COLLECTION ADVISOR

THE AUTHORITY ON COLLECTIONS AND TECHNOLOGY

Courtney Reynaud

20 MOST POWERFUL WOMEN

ENCOURAGING 5 BEHAVIORS TO INCREASE MORALE

THE NEW CFPB AND ITS FAITH IN THE AMERICAN PEOPLE

DEMONSTRATING YOU ARE THE KEY TO PATIENT SATISFACTION

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IS CREDIT BUREAU REPORTING A VIABLE TOOL FOR HEALTHCARE DEBT?

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TOP ATTORNEYS IN COLLECTIONS

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Change is in the air for the accounts receivable industry. Any changes start with the creation or modification of a law regulating the industry and trickle all the way down to how best to reconcile a single transaction between a buyer and a seller. A good attorney is one that works to influence the entire process, encouraging fair and effective ways of settling open accounts.

Collection Advisor presents the Top Attorneys in Collections. These attorneys have been nominated by their peers for efforts to improve collections through legal collections, creditor defense and legal consultation. These Top Attorneys reveal what they think is the biggest challenge for collection attorneys today and how they overcome it.

JOHN H. BEDARD JR.
BEDARD LAW GROUP, P.C.

Laws and rules relating to the collection industry are changing at a rapid pace. All attorneys in the ARM space are challenged to keep up with changes in case law, regulatory activity, and legislative movement. Our office overcomes these challenges by remaining active in the industry, reading industry publications, new cases, rules, and laws, and addressing the needs of clients personally and professionally.

LAUREN M. BURNETTE
BARRON & NEWBURGER, P.C.

I think one of the biggest challenges collection attorneys face is the misconception held by too many people unfamiliar with our industry – that collecting debts through litigation is somehow not "real" litigation. Too much bad press has left this impression on too many people. I try every day to change that narrative through litigation and education.

JUNE D. COLEMAN
CARLSON & MESSER, LLP

One of the biggest challenges that face attorneys is being over-regulated by state and federal governmental agencies when attorneys need to have independence to ethically and professionally represent their clients. This is even more true since attorneys are already subject to regulation by their state bars. I address this issue by working with groups like ACA and its state units to educate legislators that an attorney's ethical obligations to his or her client cannot be regulated by consumer protection agencies or consumer attorneys.

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KATIE GRZECHNIK NEILL
ARS NATIONAL SERVICES

The biggest challenge for attorneys in the collections industry today, especially for those defending agencies against FDCPA claims, is dealing with the hyper-technical, pie in the sky claims that plaintiffs' counsel come up with. It's especially frustrating when the suit is filed by a consumer who never had any real harm done to them by the use of a single word or phrase in the letter sent to them, yet courts continue to find that such consumers have standing to bring these claims. Defending such claims is expensive for agencies and the attorneys' fees provision of the FDCPA provides no relief to agencies even if they win the lawsuit. Because of this, many agencies settle, which essentially turns into money in the plaintiffs' counsel's pockets. This emboldens plaintiffs' counsel to continue the cycle since there is very little downside to them except for a loss of time. My dream is for the industry to become more proactive in these issues and to find a way to fix this disparity, which is ultimately harming consumers.

STEFANIE H. JACKMAN
BALLARD SPAHR LLP

Managing all the operational, legal, and compliance requirements in today's legal collection environment. For many of my clients, investments in automation, new technology, and experienced talent has proven essential to compete in a cost-effective and compliant manner. It also is important to have strong vendor relationships to assist with efficiently outsourcing certain areas of legal compliance.

JOY N. JACKSON, J.D.
FABER & BRAND, LLC

The biggest challenge for collection attorneys today and in the past has been combating our negative public image. I believe this can be overcome by acting with the highest degree of integrity, treating others with respect, and pushing ourselves to be involved in positive ways in our communities, whether it be in politics, academia, charity, etc.

MICHAEL A. KLUTHO
BASSFORD REMELE

My practice is focused on defending collection attorneys and agencies when named in lawsuits brought by consumers. While our firm, Bassford Remele, does not collect consumer debts per se, our defense practice has provided a unique window into the many challenges collection professionals encounter when attempting to collect consumer accounts. In particular, a significant number of lawyers and law firms have chosen to exclusively sue collection professionals, including collection attorneys. "Kitchen sink" counterclaims (alleging very tenuous claims, at best) following service of a collection lawsuit have become a common tactic employed to avoid paying debts. This in turn forces the collection attorney to spend valuable time responding to the counterclaim/roadblock rather than securing a judgment on behalf of the creditor client. Given this potential reality, whenever possible it is best to develop a truly robust relationship with your creditor client whereby detailed procedures and channels of communication are established to streamline the production of the evidence and proof necessary to defeat the counterclaim, and successfully prosecute the collection lawsuit. Forethought in this regard is far superior to an after-the-fact, ad hoc, response when the inevitable counterclaim arises.

RONALD C. MILLER
MILLER AND STEENO, P.C.

The biggest challenge for collection attorneys are frivolous lawsuits filed under the guise of protecting consumers when it appears that the vast majority of these lawsuits are filed only to line the pockets of consumer attorneys. Collection attorneys need to be very diligent in maintaining robust attorney meaningful review procedures to reduce the amount of errors being committed. Additionally, they need to adopt policies and procedures for every aspect of their collection practice to afford them the opportunity of claiming a bono fide error as a defense in the event a lawsuit or counterclaim is filed under the Fair Debt Collection Practices Act.

HARVEY M. MOORE, ESQ.
THE MOORE LAW GROUP

I view the biggest challenge for collection attorneys today as finding systematic approaches to making workflow efficient, so that we can meet client expectations while satisfying state and federal requirements in an ever changing legal collections environment. At The Moore Law Group, we seek to have well documented processes with defined ownership and accountability, establish measureable targets and continuously create and evaluate reporting that looks back at the past and anticipates the future. In that way, we seek to keep track of what we are doing and how we can be better.

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MANUEL H. (MANNY) NEWBURGER
BARRON & NEWBURGER, P.C.

We have seen a great deal of painfully expensive TCPA litigation against creditors and debt collectors in the last few years. Recent case law suggests that creditors need to do a better job of building out consent to call cell phones, and both first and third-party operations need to build better dialing models.

Litigation involving credit reporting practices is also high-risk and costly to defend. ARM professionals need to be certain that they have solid compliance with statutory and regulatory requirements and that their training reaches every employee who has the capacity to trigger an FCRA claim.

LISA E. SPIWAK, ESQ.
SPIWAK & IEZZA, LLP

I find the biggest challenge to overcome today is educating and convincing clients that they do require the use of counsel to collect their debts. Because there is so much personal information available on the Internet today, and it is so easy to contact debtors through email, many clients spend a lot of time trying to collect debt themselves to try and save attorney's fees. By the time they realize that they do in fact require counsel to file suit, they have lost valuable time and the debtor's assets are being depleted. Collections is a race and the horse that leaves the starting gate first is often the winner of the race.

LOUIS J. (LOU) WADE
MCDOWELL RICE SMITH & BUCHANAN P.C.

Biggest challenge for collection attorneys today? One word: compliance. Lawyers face multiple layers of statutes, rules, and regulations. Lawyers fall subject to enforcement by multiple, overlapping bodies. Lawyers encounter vague and inconsistent court decisions addressing applicable laws. In addition, stricter rules apply to lawyers in the area of debt collection than many other areas of practice. To comply, lawyers must maintain knowledge of decisions from courts, rulings from regulatory bodies, and statutory or regulatory changes. In addition, the collection lawyer must constantly review their standards, practices, methods, and procedures with a critical eye.

JOHN ROSSMAN
MOSS & BARNETT

The biggest challenge facing collection attorneys is the constant changes in the laws and requirements for complying with the FDCPA. I am on the steering committee of the Consumer Relations Consortium, a group of more than 30 collection agencies, debt buyers and creditors that meet regularly with the regulators in Washington D.C., including the CFPB and FCC, to implement common sense rules and requirements for our industry.

DAVID M. SCHULTZ
HINSHAW & CULBERTSON LLP

I approach this question from the perspective of a defense attorney who represents collection attorneys in litigation and compliance matters. The biggest challenge that I see for collection attorneys is their ability to keep up with the FDCPA case law. For instance, how to apply the safe harbor language in Miller v. McCalla (or Avila in the 2nd Circ). Related to this is the increase in FDCPA suits against collection lawyers for conduct that occurred in collection lawsuits.