

# The Collector Chronicle

NORTH AMERICAN RECOVERY

September 2011

Utah's Collection Authority

## LAST MONTH'S LUCKY WINNER

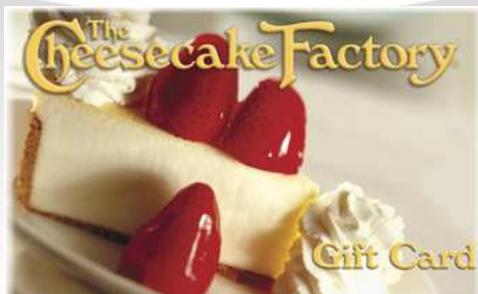
The lucky winner of our client prize for August is Utah Community Credit Union in Provo. We work with Jon and Teresa and they have been using our agency since 2000. Congratulations!! We will be sending Jon and Teresa a \$100 gift certificate to The Gateway. Enjoy!



## THIS MONTH'S PRIZE

This month we're giving away a gift certificate to The Cheesecake Factory! Each client that assigns accounts in the month of September will be entered into a drawing. At the end of the month we'll 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 September!  
Good luck!!***



## DIVORCE DECREES AND COLLECTIONS

**BY DAVID J. SAXTON**

**President, North American Recovery**

***Disclaimer:*** This article is provided for informational purposes only. The author is not an attorney and is not giving legal advice or interpreting the law. You should consult your attorney if you have questions about a legal matter.

It's a common scenario for many clients: They have an established relationship with a good customer who always pays their bill on time. Then, suddenly, the customer stops paying. The client calls and sends letters, but neither the husband nor wife respond. A month goes by with no payment, then another, and another. Before you know it, six months have passed without payment. The client has no choice but to send the account to collections. Pretty standard stuff, it happens every month to thousands of accounts. But wait... There's more...

When we receive the account, we start our standard skiptracing process and discover the couple has divorced, again, fairly common. In fact, divorce is one of the top reasons a person stops paying their bill. And when you think about it, it makes perfect sense. They are going through a very traumatic time in their life. They're trying to work out the details of their new financial situation, among other things, and not paying a bill or two is the least of their worries. In addition, they may intentionally *not* pay specific bills because they fully expect their ex-spouse will pay—once the divorce is final. To make matters worse, some divorce attorneys actually tell their clients not to pay some bills for that very reason; they expect the ex-spouse will be responsible for those accounts.

This behavior can cause severe problems for a debtor and here's why: A divorce decree is a formal agreement between two parties (with the help of their respective attorneys) that outlines how the couple will dissolve their marriage. It helps them establish how they'll split their possessions, pro-

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vides a plan for separating their financial obligations, and outlines a custody arrangement (if children are involved).

It does not, however, release either spouse from a financial obligation. What does this mean? Well, let's say the wife went into a local electronics store and opened a charge account. She then used the account to buy her husband a big screen TV. Let's also say the wife made payments on the account for a year before they divorced. Since the wife signed an agreement with the electronics store, regardless of what happens in her divorce, she is still responsible for paying. Even if the husband takes the TV and agrees to make the payments, the wife is still legally responsible to pay the debt.

It's easy to understand why the wife would assume she doesn't have to pay, but nothing is further from the truth. Since the account was originally opened in her name, and nothing has changed in her agreement with the creditor, if the ex-husband stops making payments, the ex-wife will have to pay, *even though she doesn't have the TV!* A very frustrating situation for her.

When we finally contact the wife she says: "I don't have to pay for that." When we ask why, she says: "In my divorce decree it says my ex-husband has to pay that bill." When this happens we explain even though her divorce decree stated her ex-husband has to pay the bill, she wasn't released by the original creditor and therefore must pay the account.

Now, as you can imagine, people become very upset when we tell them they *still* have to pay. The first thing they do is call their divorce attorney asking for an explanation. Once the attorney researches the specifics of the account, and informs the debtor we are correct, they begrudgingly pay the bill.

This is what happens with most accounts. There is, however, one small section of a Utah law that can "muddy the waters" on *some* health care accounts.

It's because of section 15-4-6.7 of the Utah Code: **Medical expenses of minor children—Collection pursuant to court or administrative order of child support.** The part of the law we have to be concerned with states:

*...a creditor, who has been provided a copy of the order may not make a claim for unpaid medical expenses against a parent who has paid in full that share of the medical and dental expense required to be paid by that parent under the order.*

What does this mean for us? Well, if a parent provides a copy of a divorce decree, and in the divorce decree it states each parent is only responsible for 50 percent of any medical or dental care, the health care provider can only collect half of the bill from each parent. In addition, if the divorce decree states the father is responsible for 100% of all medical or dental care for the minor child, and the mother provides a copy, we can not collect from the mother—even if she signs a financial agreement.

So, our advice to healthcare clients is this: Make sure you know the marital status of the parents when you are rendering care to a minor. Then, ask for clarification of who is responsible for the charges when the parents are divorced. You don't want any surprises down the road. And you don't want to jeopardize our ability to collect an account because of an unknown divorce decree.

There you have it: Everything you ever wanted to know about divorce decrees and how they relate to debt collections. ;-)

Have a great month!



The *Collector Chronicle* is published monthly by NORTH AMERICAN RECOVERY for prospective and current clients. Please direct questions or comments to Dave Saxton at the address or number listed below. *Edited by Bryce Packham.*

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