

▼ **Credit Counseling Agencies**

With the economy in the doldrums, even more consumers are experiencing debt-related problems than usual. Many could benefit from some credit counseling to help them manage debt and make intelligent credit decisions. However, caution is in order since many credit-counseling agencies (CCAs) are misleading about who they are, what they can do, and how much they charge.

Rather than teach consumers about their finances and how to manage debt, negotiate lower payoffs, or help challenge erroneous credit report information, many CCAs simply enroll consumers in a "debt management plan." In a debt management plan, the consumer pays the CCA, which is supposed to pay the consumer's creditors, hopefully for a reduced payoff negotiated by the CCA. Some CCAs will not even forward payments to the creditors, but instead just take consumers' money for themselves.

Attorneys should be hesitant to refer consumers to a CCA. Regardless whether a particular CCA is honest, no CCA can do anything for a consumer that the consumer cannot easily do on their own, usually for free.

The Federal Trade Commission offers excellent information on CCAs, step-by-step instructions for consumers who want to try to correct credit reports themselves, and information about the Credit Repair Organizations Act, which regulates CCAs: www.ftc.gov/bcp/online/pubs/credit/repair.shtm

Some consumers do need education, however. Look for a CCA that offers seminars and counseling on specific topics, rather than one that, at best, simply writes checks on a consumer's behalf.

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Mary's Regional Health Center, 747 N.W.2d 586 (Minn. App. 2008), that the remedy for a premature lawsuit, while the tolling agreement is in effect, is to allow the defendant to raise breach-of-contract defenses, but not to dismiss the lawsuit. Reversing a ruling of the Becker County District Court, the appellate court held that the impetuous initiation of a lawsuit does not defeat the underlying claims, but the defendant may raise contractual defenses, which may enjoin or stay the lawsuit until the tolling period expires. The outcome may be favorable to the claimant because it allows settlement negotiations to continue while the lawsuit is in place. But initiation of a lawsuit while a tolling agreement is in effect may backfire for a claimant. It could cause hostility on the part of the defendant, increasing its resistance to settlement. Claimants, therefore, have the right to sue before a tolling agreement expires, but they should do so warily and, if they do proceed, the defendant should seek appropriate relief for breach of the agreement.

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▲ **Searching Court Records**

The Minnesota Court Information System (MNCIS) allows you to search a variety of Minnesota trial court records from your desk. You can search civil or criminal records by case number, party name, or attorney name. You can also access judgments and court calendar information, either statewide

or county by county. This is a great way to determine whether a party has been involved in other litigation in Minnesota, and can also provide you with information about opposing counsel. There is, of course, always the risk that information obtained is incomplete or inaccurate, and you must follow up appropriately if you plan to use this information. You must observe all legal limitations on its use.

You can access MNCIS at <http://www.mncourts.gov/PublicAccess>.

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▲ **Information, Please**

Avoid paying expensive 411 fees by using Google's free 411 service. Dial 1-800-GOOG-411 and follow the voice prompts. The service will provide you with a list of businesses that match your search criteria. You simply select the business you are searching for and it will provide you with the address and phone number. It will also connect you for free. Use it to find restaurants, courthouses, government buildings, and businesses when you've forgotten to write down the address or phone number. See <http://www.google.com/goog411/> for more information.

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▼ **Tolling Agreements**

Tolling agreements are arrangements in which the parties to a legal dispute agree to suspend the statute of limitations while they are trying to negotiate a resolution of their dispute. They are occasionally used when, due to the imminent expiration of the statute of limitations, parties agree to freeze the limitations, in order to have more time to try to work out a settlement. Their purpose is to avoid forcing the claimant to file a lawsuit—with the attendant adversity, animosity, costs, and loss of confidentiality—



when the parties believe that a prelitigation resolution may be reached. If settlement is reached, the parties dispense with the need for litigation and its attendant vicissitudes. An impatient claimant, who jumps the gun when it starts the lawsuit while the tolling agreement is in effect, may jeopardize the likelihood of settlement. But initiating a lawsuit during the pendency of a tolling agreement does not negate the claimant's case. The Minnesota Court of Appeals recently ruled in *Kunza v. St.*

Have a bit of sage advice for a newcomer to your area of practice? Send us your "tips & traps"! Your colleagues will be grateful. Email suggestions, cautions, and tales of woe to bb@mnbar.org