law.com

WEBSITE

www.ch-law.com



Established in 1994, Coleman & Horowitz is a state-wide law firm focused on delivering responsive and value driven service and preventive law. The Firm represents businesses and their owners in matters involving transactions, litigation, agriculture & environmental regulation and litigation, intellectual property, real estate, estate planning and probate. The Firm has been recognized as a “Top Law Firm” (Martindale Hubbell) and a “Go-To” Law Firm (Corporate Counsel). From six offices in California, and the Firm’s membership in Primerus, a national and international society of highly rated law firms (www.primerus.com), the Firm has helped individuals and businesses solve their most difficult legal problems. For more information, see www.ch-law.com and www.Primerus.com.