



August 2013 Tip of the Month
NEW STATUTORY REQUIREMENTS REGARDING
ASSIGNED CONSUMER DEBT DEFAULT
JUDGMENTS TAKE EFFECT SEPTEMBER 1, 2013.

Submitted by: Glen Drew, VLN Resource Attorney

More Admissible Evidence Will Be Required

Minn. Stat. § 548.101 will take effect on September 1, 2013 setting new requirements regarding assigned consumer debt default judgments.

A party entitled to a default judgment in conciliation court or district court shall be required to submit admissible evidence on an assigned consumer debt claim when applying to the court for entry of default judgment. Debt buyers will have to present a copy of a written contract between the debtor and original creditor, or, if no written contract exists, present admissible evidence establishing the terms of the account relationship between the debtor and original creditor. Debt buyers will also have to submit admissible evidence establishing that the defendant owes the debt that is the subject matter of the suit and provide the last four digits of the debtor's Social Security number, if known. Admissible evidence establishing that the amount claimed to be owed is accurate will also be required. Additionally, debt buyers will be required to provide admissible evidence establishing a valid and complete chain of assignment from the original creditor to the plaintiff.

More Notice to Defendant Will Be Required

In addition to the above requirements regarding submission of admissible evidence to prove up their claims, in district court cases debt buyers will have to prove that a summons and complaint were properly served on the debtor; and provide proof that the debt buyer's attorney mailed a notice of intent to apply for default judgment to the debtor.

Perhaps most notably, Minn. Stat. § 548.101 will require that a new form entitled "Notice of Intent to Apply for Default" be mailed to the debtor's last known address at least 14 days before any request, application, or motion for default judgment is made with the district court. This essentially gives defendants in assigned consumer debt cases another 14 days to respond to the lawsuit after the initial 20 days given to respond to the Complaint before a default judgment can be entered in district court.

Excluding conciliation court cases and cases in which a hearing is required under court rules, the District Court will determine whether the requirements of Minn. Stat. § 548.101 have been met by a debt buyer plaintiff and may either hold a hearing before entry of default judgment or enter an administrative default judgment. In conciliation court cases, Minn. Stat. § 548.101 will require proof that a debt buyer plaintiff, or its attorney, used reasonable efforts to provide the court administrator with the correct address for the debtor.

For the full text of the new Minn. Stat. § 548.101 see [HF 80](#), which contains other important changes of law affecting consumer debt lawsuits that will go into effect on August 1, 2013.