

WILLIAMS, CHARLES & SCOTT, LTD.

AN INTERNATIONAL COLLECTION SERVICE

2171 JERICO TPKE. LL1 • COMMACK, NY 11725
TEL: 631-462-1553 • FAX: 631-462-5751
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**This document is only to be used as a reference and is not to be constituted as, nor is to be substituted for legal guidance.*

GLOSSARY OF LEGAL TERMS*

Acceleration Clause - A clause in contracts of debt which makes the entire amount due upon the debtors default.

Accord And Satisfaction - A settlement agreement by which a claim is satisfied and discharged.

Acknowledgment - When a claim reaches an attorney's office he must send an acknowledgment letting the forwarder know that the file was received by his office and that he agrees with the rates outlined.

Action - A suit at law or in equity.

Actionable - Affording grounds for a legal action.

Administrator - One appointed to manage and distribute an estate where the decedent has not left a will, or where for some reason an executor has not been appointed or qualified under the will.

Advanced Court Costs - Those funds advanced by the plaintiff so that counsel may pay the appropriate fees for the filing of suit and process of service.

Affidavit - A statement sworn to or affirmed before an official who is authorized to administer oaths - usually a notary public.

After-Acquired Property - Property which a debtor acquires after the execution of a mortgage or other form of indebtedness and which secures such indebtedness.

Agency - An agency is a collection agency to which claims are referred for collection by creditors.

Agent - A person authorized by another, i.e., the principal, to act for him.

Appeal - A request to the U.S. District Court to review a decision of the bankruptcy court.

Arbitration - The determination of a dispute by a disinterested third person, or persons, selected by the disputants.

Assignment - The transfer of property rights by one person, known as the assignor, to another, known as the assignee.

Assignment For Benefit of Creditors - A transfer of all of a debtor's property to another person in trust to collect any money owed to the debtor, to sell property, to distribute proceeds, and to return any surplus to debtor.

Attachment - Taking property into custody of the court, either to satisfy a judgment ultimately to be rendered or as a method of acquiring jurisdiction.

Bankruptcy - This is what debtors file in bankruptcy court in order to protect themselves against creditors or show that they have no money to pay their bills.

Chapter 7 - Total liquidation of all assets

Chapter 9 - Municipal bankruptcy

Chapter 11 - Reorganization of corporate entity. Long term payout to outstanding creditors

Chapter 12 - Farm bankruptcy

Chapter 13 - Reorganization of individually owned assets. Limited to \$350,000 in secured assets, or \$100,000 unsecured

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GLOSSARY Cont'

Bill of Exchange - A written order, which may be negotiable or nonnegotiable, directing one party to pay a certain sum of money to the drawer or a third person.

Bill of Lading - Receipt and contract issued by a common carrier for the shipment of goods.

Bill of Sale - A written instrument by which one transfers his rights or interest in chattels and goods to another.

Bona Fide - "in good faith".

Bulk Transfer - The transfer of inventory or trade fixtures or a major portion thereof not in the ordinary course of business.

Chattel - Any type of personal property as distinguished from real property.

Chattel Mortgage - Security interest taken by the mortgagee in personal property of the mortgagor. A per-Uniform Commercial Code device.

Claim - A right to payment, whether or not fixed, contingent, liquidated, disputed or matured.

Closing Letter - This is the letter sent out by the attorney when the file is closed. This is very important to forwarders for their records.

Collateral Security - A separate obligation which is given to secure the performance of the primary obligation in a contract.

Commercial Claim - A commercial claim is a claim which arises from an obligation to pay for goods sold or leased, services rendered, or monies loaned for use, in the conduct of a business or profession.

Commission - A commission is the compensation payable by a creditor and earned by a receiver for his services in effecting collection of a claim, in whole or in part, and is normally contingent and computed as a percentage of the sum collected.

Conditional Sale - An installment sale in which the goods are delivered to the buyer, but title remains with the seller until payment is made for the goods.

Conflict of Interest - When the attorney cannot handle the file sent to him as he may represent the debtor on other cases or for personal reasons.

Consignment - The shipment of goods or chattels by means of a common carrier from one party known as the consignor to another known as the consignee; also, the transfer of property to another for sale by him.

Consumer Claim - A consumer claim is a claim which arises from an obligation to pay for goods sold or leased, services rendered, monies loaned for use, in the conduct of a natural person. An "average" consumer claim may be defined for general purposes as \$500.

Conversion - In bankruptcy, the converting of a case from one chapter to another.

Conveyance - The transfer of an interest in realty; a deed. Sometimes includes leases and mortgages.

Cost Advance - A cost advance is a sum of money advanced by the creditor to the receiver, as a fund from which court costs are to be expended.

Counterclaim - A claim asserted by the defendant in opposition to or deduction from the claim of the plaintiff.

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Default Judgment - A judgment granted when the defendant fails to respond or appear.

Defendant - The alleged debtor against whom action is brought.

Demand Letter - Letter sent by the attorney's office when a claim is received. It notifies the debtor that the client has hired an attorney to collect the debt.

Discharge - Discharge of debts is the goal of the debtor in a bankruptcy filing.

Dismissal - An order terminating the case prior to its normal end.

Equity of Redemption - The right of a mortgagor to redeem his property after the mortgage is past due.

Escrow - The delivery by a grantor of a deed or of personal property to a third person for delivery to the grantee upon the happening of certain conditions.

Execution - The sheriff's attempt to enforce a judgment by searching for assets to levy upon.

Factor - One who has received goods or merchandise for sale on behalf of another.

Filed Answer - Debtor indicates that he owes the debt and will pay it or he disputes the debt.

Foreclosure - The legal act by which the owner of a mortgage cuts off the rights or interest of the mortgagor in the mortgaged property.

Follow-up - A date an attorney gives a forwarder advising when he will be able to report with further information on a claim.

Foreclosure - The legal act by which the owner of a mortgage cuts off the rights or interest of the mortgagor in the mortgaged property.

Forwarder - An attorney, a collection agency, a credit bureau, a credit insurance company, or any other entity which acts on behalf of the creditor as its agent which refers claims to attorneys for collection.

Forwarding Contract - A forwarding contract is the agreement entered into between the creditor (or the forwarder as the agent of the creditor and with the creditor's consent) and the receiver, specifying among other things the commission agreed upon between the receiver and the creditor as the receiver's compensation for effecting collection, in whole or in part, of a claim.

Garnishment - A directive from a court or other related authority directed to a third party to keep possession of property belonging to a defendant in a lawsuit in the event it is needed to pay off a debt, or to keep a portion of wages owed a defendant in a plan to pay off a debt.

Guarantee - To assume the liability for such debts of another in the event of his default.

Guaranty - A contract by which one undertakes to be liable to the debt of another person in the event of his default.

Indemnity - Compensation paid for damage or loss sustained or anticipated.

Insolvency - Condition of a person who is unable to pay his debts as they fall due. The general term is to be distinguished from a person who is bankrupt and whose liabilities exceed assets.

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Joint Liability - Liability imposed upon two or more persons.

Judgment - This is when the court awards the client an amount officially owed by the debtor.

Judicial Lien - A lien obtained by judgment, levy or other legal proceeding.

Letter of Credit - A promise by a debtor's bank to pay the creditor upon presentation of specified documents.

Lien - The right to satisfy a debt out of certain property owned by the debtor.

Negligence - The failure by a reasonable person to use sufficient care, diligence and skill which he is required to use for the protection of others from injury or damage.

Non-Contingent Suit Fee - Money sent to the attorney for filing a law suit. The money is kept by the attorney whether or not the debt is collected.

Non-Dischargeable Debt - Certain debts are not included in the debtor's discharge. Some are automatically excluded. Others to be excluded require action by the creditor.

Nulla Bona - Return of writ of execution by the sheriff after a search has been made and no assets found.

Plaintiff - The party complaining in an action or proceeding.

Preference - Paying or securing to one or more creditors, by an insolvent debtor, of all or a part of a claim to the exclusion of other creditors. Also a right acquired by a creditor by statute or legal proceeding to have his claim satisfied out of the debtor's assets before other creditors.

Real Property - Land and everything that is permanently affixed to it.

Receiver - An attorney who becomes employed by a forwarder/creditor for collection of an account. As attorney for the creditor, to collect the same. Upon agreement of collection for the claim, the attorney-client relationship exists between the receiver and the creditor.

Reclamation - A term used in bankruptcy to denote a right or proceeding on the part of a person having title to property to recover the same when it is in possession of the bankrupt, debtor, receiver or trustee.

Rehabilitation (of a debtor) - A wage earner's plan; a type of partial bankruptcy where a debtor keeps property and pays a court-established portion of a debt.

Remittance - When a debtor makes payment to the attorney, the attorney puts the money into his account to clear. After it has cleared, the attorney makes a remittance to the forwarder, which is less his commissions.

Reorganization (under Bankruptcy Act) - Debtor reorganizes, rather than liquidates, and creditors claim future earnings of the bankrupt, rather than property presently held.

Replevin - An action to recover the possession of personal property taken or withheld from the owner unlawfully.

Satisfaction - The discharge of an obligation by paying a party what is due.

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Security Interest - Any interest in property acquired by contract for the purpose of securing payment or performance of an obligation.

Settlement - This is when the debtor offers a sum of money or products to settle a debt.

Skip - This is when the debtor leaves the area in which he incurred the debt and cannot be located.

Skiptracing - A service an attorney uses in order to locate the debtor.

Status Report - This is a regular report that the attorney must write to the forwarder informing him of each and everything that is being done to collect the file.

Statute of Limitation - A law which limits the length of time within which a suit must be commenced before the right to sue is lost.

Suit Fee - Those moneys due counsel for professional services rendered for initiation of civil action. These moneys may be made, in whole or part, contingent. They are in addition to collection commissions.

Suit Filed - This is when an attorney files a law suit in the local court to have the court rule on the validity of the claim.

Suit Requirements - An attorney sends suit requirements to the forwarder when he feels a law suit should be started. This consists of court costs (filing fee), a suit fee and his commission percentage.

Summons - A writ or notice requiring a person to appear before a court to answer a complaint.

Trial Date - Once the law suit is filed, the court sets a trial date when the matter will be heard by a judge.

Turnover Proceeding - A summary proceeding authorized under the provisions of the Bankruptcy Act requiring a bankrupt to turn over property to a receiver or trustee for administration. It may also be used in connection with property belonging to the bankrupt held by a third person.

Usury - The charge of illegal interest.

Venue - Used to indicate the county, district or other place where a case is or will be tried. In many cases the law specifies the venue with particularity, such as the county of residence of one of the parties. The venue may be changed for the convenience of witnesses or other reasons.

Writ - An order issued from a court in the name of the sovereign or state directing the person named to comply with the directions contained therein. Under the common law all actions were instituted by the issuance of a specific form of writ and no cause could be instituted unless a recognized form of writ was executed therefore.

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