

The Collector Chronicle

NORTH AMERICAN RECOVERY

March 2014

Utah, Colorado & Idaho's
Collection Authority

LAST MONTH'S LUCKY WINNER

The lucky winner of our client drawing for February is Bach Properties in Draper, Utah. We have been working with Bach Properties since 2006. Congratulations! We will be sending them a gift certificate to Ruth's Chris Steak House. Enjoy!



THIS MONTH'S PRIZE

This month we will be giving away a \$100 gift certificate for the City Creek shopping center (or a comparable location in the winner's hometown). Each client who sends new accounts during the month of March will have their name entered into a drawing. At the end of the month we will draw a name, and if it's yours, you'll win the gift certificate.

**Don't miss out on your chance to win;
Send new accounts in March!
Good luck!!**



FAMILY EXPENSES (COLLECTING FROM A SPOUSE)

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***DISCLAIMER:** This article is provided for informational purposes only. The author is not giving legal advice or rendering a legal opinion. Nothing in this article should be construed as legal advice. Consult your attorney if you have questions about a family expense matter, or any other legal issue.*

Part of our company philosophy is to provide the best possible service to our clients. One way we do this is by ensuring we use every option available to collect an account. In most cases, we are limited to collecting from the person who signed the contract or received the services. However, there is a Utah law, 30-2-9 Family expenses – Joint and several liability, which allows us to collect certain debts from both a husband and wife. This law allows us to collect these particular debts regardless of who signed or even if there is no signed contract.

I wanted to take some time this month and explain the process we go through when considering adding a non-signing spouse to an account. I'll start by reviewing the text of the law: 30-2-9 Family expenses – Joint and several liability. It says: *"The expenses of the family and the education of the children are chargeable upon the property of both husband and wife or of either of them, and in relation thereto they may be sued jointly or separately."*

So what does that mean? Well, if a debt is for an expense of the family or the education of the children, we can collect from both the husband and wife. How about that? Chalk one up for the creditor! It's not often that a law benefits the creditor, but this one does.

Even though this law allows us to collect from either the husband or wife, we want to make sure it won't cause any problems for you, or us, before we start adding spouses. To do this, we review each account and ask three questions:

1. Is our client comfortable with us collecting from a non-signing spouse?
2. Is the bill a "family expense?"
3. Were the husband and wife married AND acting as a family unit when the bill was incurred?

If we can answer **yes** to all three of these questions, we

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add a non-signing spouse to an account.

Here's how we analyze each query; the first question: "Is our client comfortable with having us collect from a non-signing spouse?" relates to how our client feels about collecting from someone that didn't sign a contract. Some clients know we can collect from non-signing spouses, but have requested that we don't. There are many reasons why they take this position, and since we always respect our clients' wishes, we won't add a spouse to these accounts. We are very careful about this and have many safeguards in place to ensure we don't add a spouse to an account if a client doesn't approve.

The second consideration: "Is the bill a family expense?" takes careful analysis. The text of the law doesn't provide specific examples of a family expense. It simply states, "The expenses of the family." So we must look to the courts for interpretation. Our attorney has done extensive research on this matter, and has advised us that an account could be considered a family expense if it falls into one of the following categories:

- Utility bills
- Healthcare bills
- Rent
- Clothing
- Furniture and other household necessities
- Modeling contracts (children only)
- Attorney Fee Bills (for personal services)
- Bankruptcy (if both husband and wife filed)

Lastly, we must determine if the husband and wife were married AND acting as a family unit when the bill was incurred. This can be tricky because the courts have ruled that a husband and wife must be "acting as a family unit" at the time

the debt was incurred or we cannot collect from both parents.

An example of a situation where we would NOT be able to collect from a non-signing spouse would be one where the couple is still legally married, but they've separated and were living apart when the bill was incurred. In this instance we would only be able to collect from the person that signed the contract. This is because they were not "acting as a family unit." Furthermore, if a signed agreement doesn't exist, the condition is the same: we can only collect from the person that received the services (or took the children in for care). However, if a husband and wife were married when the bill was incurred, but living apart due to a job situation (a long-haul truck driver or a traveling salesman), they were still acting as a family unit, and a non-signing spouse would be responsible for the bill.

Our last double-check is a review of the paperwork to see if the consumer indicated his or her marital status. If we can verify the consumer's marital status from the documents, it solidifies our decision. If not, we'll verify it verbally with the spouse or the consumer on the phone. We then make a detailed entry in the account notes, describing how we obtained and verified the information, and then proceed to add the spouse to the account.

So there you have it. Quite an extensive process, but well worth the effort. Once we add a spouse to an account, it greatly improves our chances of a successful collection. In fact, it has been the difference on hundreds, if not thousands, of accounts over the years. So the next time you send accounts, try to provide as much information on the marital status of the consumers as possible. It will help us during the collection process, and ultimately benefit you.



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