



### **Security and Compliance**

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Clients demand that their debt collection attorneys have the same level of electronic and physical security of their files as they themselves provide pursuant to federal regulation. Meeting that demand, however, particularly for smaller firms, can be extremely expensive, and because security requirements can vary dramatically from client to client, firms have no real choice other than to satisfy the most restrictive requirements even though some of their clients operate under less restrictive ones.

While it is difficult to address every vulnerability – either electronic or physical, following is a typical list of security requirements for debt collection attorneys. It is not all inclusive.

1. A formal disaster recovery plan
2. Written data and security policies signed by every employee
3. Electronic Data Security
  - A. Internet Security
    - i. Firewall
    - ii. Data Encryption
    - iii. Daily Backups with backup tapes or disks removed from the premises each evening
    - iv. Daily data uploads to off-site storage facility.
  - B. Internal Data Security
    - i. Several levels of passwords to obtain entry to data
    - ii. Change of passwords every thirty (30) days
    - iii. Password security.
      - a. Non-sharing policies
      - b. Replacement passwords cannot include parts of passwords used in the last 6 to 18 months.
    - iv. Authentication and encryption for sensitive/restricted files and directories.
4. Physical Security
  - A. Locked entry into the office from the waiting room
  - B. A log of all visitors including delivery and repair persons
  - C. All non-employees must be accompanied by an employee when allowed into the office
  - D. A locked room with internal glass walls or large windows for opening mail and processing debtor payments with access limited to accounts receivable personnel only



- E. Computer room/telephone locker must be locked at all times and limited access provided only to management and IT staff.
- F. Video Cameras
  - i. Cameras placed at all external entry points
  - ii. Cameras placed at all locations at which debtor mail and payments are processed
  - iii. Video tapes kept for minimum of three to six months

Compliance with the federal, state and local laws and regulations is required by every creditor client.

As with data and physical security, these requirements can vary greatly from client to client. The following represent some of the most common requirements.

1. Insurance
  - A. Professional liability insurance in the amount of \$1,000,000 or more
  - B. Property casualty insurance
  - C. Workers compensation and disability insurance if mandated by your state
2. Licenses
  - A. If a law firm, a licensed attorney in each state that you hold yourself out as authorized to litigate cases
  - B. Debt collector licenses in all states in which you collect and in which such licenses are required
3. Collection Compliance
  - A. Written policies whether in the form of memorandum or complete personnel manuals in regard to complying with the Fair Debt Collection Practices Act (FDCPA), Health Insurance Portability and Accountability Act (HIPAA) for medical collections, and state and local laws and regulations as well as the myriad of other debt collection laws
  - B. Collector training and testing. The ACA International has good materials for this purpose and NARCA publishes a video which explains the FDCPA
  - C. Debtor demand letters and other correspondence that satisfy all federal, state and local laws and rules and regulations, including requirements set forth in case law.
  - D. Telephone policies that satisfy all laws and regulations including requirements set forth in case law.



4. Internal Policies that complement and augment client policies regarding number of telephone calls to be made in a given time, number of letters to be sent, etc.

As with all efforts to provide security for physical and electronic assets, common sense prevails. Risks must be evaluated by a competent data security professional. There is no substitute for quality.

#### **Attorney's Bio**

Eric M. Berman, Esq., is President of Eric M. Berman, P.C., a multi-state collection law firm with offices in New Jersey, New York, North Carolina, Pennsylvania and South Carolina. Document and office security has become a major concern for creditors as identity theft continues to spread. The article contains an outline of security requirements placed on their collection attorneys by some of the major creditors. Dr. Berman is President of the Commercial Lawyers Conference of New York and a former Director of NARCA. He has spoken on collection-related issues at numerous conferences sponsored by the ACA International, Commercial Law League of America, DBA International, NARCA and Thompson Financial, among others.