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PART 1 | JULY 30, 2006

# No mercy for consumers

Firms' tactics are one mark of a system that penalizes those who owe



MICHELE MCDONALD/GLOBE STAFF

**The battle by Joanne M. Johnson of Leominster, who lives on a disability check, to get her car back took an emotional toll.**

**By The Globe Spotlight Team | JULY 30, 2006**

*First of four parts*

*This story was reported by Spotlight team members Michael Rezendes, Beth Healy, Francie Latour, Heather Allen, and editor Walter V. Robinson. It was written by Rezendes and Latour.*

It was just before 6 a.m. on a Saturday in the fall of 2002, when Marie-Colette Dimanche



woke to a loud rapping at the door of her Mattapan duplex. With her night robe on and her two daughters still sleeping, she rushed down the stairs and peered out the window.

Outside, a tow truck blocked her driveway and her 1996 Chevy Blazer. A man and a woman with a court order told the single mother they had come to take her car for nonpayment of an old credit card debt. With interest and legal fees, the bill totaled more than \$2,000, and it came from a company called Commonwealth Receivables. They gave her a choice: Pay the money now, in cash, or hand over the keys.

Dimanche had never heard of Commonwealth and believed the debt had been paid by a social services agency. “I just said, ‘You guys must be insane,’” she recalled.

She had reason to be stunned: The debt was at least five years old. And she’d never gotten notice of the lawsuit against her: When Commonwealth, a local debt collector, went after Dimanche, the address it supplied the court was one where she hadn’t lived for more than a decade.

But Dimanche didn’t have the paperwork to prove the debt had been paid off, and she didn’t have \$2,000.

## Spotlight Report: Debtors' Hell

“What could I do?” she said. “I gave them the key.”

Dimanche is one of thousands of Massachusetts residents who have had their cars seized and lives upended by a pair of debt collection companies, Commonwealth Receivables Inc. of Watertown and Norfolk Financial Corp. of West Roxbury. Run by two brothers, one of whom was disbarred this year for his business practices, Norfolk and Commonwealth have become two of the state’s most litigious and aggressive collectors, a Globe Spotlight Team investigation of the debt industry has found.

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other firms for just pennies on the dollar.

The success of such firms is a measure of how dramatically the world of consumer debt in America has changed. It isn't just that consumers lean too heavily on credit cards to get by. It is that, almost unnoticed by policy-makers, many millions of Americans have slid, or been pushed, into a debtor's hell where bank accounts are drained, wages are attached, property confiscated, and threats of jail are an everyday occurrence.

A fate once reserved for the worst deadbeats has become commonplace. The losers are the friends, neighbors, or relatives of just about everyone people who generally owe the money collectors are after but don't deserve what comes next. People such as Ana R. Rios, a 40-year-old Maynard woman whose car was hooked near midnight even though her debts had been erased through bankruptcy. Or Thomas S. Jessamey, a 45-year-old Saugus man who spent six months struggling to get his car back after it was seized for an old credit card bill.

An estimated one of every 11 consumers has at least one credit card that is more than 90 days past due, according to nationwide data provided to the Globe by the credit reporting agency Experian. Many are already being pursued by debt collectors, or someday will be. And it is a vast army coming after them: In the last decade, the ranks of debt collectors have doubled to 162,000, making debt collection among the fastest-growing sectors of the financial services industry.

In Massachusetts, a Spotlight review of records in all 70 district courts, and interviews with court officials and collection attorneys, found that professional collectors filed an estimated 575,000 lawsuits between 2000 and 2005 about one lawsuit for every 11 Bay State residents. The vast bulk of those were filed as small-claims actions in the district courts, where debt collectors always have lawyers and the debtors almost never do.

At nearly every stage, the Globe found, the debt collection system in the state is stacked against the average consumer:

Many small-claims courts have effectively become accomplices of collection firms, routinely giving them the upper hand in court cases while casually disregarding the rights

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debt collectors provide courts with outdated addresses for the people they are suing.

The disabled, the elderly, and the working poor are often talked into repaying their debts from their monthly government checks, which by law are protected from legal judgments.

And an obscure posse of law enforcement agents constables and deputy sheriffs operate freely as the blunt instrument of collection firms, with neither their steep fees nor their sometimes heavy-handed tactics regulated.

It is, in short, a system made safe and very profitable for Massachusetts collectors such as Commonwealth and Norfolk, and for others like them across the country.

“The creditors are all repeat players. They know exactly how the game works,” said Elizabeth Warren, a Harvard Law School professor who studies consumer debt. “We’re watching a fight between two players, one a skilled repeat gladiator, and one who’s thrown into the ring for the first time and gets clubbed over the head before they even get a sense of what the rules are.”

Commonwealth and Norfolk have built a reputation for operating at the hard edge of this increasingly aggressive and methodical trade.

It is a business with many reputable players, firms that collect money zealously but rarely cross the line of fairness. And then there are those that seem to live by another set of rules.

Commonwealth, owned by 41-year-old Chad Goldstone, and Norfolk, owned by his brother Daniel, who is 44, are among the most active users of the state’s small-claims courts, where lawsuits are limited to \$2,000 or less. Together, the two firms have filed about 12,000 lawsuits in each of the last four years in all but two of the state’s 70 local courts, according to records examined by the Globe. That is more than 10 percent of the state’s small claims caseload.

And as for car seizures, a tactic many collectors consider harsh and unseemly, the Goldstones have made it an everyday practice.

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debtors can scrounge up the cash to pay down a past-due amount.

Almost always, debtors who have their cars towed wind up paying far more than their original debt. Part of that is interest, of course. But it is also the result of hefty fees charged by the people who work on the Goldstones' behalf, the kind of people Dimanche found knocking at her door just after dawn locally appointed constables, deputy sheriffs, and tow lot operators.

And in cases where debtors are unable or unwilling to pay the debt, plus the high seizure, towing and storage fees, their cars are often auctioned for a fraction of their market value. Or they are junked, leaving the debtors without transportation and still liable for most, or all, of the debt.

The sight of a tow truck at the door is unsettling enough. But for some debtors chased by Norfolk and Commonwealth, it is literally the first they have heard that they are being sued. In several lawsuits examined by Globe reporters, Dimanche's among them, the two companies provided incorrect addresses to the courts, with the result that judgments were issued without the knowledge of the debtors. But finding the right address is seldom a problem for the constables and sheriffs Norfolk and Commonwealth hire to seize debtors' cars.

As Dimanche said in a hand-written plea to the court days after her car was taken: "I, Marie Dimanche, was never notified of any court hearing, and a judgment was passed without my presence to defend myself."

But no court motion could fully describe what Dimanche had lost. The day she handed over her keys her only means to get to work and her children to school was the last day she would ever see her car.

### **Leaders in car seizures**

How many others sued by the Goldstones have had their cars seized? The courts, which authorize the actions, don't keep records that would allow such a tally.

But other official documents strongly suggest that the two firms have been seizing

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accounts in bulk. Purchased by large debt-buying companies, the accounts are then repackaged and re-sold to smaller and smaller firms.

By the time local companies such as Commonwealth and Norfolk pick up this kind of “stale” debt, they are buying it on the cheap from firms that have tried and failed to collect. It is their opportunity to make a profit but it also presents a challenge. “How can [they] be successful where those who went before weren’t?” said Nicholas F. Ortiz, a consumer lawyer with a lawsuit pending against Norfolk Financial. “That’s where we come to seizing cars.”

Chad Goldstone said the debts he buys are typically one or two years old, although Commonwealth lawsuits examined by the Globe were often for credit card debt that was four or even five years old. Goldstone said he pays 6 or 7 cents on the dollar for the accounts he buys \$60 or so for a \$1,000 debt and generally collects 18-20 cents on the dollar.

Both brothers file nearly all their lawsuits in small claims because the filing fee is capped at \$40 and judgments come with greater speed and ease. Chad Goldstone, with a staff of only six, estimated he sues as many as 7,800 people a year and almost always prevails largely because more than 80 percent of the people he sues don’t show up in court. “People ignore the letters and the phone calls, and then we get a default judgment. That’s an ostrich mentality,” he said.

Or, he added, it’s a “game of chicken,” in which Commonwealth keeps up the pressure until the holdouts give in, scraping together a negotiated amount, to avoid having their cars taken, or to get a vehicle back.

Daniel Goldstone has filed nearly as many lawsuits as his brother about 22,000 over the last four years. And he appears to have resorted to car seizures at least as often.

Daniel Goldstone did tell the Globe last year that he takes no pleasure in hooking cars: “I find it distasteful, seizing cars. . . . It is an avenue of last resort,” he said.

That claim would come as a surprise to many of the debtors he has sued.

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review found.

That volume makes the two firms the dominant players in car seizures statewide.

Both brothers and their lawyer, John J. O'Connor of the Boston law firm of Peabody & Arnold, defend the propriety of their business practices. "We work hard to handle all matters with courtesy and fairness, and in compliance with all legal requirements," they said in a written statement.

Only Chad Goldstone spoke to the Globe at any length; Daniel Goldstone agreed to a sit-down interview, but then cancelled it. The Goldstones cited state privacy laws and federal statutes that protect debtors as justification for declining to answer most questions about their businesses, or to discuss lawsuits they have filed.

The Goldstone brothers run separate companies, but that wasn't always the case. In 1992, Daniel Goldstone purchased a defunct collection law firm, renaming it Goldstone & Sudalter, and for several years Chad worked for Daniel, proving especially adept at managing computer systems that have made debt collection a highly efficient business. But in 1997 Chad Goldstone left the business to form Commonwealth Receivables. By then, Goldstone & Sudalter had been sued for bilking its largest client, Sears, Roebuck and Co. out of more than \$800,000 a case that would eventually lead to Daniel Goldstone's disbarment. Daniel Goldstone established Norfolk Financial in 1999.

Even though they parted ways, the brothers remain alike in many respects as businessmen. Both buy delinquent credit card debt. Both employ similar collection tactics. Both work with small staffs from offices so poorly marked and out-of-the-way that they are difficult to find.

And though they are among the top filers of collection lawsuits in Massachusetts, neither company is registered as required by law with the state Division of Banks, which is charged with oversight of debt collection companies. Through their attorney, the Goldstones claim they are exempt because they purchase the debts they try to collect, and do not collect debts for other creditors. But David J. Cotney, chief operating officer for the Massachusetts Division of Banks, said every company in the state that collects defaulted

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of transportation to medical appointments and to the thrift shops and food banks she visits when she can't make ends meet.

In 2001, when Johnson became ill, she lost her job as a supervisor in the packing department of a local manufacturing firm, then defaulted on a credit card with a \$500 limit. Norfolk stepped in, bought the debt, and in 2004 filed a lawsuit against her for \$1,035 the debt plus three years' interest.

That's when the process went awry. When Norfolk sued, it supplied the Leominster District Court with an address where Johnson had never lived. The court put a hold on the suit when the notices came back undelivered. But for reasons court officials would not explain, the suit was then allowed to go forward after another notice was sent to Johnson at the same wrong address. And when Johnson didn't show up for her court date, Norfolk automatically won.

Then, with a judgment in hand, Norfolk phoned Johnson and told her to appear in court in early February 2005 to work out a payment schedule, according to Johnson. When she arrived, an attorney was there to answer questions. Johnson said she assumed he was a legal aid lawyer. In fact, he was a lawyer for Norfolk Financial who, Johnson said, never identified himself.

The lawyer asked her to fill out a financial statement and then, before she could figure out what was happening, she found herself before a judge.

"I told the judge that once my car was paid off, I could pay \$10 a month," she said. "All he

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