

To settle or not to settle, that is the question.

In all of my years of dealing with clients, attorneys and collectors, this question seems to be one that has many different answers and with each answer comes different wrong reasons.


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The only reason to settle an account is because the client wants their money sooner rather than later. Enough said, end of article

Well not really. Let's take a couple of different perspectives and a couple of different events in the life of an account to really understand the reasons to settle or not.

If you look at the cost to process payments every two weeks or every month versus taking a single payment to settle an account, it would astound you how much it really costs to take payments at all and you would probably settle every account you could. Lets weigh the difference, one payment in 12 months to settle an account or up to 24 payments if you take the twice a month on the same account. Clear winner to me is a single payment.

Settlement requests from debtors seem to come when a file is in 1) presuit 2) post suit 3) pre judgment 4) post judgment 5) garnishment activity and 6) my absolute favorite of all, the call that comes out of the clear blue sky asking for a settlement. Now, if you are a collection agency, remember that settlements are the heart of your cashflow and the sooner you get the money, the happier your client is. Not always the case with the law firm.


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Some clients give law firms files just to sue and will not even contemplate a settlement that does not come without taking a judgment. Some clients even give law firms work that require that they cannot even talk to the debtor until a judgment is obtained. Sometimes, the attorney or their collection manager (like one that I remember from the Denver area) is opposed to settling any case and they even penalize collectors for taking money in the form of a settlement.

For settlement purposes, I look at all debt the same, I really see no difference between fresh paper, older paper, client placed paper, and debt buyer paper. All that I know is that it was my job to get the money quickly for my client and then move on to the next case.

Before we get into the specifics of when a settlement offer should or should not be made, let me share

Continued on Page 2

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Continued on Page 2

*To settle or not to settle
Continued from Page 1*

some math with you that I always found helpful when I was explaining this to some of the reprobates that I had to deal with. You make 100 offers to settle to debtors you have had contact with, 10 people at best will take you up on your offer to settle, 3 may actually pay you. When you look at it that way, the numbers are only 3% of the contactable files actually settle. If I was running a direct mail campaign, I would give my sister away for results like that. Usually in direct mail campaigns, responses over .5% get a mark of success from the company that did the campaign.

All settlement offers, especially pre suit settlement offers, should be negotiated only after the collector has extracted appropriate financial information from the debtor. The collector should ask for information like job name and location, salary information, bank information and monthly homeownership/rental expense information. This information will help to decide where the funds for the settlement will really come from. If the debtor is making \$2,000 per month and offers to settle a \$7,000 account for \$5500, I want to know where the money is coming from. If I know where the money is coming from, I have the ability to negotiate for a better settlement with real knowledge. Remember everybody likes a deal, even if it is only a couple of percent off, it makes them feel good and like a part of the process, not just someone that is in a bad situation.

When a collector looks to settle a case that had costs added to it for court filing or Sherriff costs, I want to make sure that the settlement includes any costs spent as an add on. The formula works like this: balance \$1,000, costs spent for filing fees, and sheriff fees of \$122.00, settlement is 80% of current balance plus costs so the firm would collect \$922.00. This way the client gets their costs back first and then gets 80% of the balance they need to pay for them

Most clients are happy to get their costs back in any settlement and most debtors understand that costs were spent and they need to pay for them separately.

Settlements have almost no bearing on when they are asked for in the process, but rather on the debtors financial ability and the ability of the collector to detect when the debtor is telling them the truth. Some people lie well and you are stuck with those. Remember however, that if a settlement gets the money in the door quicker, take the money and satisfy the clients need for cash.

Whether the debtor owns a house or rents an apartment, whether the debtor is employed or unemployed, whether the debtor has just killed his mother and inherited all of her money, I would take well negotiated settlement, with two exceptions.

Continued on Page 3

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*To settle or not to settle
Continued from Page 2*

The two exceptions are as follows, an active wage garnishment is in place, and paying regularly (notice the choice of words here, and paying regularly). If someone has a paying wage garnishment, and calls in to discuss a settlement, something is up. Money does not just drop from trees, and 9 out of 10 times, there is some underlying reason for the oh so generous offer. Many times, the money would be from a bonus or from an estate finally being settled or something like that. Either way, my answer is likely to be "NO SETTLEMENT" since the wage garnishment would pay the balance, interest and costs each pay period until paid in full.

The other exception for not taking a settlement is the call that happens two to three years after a judgment has been taken. This call is almost always from a "lost" debtor that has decided to find salvation and make amends for not paying their past debts. This call usually begins with the debtor saying that they have been trying to contact the office for a long time, but just found the phone number. This call has a purpose, this call is not, and I repeat not, from someone that just happened to make a call to the office today.

I have heard all kinds of stories. Like the one of a new spouse forcing credit to be cleaned up before another night goes by, especially if they did not know about the debt before the wedding. I have also heard stories about people trying to buy houses, cars and timeshares who learned that they needed to pay the debts from years ago before they can buy that shiny new "thing".

But my favorite call of all is when the debtor calls the office and wants to settle and I pull a credit bureau and see two or three mortgage company inquiries in the last month or so. I come back to the phone and without asking about the debt, I say, "can I have the phone number of the lending officer that you are working with at _____ bank."

This always grabs their attention. It is extraordinary how many people just blurt out that information and then realize what they have done. From that point in the conversation, I have total control and can always get whatever I want.

As a final thought, for my vote, I say settle, get your clients money and then go ask for more business since you are collecting so well and so much quicker.



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