

COLLECTION PROCESSES, LAWSUITS & ELECTRONIC TRANSACTIONS



Presented by:

WANDA BORGES, ESQ.

BORGES & ASSOCIATES, LLC

575 UNDERHILL BLVD.

SYOSSET, NEW YORK 11791

516-677-8200

wborges@borgeslawllc.com



CONTRACT FORMALITIES AID IN COLLECTION

CONTRACTS

- ▶ **A Credit Application can become a legitimate contract provided**
 - ▶ **All information is accurate and sufficient to identify the parties**
 - ▶ **Terms and Conditions are explicitly stated thereon or clearly referenced elsewhere (e.g. separate page, website)**
 - ▶ **Legal remedies**
 - ▶ **Interest, collection costs, attorneys' fees,**
 - ▶ **Jurisdiction and venue**
 - ▶ **It is SIGNED**

CONTRACTS

- ▶ **Actual written and signed contract**
- ▶ **Other documents which together create and aid in the enforcement of a contract**
 - ▶ **Purchase Order**
 - ▶ **Confirmation**
 - ▶ **Delivery Receipt/bill of lading**
 - ▶ **Invoice**
 - ▶ **Communication about disputes, discrepancies, etc.**
 - ▶ **Documentation evidencing the resolution of disputes, etc.**

A PROPER GUARANTY CAN GET YOU PAID

- ▶ **Why have a personal guaranty?**
- ▶ **Who should sign it?**
- ▶ **Does it really help in collections?**
- ▶ **When does it get signed?**
- ▶ **Is there certain language to form a guaranty?**
- ▶ **What if she/he signs as President (or some other qualification)?**

ESSENTIAL ELEMENTS OF A GUARANTY

- **Party information**
- **Consideration for guaranty**
- **Signature as individual (not titled)**
- **Dated**
- **Witness/Notarization**

UNACCEPTABLE GUARANTY

Guaranty of Collection - BAD

All collection efforts must be exhausted first before the credit grantor can seek recovery from the guarantor

ACCEPTABLE GUARANTY

Guaranty of Payment – GOOD

A requirement to pay immediately upon a default in payment by the primary debtor

RECOMMENDED LANGUAGE TO BE INCLUDED ON A GUARANTY

The Guarantor acknowledges that this Guarantee is a Guarantee of Payment, and the Guarantor's obligations under this Guarantee are and shall at all times continue to be absolute and unconditional in all respects, and shall at all times be valid and enforceable irrespective of any other agreements or circumstances of any nature whatsoever which might otherwise constitute a defense to this Guarantee and the obligations of the Guarantor under this Guarantee or the obligations of any other person or party (including, without limitation, the Customer) relating to this Guarantee or the obligations of the Guarantor hereunder.



CREATION & LEGALITY OF ELECTRONIC TRANSACTIONS

LAWS CONCERNING ELECTRONIC SIGNATURES

- ▶ **Uniform Electronic Transaction Act (“UETA”)**
 - ▶ Adopted by 49 states (except New York*), the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands
 - ▶ New York has the Electronic Signatures and Records Act
- ▶ **Electronic Signatures In Global And National Commerce (“E-SIGN”)**
 - ▶ 15 U.S. Code § 7001 *et seq.*
 - ▶ Preempts any inconsistent state law, except those who have adopted the UETA without amendment
- ▶ Both Acts validate the use of electronic records and signatures, but the UETA is more comprehensive

PURPOSE

▶ UETA

- ▶ To establish the legal equivalence of electronic records and signatures with paper writings and manually-signed signatures, removing barriers to electronic commerce.

▶ E-SIGN

- ▶ To provide that electronic records and signatures have the same validity and effect as wet signatures with regard to transactions in or affecting interstate or foreign commerce

IMPACT FOR TRADE CREDIT GRANTORS

- ▶ Applies to Article 2 Sale of Goods and Article 2A Leases
- ▶ Other articles governing negotiable instruments, letters of credit, documents of title, security interests in personal property and investment securities have been amended to permit the use of certain electronic records and signatures for many purposes, according to their own terms
 - ▶ E.g. Revised Article 9 provides for a security agreement to be authenticated instead of being signed.
 - ▶ Authentication means to sign or otherwise with present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process

WHAT IS AN ELECTRONIC SIGNATURE?

▶ UETA

- ▶ “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
 - ▶ (UETA § 2(8))

▶ E-SIGN

- ▶ An electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.
 - ▶ (15 USC § 7006 (5))

WHAT IS NOT AN ELECTRONIC SIGNATURE?

- ▶ A facsimile transmission
- ▶ A document copied, signed in ink, pdf'd and emailed.
- ▶ A document copied, signed, photographed by a cell phone and sent by text

WHAT IS AN ELECTRONIC RECORD?

▶ UETA

- ▶ A record created, generated, sent, communicated, received, or stored by electronic means.

- ▶ (UETA § 2(7))

▶ E-SIGN

- ▶ A contract or other record created, generated, sent, communicated, received, or stored by electronic means.

- ▶ (15 USC §7006(4))

WHAT IS AN ELECTRONIC AGENT?

▶ UETA

- ▶ A computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

- ▶ (UETA § 2(6))

▶ E-SIGN

- ▶ A computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part without review or action by an individual at the time of the action or response.

- ▶ (15 USC § 7006(3))

ELECTRONIC RECORDS ARE ENFORCEABLE UNDER UETA

▶ UETA

- ▶ A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- ▶ A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- ▶ Any law that requires a writing will be satisfied by an electronic record.
- ▶ Any signature requirement in the law will be met if there is an electronic signature.
 - ▶ (UETA § 7)

ELECTRONIC RECORDS ARE ENFORCEABLE UNDER E-SIGN

▶ E-SIGN

- ▶ “...Notwithstanding any statute, regulation, or other rule of law... with respect to any transaction in or affecting interstate or foreign commerce— (1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and (2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.”

- ▶ (15 USC § 7001(a))

BEST PRACTICES FOR CREDIT EXECUTIVES

- ▶ Be prepared to confirm your own electronic signatures, by affidavit or otherwise when seeking to enforce contracts.
- ▶ **Add language to your credit applications and other documents to state clearly that electronically-signed documents are acceptable and valid.**
- ▶ Be cognizant of potential arguments against enforceability—perhaps take the added step of requiring “wet” signatures in certain situations
 - ▶ E.g. Personal guaranties


SUGGESTED LANGUAGE THAT PARTIES AGREE TO AN ELECTRONIC AGREEMENT

The parties agree that the Credit Application/Contract currently being filled out/prepared is being created and executed electronically in accordance with the Electronic Signatures in Global and National Commerce Act (E-SIGN) any other applicable laws governing electronic signatures and contracts, including but not limited to the United Electronic Transactions Act (UETA). We understand and acknowledge that by electronically signing and exchanging this contract, we are legally bound to its terms and conditions as if we had signed a paper version of the Credit Application/Contract. By electronically signing this Credit Application/Contract, we further confirm that we have the necessary authority to enter into this contract on behalf of ourselves, our corporation or limited liability company which we represent.

**MAKE SURE YOU HAVE
MET
ALL OF YOUR
CONTRACTUAL
OBLIGATIONS**

MAKE SURE YOUR BILLING SYSTEM AND PROCEDURES ARE ADEQUATE

- ▶ **Efficient, Prompt and Accurate billing**
- ▶ **Discrepancy Resolution**
- ▶ **Legitimate Complaints**
 - ▶ **Non-conforming goods**
 - ▶ **Defective goods**
 - ▶ **Goods damaged in transit**
 - ▶ **Late deliveries.**



STEPS TO BE TAKEN WHEN AN ACCOUNT STOPS PAYING

STEPS TO TAKE WHEN AN ACCOUNT STOPS PAYING

- ▶ **Collection Letter**
 - ▶ **Include all necessary information**
 - ▶ **Sign the letter personally**
 - ▶ **Focus on “you” not on “we”**
 - ▶ **Avoid catch phrases such as “we insist”, “we remind”, “we want”**

STEPS TO TAKE WHEN AN ACCOUNT STOPS PAYING

- ▶ **Collection Phone Call and Discussion – what works best**
 - ▶ **Empathy**
 - ▶ **Respect**
 - ▶ **Cordial Communication**
 - ▶ **Foil the Bluff, deception or misrepresentation**
- ▶ **The Art of Negotiation**
 - ▶ **Promises combined with threats**
 - ▶ **Concession with a demand for reciprocity**
 - ▶ **Give the debtor a chance to be graceful (save face)**
 - ▶ **Plan Ahead**

STEPS TO TAKE WHEN AN ACCOUNT STOPS PAYING

▶ **Collection in-Person**

▶ **Bring all the Documentation necessary to defeat any excuses for non-payment**

- ▶ **Invoice copies**
- ▶ **Delivery receipts/bills of lading**
- ▶ **Correspondence**
- ▶ **Statement of Account**

▶ **Sales personnel as Collectors – Pros and Cons**

- ▶ **Sales person already has a relationship with the customer**
- ▶ **BUT – because of that relationship, sales person may not want to “get tough” with customer**
- ▶ **Salesman might be able to get a prompt response from customer**
- ▶ **By getting you paid, the salesman can make future sales and commissions**

WHEN AND WITH WHOM TO PLACE AN ACCOUNT

▶ Time can be of the Essence

- ▶ Unless a payment plan is worked out with the customer within a reasonable period of time (90 days at most), the account should be placed with a third party

▶ Collection Agency

- ▶ Will handle accounts as a “1st Party” – i.e., calling in your name
- ▶ Will handle accounts as a “3rd Party” – i.e. calling in its own name
- ▶ Will handle accounts on a contingency basis
- ▶ Can collect accounts on a national basis
- ▶ Check the legitimacy of the agency
 - ▶ Agencies Certified by the CLLA/IACC must pass muster to keep their certification
 - ▶ Better Business Bureau – compliments or complaints?

▶ Attorney

- ▶ The only entity that can start a lawsuit against your customer
- ▶ May handle accounts on a contingency basis
- ▶ May handle larger accounts on an hourly basis

LITIGATION HOLD

- ▶ **Defined as “Communication that suspends normal disposition or processing of Records because of current or reasonably anticipated litigation”**
- ▶ **Requirements**
 - ▶ **Identifying and Preserving Relevant Information**
 - ▶ **Issuing written notice to individuals most likely to have relevant information to lawsuit**
 - ▶ **Monitoring compliance**

LITIGATION HOLD SAMPLE

XYZ Company has just begun or is about to commence a lawsuit against ABC Company to collect moneys due and owing for goods sold and delivered and/or work, labor and services rendered for which it has not been paid. As this lawsuit proceeds, you must preserve all paper and electronic documents, materials, and data pertaining or relating to business dealings with or involving ABC Company, including any tape recordings of telephone conversations.

This Litigation Hold applies to all forms of information including, without limitation, all Communications, e-mails, voicemail messages, paper documents, electronic documents, *.pdf files, presentations, spreadsheets, and any other hard or electronic data relating to information regarding business dealings with this entity or anyone connected with that entity regardless of how or where any such data is recorded or stored. This Litigation Hold also relates to reports, correspondence, handwritten notes, draft documents, calendar entries, and recordings, whether stored in your office, at home, on a Blackberry (or "smartphone"), PDA or elsewhere. This Litigation Hold supersedes all other document retention policies, applies to documents that you create in the future, and will remain in effect until the dispute is resolved.

DO NOT DESTROY, DELETE OR ALTER ANY DOCUMENT, DATA OR INFORMATION IDENTIFIED BY THIS MEMO. IF YOU HAVE ANY DOUBT WHETHER ANY DOCUMENT, DATA, OR INFORMATION IS IDENTIFIED BY THIS MEMO, YOU MUST PRESERVE IT.

To protect electronic data from automatic or inadvertent deletion, the IT Department has been asked to provide access to your e-mail account to the Legal Department so we can conduct a search for any messages concerning ABC Company.

Please respond via e-mail message acknowledging that you have received this notice, that you understand your obligations to preserve data and that you agree to comply with this notice.



WINNING LITIGATION

CRITICAL ASPECTS OF TRIAL



- ▶ **DOCUMENTS**
- ▶ **WITNESSES**
- ▶ **PREPARATION**

DOCUMENTS

- ▶ **Good Documentation can win your case**
- ▶ **Bad Documentation can destroy it!**
 - ▶ **Parties not the same**
 - ▶ **Sloppy Documents**

DOCUMENTS ESSENTIAL FOR LITIGATION

▶ Statement of Account

- ▶ Different courts have different requirements for an acceptable Statement of Account

- ▶ Computer Generated

- ▶ On Proper Letterhead/Stock

- ▶ If computer regenerated make sure letterhead and logo matches

- ▶ **Actually** sent to customer

DOCUMENTATION FOR LITIGATION

▶ Scanned Documentation

- ▶ Documents must be scanned exactly as they appear
- ▶ Document must be precisely scanned, not just the data
- ▶ “Best Evidence Rule”
- ▶ Policy and Procedure must be proven

DOCUMENTS

- ▶ **Other Documents Can Make a Contract**
 - ▶ **Purchase Orders**
 - ▶ **Insertion Orders**
 - ▶ **Oral agreement between Businessmen**
 - ▶ **Credit Application can be a contract**

ADMISSIBILITY OF AN ELECTRONIC SIGNATURE IN COURT

▶ E-SIGN

- ▶ Does not change the substance of any law and affects only the medium for execution and delivery of writings

ADMISSIBILITY OF AN ELECTRONIC SIGNATURE IN COURT

▶ UETA

▶ Section 13. Admissibility In Evidence.

- ▶ In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form

▶ E-SIGN - no specific provision

▶ Section 7001

- ▶ (a) (1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and
- ▶ (2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.

ADMISSIBILITY OF AN ELECTRONIC SIGNATURE IN COURT

▶ UETA

- ▶ Proof of whether a record is signed is a question of fact to be determined under state law
- ▶ Broad concept and does not require any specific technology - may include voice message, a name on an email, or a firm name on a facsimile, if intent is present
- ▶ Critical element is the intention to execute or adopt the sound, symbol, or process for purposes of signing and requires the signer to execute or adopt that process with intent to sign

WHAT ARE THE FACTORS FOR ADMISSION?

- ▶ Attribution
- ▶ Authentication
- ▶ Consent
- ▶ Intent
- ▶ Security
- ▶ Record Retention

ENFORCEABILITY OF EMAIL SIGNATURES

- ▶ ***ARG International, AG v. Olin Corporation***
(2021) 2021 WL5050051 (USDC, E.D. Missouri)
- ▶ The court concluded that the emails which contained all the essential terms of an agreement were a writing as contemplated by the Statute of Frauds.

ENFORCEABILITY OF EMAIL SIGNATURES

▶ *In the Matter of Trs. of the Plumbing & Pipefitting Indus. Pension Plan*

(2014) U.S. Dist. LEXIS 44053 (E.D. Mich.)

- ▶ In this case, the Court held that email exchanges between two parties regarding the settlement of a lawsuit constituted a binding agreement

ENFORCEABILITY OF EMAIL AGREEMENTS

- ▶ ***Crestwood Shops LLC v. Hilkene***
- ▶ (2006) 197 S.W.3d641 (Missouri Court of Appeals, Western Dist.)
 - ▶ Where one party “makes her offer [in an email] and states that she is available only through email”, and the other party accepts the offer by responding to the email, “this is substantial evidence that the parties agreed to transact business via email.”

ENFORCEABILITY OF EMAIL AGREEMENTS

- ▶ *Brink's, Inc. v. Board of Trade of City of Chicago*: [93 F. Supp. 2d 731 (N.D. Ill 2000)] The Court held that email exchanges between two parties regarding the sale of gold constituted a binding contract
- ▶ *In re Four Seasons Securities Laws Litigation*: [502 F. Supp. 2d 1282 (S.D. Fla. 2007)] The Court held that email exchanges between two parties regarding the sale of securities constituted a binding contract
- ▶ *International Business Machines Corp. v. Johnson Controls, Inc.*: [1997 U.S. Dist. LEXIS 2176 (N.D. Ill. 1997)] *The Court held that email exchanges between two parties regarding the sale of computer equipment constituted a binding contract*
- ▶ *MWI Veterinary Supply, Inc. v. The Wright Group, Inc.*: [411 F. 3d 1283 (11th Cir.. 2005)] The Court held that email exchanges between two parties regarding the sale of veterinary supplies constituted a binding contract.

NON-ENFORCEABILITY OF EMAIL SIGNATURES

▶ *J.B.B. Inv. Partners, Ltd. v. Fair*

(2014) 232 Cal.App.4th 974

- ▶ Parties negotiated a settlement via email. Defendant emailed “I agree” with his name and left confirming voicemail he agreed.
- ▶ Court still found that typed name at end of email is **not** enforceable electronic signature on a settlement agreement.
- ▶ No evidence to show: (1) the parties agreed to conduct the transaction by electronic means; or, (2) the signer intended to sign the electronic record.
- ▶ Facts: (1) No statement that the parties agreed to enter into an agreement by electronic means; and, (2) no signature line or block was included. Rather, email correspondence specifically stated that future paperwork was forthcoming.

WITNESSES

- ▶ **Actual/Personal Knowledge of facts**
- ▶ **Credibility**
- ▶ **Expert**
- ▶ **Person in possession and control of documents**

WITNESSES

- ▶ **Actual/Personal Knowledge of facts**
 - ▶ **Salesman**
 - ▶ **Customer Service Representatives**
 - ▶ **Independent Agent**
 - ▶ **Credit Manager**

WITNESSES

- ▶ **Credibility**
 - ▶ **Length of time in job**
 - ▶ **Background**
 - ▶ **Knowledge of industry**

- ▶ **In other words “WHO IS THE JUDGE MOST LIKELY TO BELIEVE”?**

WITNESSES

- ▶ **Expert**
 - ▶ **Generally NOT necessary in a business trial**
 - ▶ **Necessary to prove**
 - ▶ **Signature**
 - ▶ **Custom and usage in the industry**
 - ▶ **Other ordinary industry conditions**

WITNESSES

- ▶ **Person in possession and control of documents**
 - ▶ **Who really controls all of your company's documents?**
 - ▶ **Does credit executive have ALL documents related to a particular customer**

WITNESSES

- ▶ **Credit Executive as Witness**
 - ▶ **Must actually have all documents**
 - ▶ **Must actually know all facts**
 - ▶ **Must actually control all activity**
 - ▶ **Not just credit**
 - ▶ **Also sales**

WITNESSES

▶ **Credit Executive as Witness**

- ▶ **Length of time with company**
- ▶ **Length of time in industry**
- ▶ **Educational background**

WITNESSES

- ▶ **Credit Executive as Witness**
 - ▶ **Sitting on the Witness Stand can be nerve-wracking**
 - ▶ **Even the most poised can lose their cool**
 - ▶ **Nervousness can be misinterpreted as lying**

HEARSAY

- ▶ **What is it**
 - ▶ **Examples**
- ▶ **Exception to Hearsay**
 - ▶ **Excited Utterance**
 - ▶ **Business Record Exception**

BUSINESS RECORD EXCEPTION TO HEARSAY

- ▶ **Credit Executive responsible for all credit activities**
- ▶ **Credit Executive taking over a position**
- ▶ **Credit Executive reviewing all credit files**

BUSINESS RECORD EXCEPTION TO HEARSAY

- ▶ **All Files maintained under supervision and control of credit executive**
 - ▶ **Supervision**
 - ▶ **Control**

BUSINESS RECORD EXCEPTION TO HEARSAY

- ▶ **Credit Executive familiar with particular document**
 - ▶ **Identify it**
 - ▶ **Say what it is**
 - ▶ **Say how you know it is what it is**
 - ▶ **State when you first became familiar with it**

BUSINESS RECORD EXCEPTION TO HEARSAY

- ▶ **Credit Executive's job responsibility is to be familiar with all documents**
 - ▶ **Credit Executive at company when original transaction took place**
 - ▶ **Credit Executive hired after transaction took place**

BUSINESS RECORD EXCEPTION TO HEARSAY

- ▶ **Credit Executive at company when original transaction took place**
 - ▶ **Credit Executive had actual knowledge at time of original transaction**
 - ▶ **Sales people answerable to credit executive at time of original transaction**

SPOILIATION OF EVIDENCE

FAILURE TO PROPERLY PRESERVE ALL OF THIS DATA, RECORDS, ETC. WILL BE REGARDED BY THE COURT AS “SPOILIATION OF EVIDENCE”

- **Loss of your lawsuit because you cannot prove your case**
- **Dismissal of the lawsuit because the court will punish you for not preserving necessary evidence**
 - **The court may presume you destroyed evidence because it would be harmful to your case**
- **Punitive damages to punish you for destroying or not preserving evidence**
- **Attorneys fees awarded to the other side to be paid by you**
- **Sanctions against your attorney for not causing you to preserve the data**

SPOILIATION OF EVIDENCE

Records (including email and other documents stored electronically) or other Company property pertaining to any matter which is the subject of on-going or threatened litigation or a government investigation must not be destroyed or altered without the prior approval of a Company Attorney. Such “spoliation” of evidence can subject the Company to onerous sanctions and undermine its ability to defend or assert its position in such litigation or investigation. Employees must comply with instructions from a Company Attorney regarding the handling of any records relating to a matter subject to pending or threatened litigation or investigation.



OBTAINING A JUDGMENT IS NOT THE ONLY ANSWER

A judgment doesn't win you the war ...
... it only wins you the battle.



MEDIATION

- ▶ **Mediation is a process used by parties in litigation to settle disputes**
 - ▶ **Not to be confused with arbitration**
- ▶ **Often Court Ordered but can be voluntary**
- ▶ **Confidential**
- ▶ **Whether a witness is required varies by jurisdiction**

MEDIATION

- ▶ **Some Factors to consider when deciding to mediate!**
 - ▶ **Complexity**
 - ▶ **Level of Detail**
 - ▶ **Strength of Case**
 - ▶ **Obstinance of the other side**
 - ▶ **Amount of Damages**
 - ▶ **Informal discovery**
 - ▶ **Cost of proceeding to trial**

SETTLEMENTS AND FORMS

- ▶ **Why use them?**
- ▶ **Key Terms**
 - ▶ **Account or Invoice Specific**
 - ▶ **Admission – Valid and Existing**
 - ▶ **Date of First Payment**
 - ▶ **Release**
 - ▶ **Default and Late Notice Provisions**
 - ▶ **Stipulation vs. Consent Judgments/Agreed to Judgments/Confessions of Judgments**

SETTLEMENT FORMS

Example of Full Payment will be Due

In the event Customer fails to pay as agreed, Customer agrees that the full amount owed of \$48,393.32 is due and owing in addition to prejudgment interest and attorney's fees less any amounts paid under this agreement.

SETTLEMENT FORMS

► Waiver Example

No amendment or modification of this Agreement, and no waiver, discharge or termination of any one or more of the provisions in this Agreement shall be effective unless in writing and signed by all of the parties. Nothing herein requires the Creditor to accept late payments; however, should the Creditor accept any late payments, any acceptance of late payment will not excuse the Customer's default or mean that the Customer can keep making payments after they are due. Furthermore, should the Creditor accept late payments, the parties agree that the Customer will continue to be in default and that Creditor may enforce this Agreement at any time regardless of the number of late payments accepted and require that the full amount owed under this Agreement be paid to Creditor.

WANDA BORGES

wborges@borgeslawllc.com

▶ *WANDA BORGES, the principal member of Borges & Associates, LLC., has been specializing in commercial insolvency practice, commercial litigation and transactional matters, representing corporate clients throughout the United States for an excess of forty years.*

WANDA BORGES

She is admitted to practice before the courts of the State of New York and the United States District Court for the Southern, Eastern, Northern and Western Districts of New York, the United States District Court for the District of Connecticut, the United States District Court for the Eastern District of Michigan, the Second Circuit Court of Appeals and the Supreme Court of the United States. She is a member of numerous professional associations including the American Bar Association, American Bankruptcy Institute, The Commercial Law League of America and The International Association of Commercial Collectors. As a member of the Commercial Law League of America, she is a Past President of the League, a Past Chair of its Bankruptcy Section and Creditors' Rights Section, has in the past and currently serves on the Executive Council of the Eastern Region of the CLLA, is Co-Chair of the Board of Associate Editors for its Commercial Law World magazine. She is the Immediate Past President of the Fund for Public Education. She is a member of the Board of Directors of the International Association of Commercial Collectors.

WANDA BORGES

She is a regular lecturer for the National Association of Credit Management (NACM) and its various affiliates. She has prepared and continues to update courses on "Advanced Issues in Bankruptcy", "Basics in Bankruptcy", "Current Cases in Bankruptcy", "Creditor's Committees", "Credit and Collection Issues", Sarbanes-Oxley Act of 2002, "Litigation Issues" and "Antitrust Issues" which have been presented at past NACM Annual Credit Congresses and at trade credit association meetings. Even prior to the passage of the "Red Flags Rule", Ms. Borges worked with the NACM and the FTC to determine the applicability of the Rule to business creditors. Ms. Borges has prepared and presents seminars on the Red Flags compliance issues for the NACM, its various affiliates, corporations, collection agencies and various other organizations. Ms. Borges was a faculty member for the NACM's Graduate School of Credit and Financial Management at Dartmouth College for twenty-five years. Ms. Borges has been a faculty member for the National Institute on Credit Management, a program jointly sponsored by the Commercial Law League of America and the National Association of Credit Management

WANDA BORGES

She has been a regular lecturer for the American Management Association on the Uniform Commercial Code and Fundamentals of Business Law for the Non-Lawyer, and for both the American Management Association, the Media Financial Management Association (formerly the Broadcast Cable Financial Management Association) and the Broadcast Cable Credit Association on Creditor's Rights in Commercial Litigation and Bankruptcy Matters. Additionally, she has presented seminars and webinars for the National Conference of Bankruptcy Judges, the American Bankruptcy Institute, The Commercial Law League of America, The International Association of Commercial Collectors, various local and national Bar Associations, Thomson West Publishing Company, the New York State Food Service Distributors Association and Riemer Reporting Service.

Ms. Borges frequently presents live seminars, tele-seminars and webinars for various trade credit group, many of whom are managed by NACM Affiliate Associations. Additionally, she has prepared and presented educational programs for the American Automotive Leasing Association, the National Chemical Credit Association, the National Cement Trade Credit Group, the Health Industry Manufacturers Association, the Canadian Forum for Credit Executives, the New Hampshire Association of Broadcasters and the Sports Industry Credit Association.

WANDA BORGES

She has served as the Managing Editor and still is one of the contributing authors of the Manual of Credit and Collection Laws published by the National Association of Credit Management and is a contributing author to its Principles of Business Credit. She is a member of NACM's Editorial Advisory Committee. Her treatise Hidden Liens: Who is Entitled to What? was published in the Fall, 1998 Edition of the Commercial Law Journal. She has authored Antitrust, Restraint of Trade and Unfair Competition: Myth Versus Reality, published by the NACM. Ms. Borges is the lead author and Editor-in-Chief of Enforcing Judgments and Collecting Debts in New York published by Thomson West Publishing Company and updated annually. She routinely publishes articles for the National Association of Credit Management "Business Credit" magazine and has published articles for its "Fraud Prevention News". Upon the passage of the BAPCPA in 2005, Ms. Borges prepared and presents educational programs on this new legislation and co-authored The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 - An Overhaul of U.S. Bankruptcy Law, published by the NACM.

WANDA BORGES

She has published articles for the Broadcast Cable Credit Association "Creditopic\$" and the "The Financial Manager" on Commercial Creditors' Rights in Bankruptcy, Bankruptcy issues generally, the FTC's Red Flags Rule, the ECOA and Regulation B, Electronic Invoicing, "Dot Com" Businesses, and on Advertiser/Agency Liability; and has prepared the "white paper" on the discontinuance of notarization of broadcast invoices. She is a co-author of the National Association of Broadcasters' book Out of the Red and into the Black, as well as the Broadcast Cable Credit Association's Credit & Collection Handbook. Ms. Borges has appeared as a guest on the Fox News Channel program, "Fox on Consumers", speaking on consumer bankruptcy exemptions. In February, 2010, Ms. Borges prepared and presented a program entitled "Avoiding Bankruptcy Pitfalls: Creditors' Rights and Professional Obligations in Bankruptcy Proceedings" for the Georgia Bar Association and the Institute of Continuing Legal Education in Georgia" which was televised live and telecasted to satellite locations throughout the State of Georgia.

WANDA BORGES

She has conducted "in-house" seminars on credit, collection, secured transactions and insolvency for corporate clients such as Agrium, Inc., Bristol-Myers Squibb, Burlington Industries, Inc., Cosmair, Inc., Doric Enterprises, Ferguson Enterprises, Inc., Mars Incorporated, McKesson Corporation, Mobil Chemical Company, Multi-Arc Corp., Pfizer Inc., R.J. Reynolds Tobacco Company, Sandvik, Inc., Sharp Electronics Corporation, Simon & Schuster Corp., SONY Corporation, Southeastern Freight Lines, Inc., Stanley Works, Sumitomo Corporation of Americas and SunTrust Bank.

She is a past Chair of the Board of Trustees of Mercy College and served as a member of that board for nine years. She has served on the board of Regents College, and has taught Business Law at Seton College in Westchester County, New York. She is a past Chair of the Broadcast Cable Financial Management Association.

WANDA BORGES

Ms. Borges actively participates in community events. She is a Lector and a Leader of Song and has directed the Youth Music Ministry at her parish, Our Lady Star of the Sea. She remains a member of the Fairfield County Chorale for which she served as its president for the years 1995 through 1997 and most recently served as a director and Executive Vice-President of the Fairfield County Chorale during the years 2012 - 2013 and 2018 - 2019.

She received the "Human Valor" Award by Noticias del Mundo, a New York based Spanish-language newspaper in 1985, the Mercy College Alumni Association's "Professional Achievement" Award in 1991, honorary membership in Delta Mu Delta - The National Honor Society in Business Administration - in May, 1995 and in October, 1996, was awarded the Mercy College Trustee's Medal for outstanding dedication to her profession and alma mater. She is listed in Who's Who of American Women. In September, 2000 she was named one of the "50 Outstanding Alumni" of Mercy College. In February, 2001 she received the "Career Achievement Award" from the Broadcast Cable Credit Association. In May, 2004, she received the "Strength in Numbers Recognition Certificate" from the NACM. In December 2006, she was named one of "2006 Top25 Most Influential Collection Professionals" by Collection Advisor Magazine. Ms. Borges was recently inducted into Mercy College's Alumni Hall of Fame celebrating its 60th year in existence. In November, 2010, Ms. Borges received the "Robert E. Caine Award for Leadership" from the Commercial Law League of America. Ms. Borges has been included on the New York Super Lawyers - Metro Edition list (Bankruptcy & Creditor/Debtor Rights) each year since 2009. Ms. Borges received a "Woman of Distinction" Award from St. Catharine Academy in April, 2015. Ms. Borges has been listed in Who's Who in America since 2020.