



## An Ideal Time to Take on Your Accounts Receivable

Deanna Swisher

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Have you noticed? We have. Bankruptcy filings are down and we are collecting on accounts that seemed hopeless a year ago. Although not all sectors of our economy are as robust as we would like, the improvement presents two opportunities for businesses that sell goods or services on credit.

First, this is the moment that you were waiting for to plan and retool! As we've said before, by planning and acting strategically, businesses can greatly increase the likelihood they will collect accounts receivable. So, now that you have a moment to breathe and a healthier stream of revenue, take a look at your documents and practices.

- Do you have a credit application and a procedure that keeps everyone in your organization from providing goods and services before the completed application is reviewed and approved?
- Does your application include guarantee language, so that the owner of the company that obtains your goods or services is liable if the company fails to pay? Troubled companies are often juggling a number of accounts payable, and you are far more likely to get paid if the owner is personally liable when the company defaults.
- Are you accruing interest at a rate allowed by Michigan statute? Like a guarantee, charging interest gives your customer reason to favor paying you over an account that isn't accruing interest. However, Michigan has usury laws that limit the amount that can be charged, and if you exceed the limit you will, instead, make it harder and more expensive to collect the debt.
- Are all of your documents consistent? When credit applications, invoices and monthly statements have been added or updated piecemeal, language inconsistencies cause problems. For example, if your invoice correctly references a "time price differential" but your monthly statement shows that "interest" was added, it is more likely that your effort to collect the debt through legal action will be delayed by a usury defense.

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### **AUTHORS/ CONTRIBUTORS**

Deanna Swisher

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- Are your employees trained to properly document all communications with customers? Good records of phone calls, written and email correspondence can help avoid disputes. If you end up in litigation, clear records go a long way when defending counter-claims.

Second, take a look at all unpaid debt. If you moved doubtful collection files to a pile in the corner of your desk or you "wrote off" debt, now is the time to take a second look. If you performed an internal write off, it did not relieve your customer of responsibility. Please contact us if you want to evaluate older, unpaid debt for collection actions.

How else can we help? An inexpensive review of your credit application, any credit agreement, invoice, and statement will allow our Finance, Real Estate and Bankruptcy attorneys to resolve inconsistencies, ensure that you are gathering all of the information that will be needed to collect unpaid debt and, whenever possible, obtain personal guarantees. Foster Swift attorneys also routinely advise clients regarding interest rate limits, whether they may charge a time-price differential, and how to accrue and document these charges. Have questions? Contact Deanna Swisher at [dswisher@fosterswift.com](mailto:dswisher@fosterswift.com).