



AUSTRALIAN COLLECTORS &
DEBT BUYERS ASSOCIATION

8 February 2011

The Hon. Robert Clark, MP
Attorney-General
Department of Justice
GPO Box 123
MELBOURNE VIC 3001

Dear Attorney,

Victorian Civil Procedures Act 2010

We refer to your email on 19 January 2011 and to the writer's subsequent discussions with Mr Paul Denham of your office earlier today.

In response to your invitation to make a brief submission of member concerns regarding the impact of the Victorian Civil Procedure Act, 2010, ACDBA gathered perspectives from its members which predominantly operate in the Victorian jurisdiction.

Those members report the vast majority of litigation in debt recovery they are involved in, involve debts which are undisputed resulting in default judgments in favour of the creditor.

After careful consideration, ACDBA members believe the effect of the Civil Procedure Act 2010 in its current form, will be to:

1. Increase the legal cost to creditors due to the pre-litigation requirements which are unrecoverable. Currently the debtor receives at the very least three letters of demand often accompanied by a proof of debt, one from the client, one from the agency and a solicitor's letter. The new Act will unnecessarily duplicate this process and increase costs to the creditor.
2. Significantly increase the delay in commencing litigation to the benefit of the debtor.
3. Encourage debtors and/or their legal advisors to deliberately adopt delaying tactics to stall the litigation process.

4. Promote a system which potentially encourages debtors to dishonour their contractual obligations to the detriment of creditors who in most instances only turn to the legal system as a last resort.
5. Create a loss of confidence in the justice system because of the barriers facing a creditor arising from:
 - a. irrecoverable legal costs;
 - b. delays in commencing litigation; and
 - c. potential delaying tactics of debtors and/or their legal advisors who refuse to honour their contractual obligations entered into by creditors in good faith.

For these reasons, ACDBA believes it is appropriate that in respect to debt recovery actions compliance with the pre-litigation requirements would be inappropriate and should be exempted from the Civil Procedure Act's provisions.

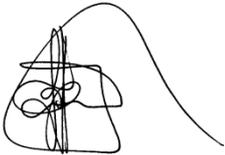
We note with interest, Mr Denham's advice this morning that amendments to the Act are expected to be presented later today.

If we can assist further in this or other matters, please do not hesitate to contact the writer.

Kind regards.

Yours sincerely,

AUSTRALIAN COLLECTORS & DEBT BUYERS ASSOCIATION

A handwritten signature in black ink, appearing to read 'Alan Harries', with a long, sweeping line extending to the right.

Alan Harries

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