

February 26, 2018

The Honorable Vicente Gonzalez
United States House of Representatives
113 Cannon House Office Building
Washington, DC 20515

Re: Your sponsorship of HR 4550

Dear Congressman Gonzalez:

We are Texas lawyers from every corner of the State. We represent Texans in Texas courts and educate future attorneys to do the same. We write to express our strong belief that lawyers who engage in abusive litigation practices to collect consumer debt should not be immunized from liability under the Fair Debt Collections Practices Act (FDCPA). For that reason, we urge you to drop your sponsorship of HR 4550, the Practice of Law Technical Clarification Act of 2017, and work with us to defeat it.

H.R. 4550 would carve out an exception, just for attorneys, and immunize them from liability when they abuse the debt collection process in court. This protection would come at the expense of law-abiding collectors and attorneys and hurt Texas consumers and their Texas families.

Approximately 44 percent of adult Texans have a debt in collections. Indeed, the Urban Institute reports that three counties in Texas 15th have rates nearly 20 percentage points higher than other Texas counties and rank among the top 20 nationwide (among those for which they have data) for rates of adults with debt in collection. In 2017 alone, attorneys filed more than 166,000 debt collection cases in the Texas Justice Courts, continuing a trend of yearly increases. The majority of cases were filed on behalf of debt buyers — businesses that buy delinquent debts for pennies on the dollar. Many of the debts cannot be verified, yet consumers rarely have resources to contest them, and even fewer resources are available to consumers once a collection case is filed. Approximately 30 percent of the cases closed last year resulted in a default judgment for the collector. The harm resulting from judgments obtained through abusive litigation practices can have long-lasting effects, making it more difficult for consumers to obtain housing, a loan, find a job or secure insurance.

If HR 4550 were to become law, this conduct would go unpunished. We believe that the proposed bill is also likely to lead to:

- More lawsuits as attorneys rush to litigation to immunize their conduct in an already overburdened court-system
- Less informal resolution of consumer debt as lawsuits become preferred method of collection
- More use of unfair litigation tactics, all now covered by the FDCPA, including:
 - Lawsuits against consumers in distant courts
 - Lawsuits to collect zombie debt
 - Lawsuits to collect amounts not owed, including amounts discharged in bankruptcy
- More judgments obtained and collected through unfair means such as pressure to sign over protected government benefits

These practices have devastating and long-lasting consequences for consumers as well as other, ethical attorneys engaged in collection. State laws, including those in Texas, cannot replace all of the protections

that would be lost. Moreover, responsible, ethical lawyers who engage in collection are at a disadvantage when they must compete against disreputable attorneys who engage in abusive practices such as the ones described here.

We believe that lawyers occupy a privileged role in our justice system and should be held to the highest ethical and professional standards. For that reason, we ask you to join us in preserving those standards by helping us to stop this bill from becoming law and work with us to defeat it.

Thank you very much for your attention to this matter. If you would like to discuss this further, please contact Mary Spector, SMU Dedman School of Law at mspector@smu.edu;* Genevieve Hebert Fajardo, St. Mary's University School of Law at gfajardo@stmarytx.edu;* or Neil L. Sobol, Texas A&M University School of Law at nsobol@law.tamu.edu.*

Sincerely,

*University affiliation provided for identification only. The views we express are our own and not the views of our universities.

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