

## ETHICAL ASPIRATIONS

### Preamble

*The National Creditors Bar Association (NARCA) is an association of law firms that practice consumer debt collection. In addition to federal and state laws and regulations, attorneys are required to adhere to a Code of Professional Responsibility promulgated by their respective state's highest court or state bar.*

As lawyers, NARCA encourages its members to demonstrate high standards of conduct and professionalism. To that end, NARCA has created ethical aspirations to assist its members, their attorneys and their staffs, to uphold state and federal regulations and to treat those with whom they interact with dignity and respect.

These ideals are not intended to replace or supersede ethical rules and regulations governing the legal profession. They are goals for our members to aspire to the fullest extent possible and the effort to do this is deemed a success.

The ethical aspirations which follow are not intended to reflect the legal standards in any particular jurisdiction, nor should they be a substitute for an analysis of each situation. No new official duties or requirements are created by the distribution of these ideals.

NARCA's members are encouraged to share these with their clients and their debtors to ensure all parties involved are aware of their responsibilities and rights.

### Pre-Suit Aspirations

1. Insurance. NARCA members should have in full force and effect at all times policies of insurance meeting or exceeding the greatest limits required by the member's current clients, provided that amount meets or exceeds the requirements established by NARCA.
2. Contract. NARCA members should have in place a written contract or memorandum with each client setting out the terms of representation, regardless of volume. NARCA provides optional model contracts and letters that can form the basis of such agreements.
3. Supervision of employees. NARCA members should have in place policies and procedures for adequate training and supervision of firm employees in the handling of collection files.
4. Claims of misidentification of debtor. If a putative debtor alleges misidentification, NARCA members should make reasonable investigation of such allegation. In the event that the NARCA member receives proof of mistake of identity or an affidavit alleging mistake of identity, the member should immediately inform the client and determine whether to close its file.
5. Claims of identity theft. If a putative debtor alleges identity theft or fraud, NARCA members should make reasonable investigation of such allegations. In the event that the NARCA member receives proof of fraud or an affidavit alleging fraud, the member should immediately inform the client and determine whether to close its file.
6. Verification of amount due. If the amount due is disputed, NARCA members should use their best efforts, in conjunction with their clients, to provide to the debtor reasonable verification of the debt. In the event that the NARCA member is unable to verify the amount due, it should take reasonable steps necessary to communicate this to the debtor, or determine whether to close its file.
7. Verification of debt. In the event that a NARCA member receives a request for verification of a debt from the debtor after the 30 day validation period has expired, and suit has not been filed, the NARCA member should consult with its client, and reasonably respond to such request, or determine whether to close its file.
8. Notification to client of disputed debt. If a debtor disputes liability for the debt, the NARCA member should report such allegation to its client within a reasonable period of time.
9. Time-barred debt. NARCA members should maintain procedures to prevent the litigation of any clearly time-barred debt.
10. Notice of Bankruptcy: NARCA members should cease all collection activity upon verifying that a

debtor has filed for or has obtained relief under the Bankruptcy Code.

11. Personal identification information. NARCA members should use reasonable means to safeguard any personal identification information of the debtor or putative debtor.

12. State licenses. NARCA members should acquire any necessary state licenses, accreditations or the like in any state in which the NARCA member practices debt collection before initiating debt collection in that state.

13. Fair Debt Collection Practices Act/State laws. NARCA members should be familiar with federal laws and the laws pertaining to the collection of consumer debt of any states in which they collect debts. Members should use their best efforts to comply with all provisions of the Fair Debt Collection Practices Act and all other applicable federal and state laws and regulations pertaining to the collection of consumer debt.

## Aspirations During Litigation

1. Service of process. When utilizing professional process servers, NARCA members should use their best efforts to ensure that service complies with applicable laws and rules.

2. Coverage attorneys. NARCA members should utilize their best efforts to ensure that retained “coverage” or “appearance” or “of counsel” attorneys are professional and are prepared for all court hearings. NARCA members should provide such counsel with information in a timely manner to adequately represent the client.

3. Discussions with debtors. NARCA members should utilize their best efforts to have staff attorneys, paralegals, and coverage attorneys act professionally when communicating with pro se litigants both in and outside of the courtroom.

4. Notice of new address. Prior to entry of judgment, NARCA members, in accordance with applicable court rules, should utilize their best efforts to alert courts as to the current address of the debtor.

5. Suit balances. NARCA members should utilize their best efforts to sue only for balances that are properly due and owing under applicable law. In the event that the NARCA member finds the amount

demanded to be incorrect, it should take all reasonable steps necessary to correct any pleading.

6. Fraud or Identity Theft. NARCA members should secure consent from the client to dismiss a lawsuit upon confirmation from the client of fraud or identity theft.

7. Notice of Bankruptcy: NARCA members should cease all collection activity upon verifying that a debtor has filed for or has obtained relief under the Bankruptcy Code.

## Post-Judgment Aspirations

1. Exempt funds. NARCA members should not attach funds known to be exempt from execution.

2. Release of exempt funds. If the debtor provides the NARCA member with reasonable proof sufficient to establish that funds being held are exempt from execution, the NARCA member should promptly release these funds back to the debtor.

3. Correction of judgment. In the event that the NARCA member finds the amount of a judgment to be incorrect, it should take all reasonable steps necessary to correct the judgment.

4. Satisfaction of judgment. Upon payment of a judgment, NARCA members should within a reasonable time or as provided by applicable law, provide a release and/or satisfaction.

5. Executions & Attachments: NARCA members should abide by state and local laws regarding executions and attachments.

6. Notice of bankruptcy: NARCA members should cease all collection activity upon verifying that a debtor has filed for or has obtained relief under the Bankruptcy Code. NARCA members should use their best efforts to return any property attached after bankruptcy filing to the debtor, their attorney or the bankruptcy trustee as the facts and law may warrant. NARCA members should promptly release any liens placed on a debtor’s property after bankruptcy filing, and should vacate any judgments obtained during the pendency of bankruptcy upon request or to the extent required by the law of the appropriate jurisdiction.

7. Verification of amount due: NARCA members should verify to third parties balances due on judgment accounts only in accordance with applicable law.