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# The “Dead Calm” of Consumer Debt During COVID-19

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by [Mark Martella](#)

For the sailors out there, you have all experienced being on your boat at a time when the winds may be shifting, or it’s early in the morning and there is no wind at all. The mainsail is just flapping with the rocking of the boat from the wake of a passing speedboat. During those times, you have no idea from where the next puff of wind may be coming and you look at the water in the distance to see if there are any ripples from a light breeze so you can anticipate the next gust of wind to set you on your journey. For you non-sailors out there, I am referring to what is called a “dead calm.” During a dead calm, the sailboat can’t move under sail power and flounders. It is not dangerous, but no movement occurs either.

## The End of Forbearance and Grace Periods

“Dead calm” is the perfect analogy for where consumers in debt are right now due to COVID-19 and the various forbearance periods implemented by the government and by creditors regarding mortgages, credit cards, car loans, and rent. However, we are coming to the end of the forbearance periods and the nice person on the phone you may have given you a grace period is now going to shift gears like Jekyll and Hide to try to collect those deferred payments. For those of you who have lived through a hurricane, my fear is that most consumers are not ready to go from the “dead calm” of the eye of a hurricane into the eye-wall of 150mph hurricane winds!

For example, here in Florida, Gov. DeSantis has ordered a moratorium on evictions and writs of possession in foreclosure cases through July 1, 2020. Most credit card forbearances are only for 60 days. In Charlotte and Sarasota Counties, no BIG banks have filed a foreclosure or collection action in April, May or June. I have to assume that is true throughout the country. Bankruptcy filings in the Middle District of Florida are down by approximately 20% compared to last year. All of this is not because of a great economic recovery and stimulus, but rather an artificial halting of the judica process due to COVID-19.

In the next few months, the floodgates will be opened on foreclosures and collection litigation at the same time businesses large and small will be closing their doors or laying off workers and seeking protection under the bankruptcy laws. Also, what will happen to the local and national economies when the \$600 supplemental weekly unemployment stops on July 31? I have already received calls from frustrated and angry consumers about creditors not keeping some of the promises they made over the phone just a couple of months ago claiming the consumer was “confused” or “did not understand” what was offered.

## How to Protect Yourself with Creditors

If you find yourself in a fight with a creditor, here are three steps you can take to protect yourself and buy time until you are in a better financial situation to address the debt:

### 1) Document every conversation.

Whether it's by email or regular mail, you **must** document your agreements with your creditor. The preferred method is certified mail with a return receipt requested if a payment arrangement was negotiated. If you send something and have proof they received it and they did not object, you have a stronger argument to bind them to that agreement. Even better, get a confirming email or fax from the creditor setting forth the terms of the agreement.

### 2) Do not ignore collection notices.

Unfortunately, I meet with many clients who start throwing collection notices in the garbage because they can't make a payment. That is the worse thing to do. You have rights as a consumer, but only if you act to preserve them. The first right you should enforce is verification of the debt. If a creditor intends to file suit, they will send a demand letter where you can ask for verification of the debt. Even if you know you owe the money, **demand verification of the debt** especially if it is from a collection agency. It will take them time to get you the documentation. If you are waiting for unemployment or be rehired by your employer, it may be just the time you need to resolve it. Again, the goal is to buy as much time so that you will hopefully change your economic circumstances to address the debt.

### 3) Do not ignore a lawsuit or try to go it alone.

First, if you get served with a complaint to collect on a credit card, a car loan deficiency, or a mortgage foreclosure, in Florida for example, you only have 20 days to file a response. If you don't, the creditor can move for a default which means they automatically win and you lose! Therefore, you must respond within those first 20 days to protect your rights.

Second, there is a reason for the saying, "He who represents himself has a fool for a client!" Just as I would not try to do an appendectomy on myself, I do not recommend going it alone in the courtroom. The "[Florida Rules of Court](#)" book is literally 2.5 inches thick, and that's just the court's procedures, not the actual contract laws, real property laws, or mortgage laws you need to know. I can't tell you how many times I have seen people in court trying to defend a foreclosure action where they have legitimate defenses but, because they failed to follow the rules of court procedures, they lost. It is not like "*The Peoples' Court*" on television. The judge cannot suspend the rules of procedure and the rules of evidence for a lay person. In the end, the investment you make in hiring experienced legal counsel will save you money. Whether it's negotiating a settlement or discharging the debt through enforcing your Constitutional right to file for protection under the U.S. Bankruptcy Code (just like Henry Ford, Milton Hershey, Walt Disney and Donald Trump), **consulting with an attorney at the earliest point in the process is in your best interest.**

## Be Proactive with Your Creditors

In the end, the best course of action is to **be proactive** and not ignore your situation if you have creditors coming after you. Too often, I have clients come to me after their wages have been levied or their bank accounts emptied because they ignored legal proceedings and allowed a creditor to get a judgment against them. **By seeking legal assistance from the beginning, matters can often be settled for a significant discount or reasonable payments over time.** Unfortunately, once a judgment has been entered, the only option many times is to file for bankruptcy protection.

Contact Mark If you have additional questions about consumer credit, financial issues, or bankruptcy. Additional videos regarding credit card, vehicle, and mortgage payments can be found on [Mark's bio](#) or on the [Icard Merrill YouTube page](#).

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