

Debt collection: seeking a refund from Goddard Elliot lawyers

Key message:

- ⌚ If you have paid a debt to law firm Goddard Elliot or mercantile agent Legal and Commercial Recoveries Pty Ltd in relation to video rental fines between 2002 and 2010; and
- ⌚ the debt you paid included an amount for "costs", "solicitors costs", or "legal costs"; and
- ⌚ you may be able to seek a refund of those amounts.

Recent Federal Court decision: *ACCC v Sampson*

In 2010, the Australian Competition and Consumer Commission (**ACCC**) commenced proceedings in the Federal Court against Pippa Sampson, a partner of law firm Goddard Elliot.

Goddard Elliot acted for the mercantile agent Legal and Commercial Recoveries Pty Ltd and on behalf of a number of video rental stores, including Video 2000, Video Ezy, Video Busters, Civic Video, Network Video, Box Office, Movies 4U, Homeshow Video, Family Videoland, Movieland, Leading Edge Video and Blockbuster.

Goddard Elliot sent numerous letters and notices to debtors of video stores since at

least April 2002, including approximately 20,000 letters and notices each month in the 12 months preceding the ACCC's action.

The Court found that debt collection notices sent by Goddard Elliot that included requests for the recovery of an outstanding amount '*together with \$30.00 [or other such amount specified] Solicitors costs*' were misleading. This was because there was no outstanding amount which included \$30 (or other such amount specified) for solicitor's costs and the law firm's clients had no necessary entitlement to recover solicitor's costs in respect of its debt claim.

The Court also found that a range of other statements and representations in these notices were misleading.

Seeking redress

If you were also misled by Goddard Elliot and paid money that was not owing, it is best to send a letter to Goddard Elliot making your demands for a refund. An example letter that may be used for this purpose is below.

You should provide evidence that you have paid the amounts requested as "solicitor's costs". This could be by providing:

- copies of bank records or statements;
- copies of payment slips.

If you have it, you could also provide a copy of the letter or notice you received from Goddard Elliot.

It is a good idea to send a copy of your complaint to regulators (details below) to alert them to your seeking of a refund.

Warning: This fact sheet is intended as a guide to the law and should not be used as a substitute for legal advice. This information applies only in Victoria and reflects the law as at 20 March 2012.

Lodging claim with VCAT

For information about how to make a complaint to the Victorian Civil and Administrative Tribunal (**VCAT**), see our [factsheet](#). VCAT is the forum in Victoria that resolves small claims between consumers and traders, including law firms.

There is a fee for making a civil claim at VCAT, which is currently \$37.90 for claims less than \$10,000. VCAT will waive the filing fee for people with certain concession cards,

such as a health care card, and low-income earners.

Do not be intimidated by the thought of making an application to VCAT, it is not like a Court and is generally designed for consumers to use without legal representation.

Seek help if you do not understand something, or you are concerned about having to deal directly with the debt collectors again.

Sample letter

*Goddard Elliott
Level 1, 110 Kingsway
GLEN WAVERLEY VIC 3150*

Dear Sir/Madam

On [date], I received a letter/notice from your firm seeking repayment of a debt in the amount of [\$xxx] in addition to solicitor's costs of [\$xx].

I note that in October 2011, the Federal Court found that notices sent from your firm seeking recovery of "solicitor's costs" were misleading in contravention of the Trade Practices Act (now Australian Consumer Law).

I was misled into paying amounts to you as "solicitor's costs" and [if provided] attach evidence of my payment to you in the amount of [\$xx]. I seek a refund of this amount payable with 21 days. If I do not hear from you, I may take further action to recover the amount of these fees without further notice to you.

Yours sincerely

*cc. Australian Competition and Consumer Commission
Legal Services Board*

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Free advice & Assistance

Consumer Action Law Centre

Telephone: (03) 9629 6300,
or 1300 881 020 for country callers.

Email: advice@consumeraction.org.au

Mon – Fri 10.00 am – 5.00pm



If you are deaf or have a hearing or speech impairment, you can call through the National Relay

Service (NRS):

•TTY users can phone 133677 then ask for 1300 881 020

• Speak & Listen (speech-to-speech) users can phone 1300 555 727 then ask for 1300 881 020

• Internet relay users can connect to NRS on www.relayservice.com.au then ask for 1300 881 020

Consumer Affairs Victoria

Tel: 1300 55 81 81

www.consumer.vic.gov.au

Legal Services Commissioner

Tel: 1300 796 344

www.lsc.vic.gov.au

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