

From: Derek Jackson
To: SLC info
Date: Mon 25/07/2022 14:56

Dear Sir /Madam,

I have been involved with my complaint to the SLCC about a lawyer who was representing the factor [REDACTED]. This lawyer employed by the factor took 4 and a half years to contact my son who was a joint debtor in a debt of £6400 wholly racked up by his ex partner on a flat they rented out.

Despite knowing my son's main line telephone and mobile numbers this lawyer failed to contact him over that inordinate amount of time.

The lawyer involved chose to only pursue the ex partner for the debt but after 4 and a half years the lawyer finally phoned my son to threaten him with sequestration when the lawyer was getting no cooperation from his ex partner.

The SLCC have determined that the lawyer has not broken any rules or statutory requirements.

I ask you to consider the following.

1) How is it just or fair to a joint debtor who is completely ignorant of debt being built up in his name to be suddenly threatened by a lawyer. This lawyer has taken 4 and a half years to contact my son despite knowing his contact numbers.

Surely there should be a time limit put on lawyers attempts on their pursual of the first chosen debtor when she is not cooperating. A time limit of a maximum of 6 months would appear to be a sensible time limit. Then the lawyer should have it as a responsibility to contact the other debtor/joint owner.

I spoke to a retired sheriff about the rules that lawyers have to follow in cases of joint and several debt and he said the following - "There are no detailed rules on how a solicitor for a creditor has to behave in relation to a joint and several debt.

The law says that a creditor can choose to pursue one only of the debtors in a joint and several debt.

This whole area of the law is based not on written rules or statute, but the common law of Scotland ".

What is the common law of Scotland ??

I am aghast that there are no written rules that a lawyer has to obey in cases of joint and several debt !!

Surely it is more logical to pursue both parties in the debt !! This will accelerate the solution of the debt.

They don't need to take the other debtor to court but can simply phone him up and warn him of debt being built up in his name !!

As a result of the lawyer's failing in this case to contact my son a debt of £6400 was built up in his name when one phone call in late 2014 instead of four and a half years later in August 2018 could have saved my son almost £3000.

In her determination [REDACTED] of the SLCC said that the lawyer was required to act in their client's best interest and act on their instructions.

Tell me how can it be in their client's best interest to needlessly spend 4 and a half years of legal and court time and causing thousands of pounds of legal fees for their client which probably exceeded the debt involved.

One phone call to my son could have saved thousands of pounds for their client and my son !! This certainly is not acting in their client's best interests !!

This total failure by the lawyer fails to address the case of a deceitful ex partner who had no compunction about keeping my son in the dark about the debt for 4 and a half years . He understood all factors and mortgage payments were being made and even asked her in September 2016 to send him statements and to sell the flat. She of course failed to send him the statements.

My son suffers from a serious mental condition and was unable due to hospital visits to be more aggressive with his partner or even contact the factors and mortgage lenders himself.

As you can see from the above a very vulnerable adult has been let down by this excuse for a joint and several legal system which has no detailed rules to be followed by lawyers and is biased towards the lawyer or solicitor who can take up to 5 or is it 6 years to pursue one debtor and can take in thousands of pounds in lawyers fees to the detriment of my son , the other debtor who was totally unaware of the debt and if he had been contacted 4 and a half years earlier could have settled the debt and also would have been able to sell the flat.

This particular case draws attention to the huge black hole in this joint and several debt procedures to be followed by lawyers.

It allows them to fill their pockets with extortionate fees to the detriment of my son's financial position.

I ask you , is this justice ? If so then as people say the law is an ass !!

I urge you therefore to review the law around joint and several debt as follows.

1) A lawyer acting for a client must contact both debtors in a joint and several debt.

2) If the lawyers don't agree with above arrangement , a time limit must be set of say six months when a lawyer must pull out all the stops to contact the second debtor when the initially pursued debtor is not cooperating.

This would prevent needless debt building up in the non pursued debtor's name and also save the client thousands of pounds in lawyers fees .

If I don't get any satisfaction from your organisation I have requested an interview with my local MSP Alex Cole Hamilton as this gaping hole in joint and several debt has to be addressed !!

Kind regards , Derek Jackson

Sent from my iPhone