

# INEQUITABLE JUDGMENTS

EXAMINING RACE AND FEDERAL STUDENT LOAN  
COLLECTION LAWSUITS



April 2019

**NCLC**<sup>®</sup>  
NATIONAL  
CONSUMER  
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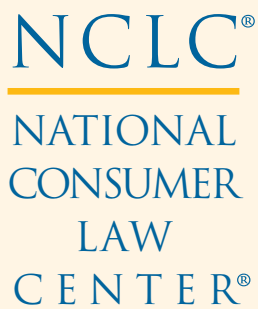
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## ABOUT THE NATIONAL CONSUMER LAW CENTER

Since 1969, the nonprofit National Consumer Law Center<sup>®</sup> (NCLC<sup>®</sup>) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services; and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state governments and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

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## EXAMINING RACE AND FEDERAL STUDENT LOAN COLLECTION LAWSUITS

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## EXECUTIVE SUMMARY

Of the 44 million student loan borrowers, nearly one in five is currently in default on one or more federal student loans. The consequences of federal student loan default—such as wage garnishment, offset of federal benefits and tax refunds (including the Earned Income Tax Credit), and for some borrowers, a federal lawsuit—are devastating. A judgment in a federal lawsuit can threaten a borrower’s home and bank account, and can prevent borrowers from ever getting out of default on their federal student loans, forcing many of these borrowers to experience the harsh consequences of default until they die.

Collection lawsuits are supposed to be the collection method of last resort; however, the use of private debt collection law firms has enabled the government to sue borrowers that it would not otherwise choose to sue. The debt collection industry is plagued with abuses and there are some indications that these abuses may be present in collection suits against federal student loan borrowers.

*Debt collection lawsuits brought against defaulted student loan borrowers are indeed disproportionately concentrated in areas that are home to communities of color.*

Prior research suggests that the burdens of student loan debt are disproportionately borne by students of color, but no research has been done on whether racial disparities exist in lawsuits brought on behalf of the U.S. Department of Education. The National Consumer Law Center analyzed the cases brought against defaulted student loan borrowers between January 2016 and June 2018.

The data shows:

- **Debt collection lawsuits brought against defaulted student loan borrowers are indeed disproportionately concentrated in areas that are home to communities of color.** Specifically, the zip codes in which sued defaulted student loan borrowers live have Hispanic or Latino populations double the national average and triple the average black or African American population.
- **Debt collection lawsuits brought against defaulted student loan borrowers are more concentrated in Texas, Michigan, Pennsylvania, California, and Florida than other states.** This may be because all of the private law firms that pursued suits against more than 50 student loan borrowers between January 2016 and June 2018 are headquartered in four of these five states.
- **Approximately 85% of the cases filed against defaulted student loans borrowers were brought by private law firms that contract with the U.S. Department of Justice (the U.S. Department of Education refers past due debts to the DOJ for collection).**
- **Almost 60% of cases resulted in a default judgment against the borrower.**

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Based upon this research, we make the following recommendations:

- The U.S. Departments of Education and Justice should track and make publicly available data in order to track racial disparities in student loans.
- The U.S. Departments of Education and Congress should take steps to address and prevent racial disparities in student lending.
- The Department of Justice should review its guidelines for when to refer cases to litigation to avoid punitive lawsuits against borrowers with low balances and no ability to repay their loans.
- The Department of Justice should rigorously oversee its contractors and ensure that they comply with all federal laws and court rules.
- The Department of Education should use its discretion to vacate judgments for borrowers who want to get out of default and back in good standing.
- The Department of Education and Congress should improve debt collection policies in order to make it easier for borrowers to get out of default and in good standing, and avoid collection suits.
- The Department of Education and Congress should implement better default prevention policies, such as automatically enrolling delinquent borrowers in income driven repayment plans, and improving oversight of loan servicers to prevent borrowers from defaulting in the first place.
- Congress should redefine the definition and consequences of student loan default to ensure that falling behind does not threaten the financial security of borrowers and their families.

## INTRODUCTION

Adriene McNally (see sidebar) is just one of the thousands of student loan borrowers who have been sued after defaulting on their student loans. Every day, approximately 3,000 student loan borrowers newly default on their federal student loans.<sup>1</sup> Cumulatively, of the 44 million student loan borrowers, approximately one in five is currently in default<sup>2</sup> and experts expect this figure to double by 2023.<sup>3</sup>

For borrowers, the effects of a default on federal student loans can be long-lasting and severe. Wages can be garnished, Earned Income Tax Credits can be withheld, Social Security and disability benefits can be reduced, and, with a court judgment, the U.S. Department of Education (ED) gains new powers to seize a borrower's assets, such as a home.

Neither the ED nor the U.S. Department of Justice (DOJ) releases data on the demographics of borrowers sued on defaulted student loan debt. Given the devastating consequences of a judgment on a federal student loan and the known racial disparities that exist within the federal loan program,<sup>4</sup> this data is essential to understanding the impact of these lawsuits.

In order to fill the void left by the lack of data, the National Consumer Law Center analyzed the 1,565 lawsuits brought against defaulted student loan borrowers between January 2016 and June 2018.<sup>5</sup> These cases reveal racial and geographic disparities, and highlight the dangers of outsourcing federal collection to private firms.

### Lawsuit Threatens Borrower's Home

Adriene McNally took out approximately \$6,200 in federal student loans to attend beauty school between 1984 and 1987. More than three decades after taking out her loans, McNally faced a default judgment of \$10,641 that was entered on her Philadelphia home last year by a private law firm with which the federal government contracts to collect from student loan borrowers experiencing default. For McNally, because of the judgment, a lien may be placed on her home which means, at the very least, that when she sells her home, the amount owed will need to be paid in full out of the proceeds of the sale. The federal government could in theory force the sale of her home.

"I'm just fed up with it," McNally told WHYY in Philadelphia. "And I think they're just taking advantage of the small people in this country."\*

\*Bobby Allyn, Amid billions owed in student loans, U.S. taps law firms to recoup small debts from long ago, *WHYY* (Mar. 28, 2017), <https://whyy.org/articles/us-increasingly-hires-private-law-firms-to-pursue-long-overdue-student-loan-payments/>.

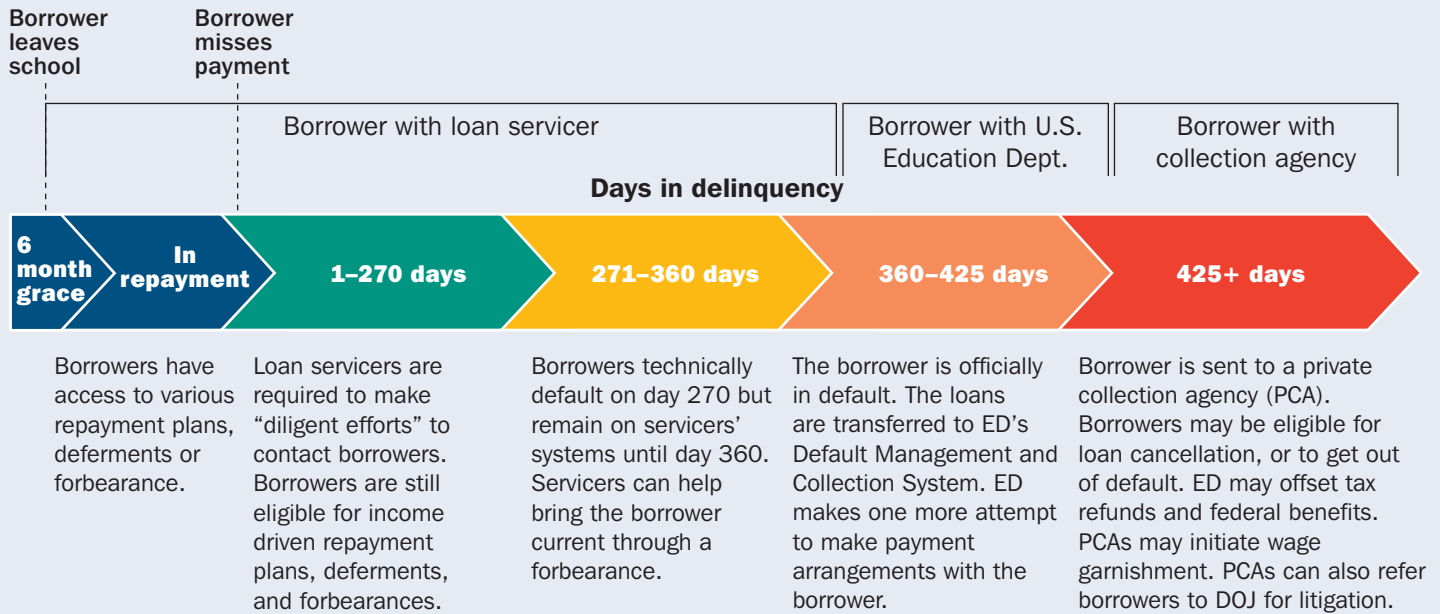
## BACKGROUND ON STUDENT LOAN LITIGATION

Borrowers who experience default can be sued on behalf of the federal government, to which the money is owed, by either the DOJ or private law firms with which the DOJ contracts. Litigation is supposed to be the collection method of last resort. The private collection agencies that make pre-suit collection efforts are supposed to refer borrowers to the DOJ only if they cannot recover funds through other available collection tools.<sup>6</sup> Publicly available documents do not specify how a private collection agency should determine whether other collection tools are available. For example, it is unclear how many attempts a private collection agency must make prior to referring a borrower to litigation.



CHART 1

### Life Cycle of a Federal Student Loan Debt



Source: U.S. Government Accountability Office, National Consumer Law Center and Pew Charitable Trusts.

The use of private debt collection law firms has enabled the government to sue borrowers that it would not otherwise choose to sue. Though the ED redacts the litigation requirements in the current version of the Private Collection Agency manual, a 2012 version of the ED manual states that while the minimum principal balance for students to be legally pursued by "regular DOJ offices" is \$45,000, this figure drops to an astonishing \$600 for private attorneys.<sup>7</sup> Thus, even those with extremely small outstanding balances can face litigation from private collection.

A DOJ spokesperson confirmed that, between 2015 and 2017, the government sued a total of 3,303 borrowers concerning defaulted student loan debt.

Although neither the ED nor the DOJ tracks the total number of cases brought against defaulted student loan borrowers, a DOJ spokesperson confirmed that, between 2015 and 2017, the government sued a total of 3,303 borrowers concerning defaulted student loan debt.<sup>8</sup> When an account is referred to the DOJ, borrowers may still have an opportunity to negotiate a resolution to their student loan default, though in practice at least some borrowers have been unable to access critical programs.<sup>9</sup>

Lawsuits against defaulted borrowers are overwhelmingly won by the government and court judgments against borrowers can have severe results. Such judgments eliminate the option to consolidate or rehabilitate loans, which means that borrowers cannot get out of default without full payment and will be subject to the consequences of default until they are able to pay in full. Legally, the ED can vacate the judgment on a Department-held loan, but in practice the agency has indicated that it will not.<sup>10</sup>



## RACE AND STUDENT LOANS

Research has long documented that students of color disproportionately suffer as a result of the student debt crisis. Students of color are not only more likely to borrow from the federal government to pay for their postsecondary education than their white peers, but they also take longer to pay back their loans and are significantly more likely to face default.<sup>11</sup> While white undergraduate students who took out loans to fund their education owe less than 50% of their original student loan balances 12 years after starting their studies, African American borrowers owe more than they originally took out, and Latino students owe over 50% more than their white counterparts.<sup>12</sup>

Looking beyond student loan debt, these racial inequities extend to the collection of all types of debt and the consequences that defaulted borrowers face. Recent investigations of debt collection practices have found that, even accounting for income, the rate of judgments in debt collection lawsuits is twice as high in mostly black neighborhoods as it is in mostly white ones.<sup>13</sup> Additionally, compared to whites with relatively equal levels of debt and repayment rates, African Americans are almost 50% more likely than whites to be called by debt collectors.<sup>14</sup> People of color also face generations of discrimination that have left families of color with fewer financial resources to draw upon when they come under financial pressure and, perhaps resultantly, lower credit scores than white families.

Thus, at multiple steps along the pathway to financing higher education and repaying student debt, students of color face disadvantages. Based on these prior findings, NCLC investigated whether student loan borrowers of color are also disproportionately affected by student loan debt collection lawsuits. Our analysis found that debt collection lawsuits brought against defaulted student loan borrowers are disproportionately concentrated in areas that are home to communities of color. Zip codes in which the sued student loan borrowers reside tend to have significantly higher percentages of people of color than the rest of the country. Specifically, as shown in the chart, the zip codes in which sued defaulted student loan borrowers live have Hispanic or Latino populations double the national average and triple the average black or African American population. The chart also shows that the average non-white population of zip codes in which sued defaulted student loan borrowers live is 48% whereas the average among all zip codes is 33%, demonstrating the concentration of these suits in communities of color.

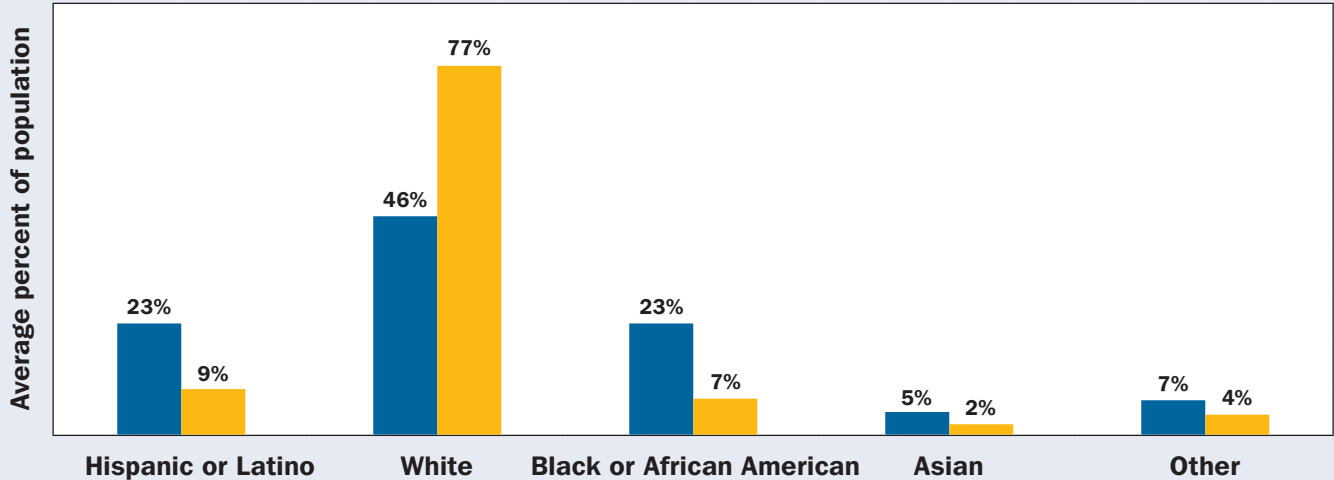
Though information regarding the race and default status of individual student loan borrowers is not publicly accessible, the concentration of these suits in communities heavily populated by people of color indicates that—as is already known regarding debt collection more generally<sup>15</sup>—student loan borrowers of color experiencing default on their loans may be treated more harshly than their white counterparts.

The collection practices used by the government have profound and lasting negative effects on borrowers through the assessment of huge collection fees and the seizure of wages, tax refunds, and federal benefits. If these effects are disproportionately visited on communities of color, they will strip wealth from already significantly disadvantaged

CHART 2

**Population Distribution by Race/Ethnicity in Zip Codes with Lawsuits Compared with All U. S. Zip Codes\***

■ Zip codes in which prosecuted student loan borrowers reside    ■ All U.S. Zip codes\*\*



\* Suits for which the zip code of the plaintiff's residence is not available are excluded from this analysis (n=1286).

\*\*These figures do not represent the percentage of the national population that is a particular race or ethnicity. Rather, they reveal the average percentage of a particular race or ethnicity within all U.S. zip codes. Residential segregation, among other factors, means that these sets of figures are not the same.

Source: National Consumer Law Center.

neighborhoods and communities.<sup>16</sup> The concentration of lawsuits against defaulted student loan borrowers in areas with large communities of color increases the urgency of addressing the systemic disadvantages faced by student loan borrowers of color.

*The concentration of lawsuits against defaulted student loan borrowers in areas with large communities of color increases the urgency of addressing the systemic disadvantages faced by student loan borrowers of color.*

**GEOGRAPHIC CONCENTRATION**

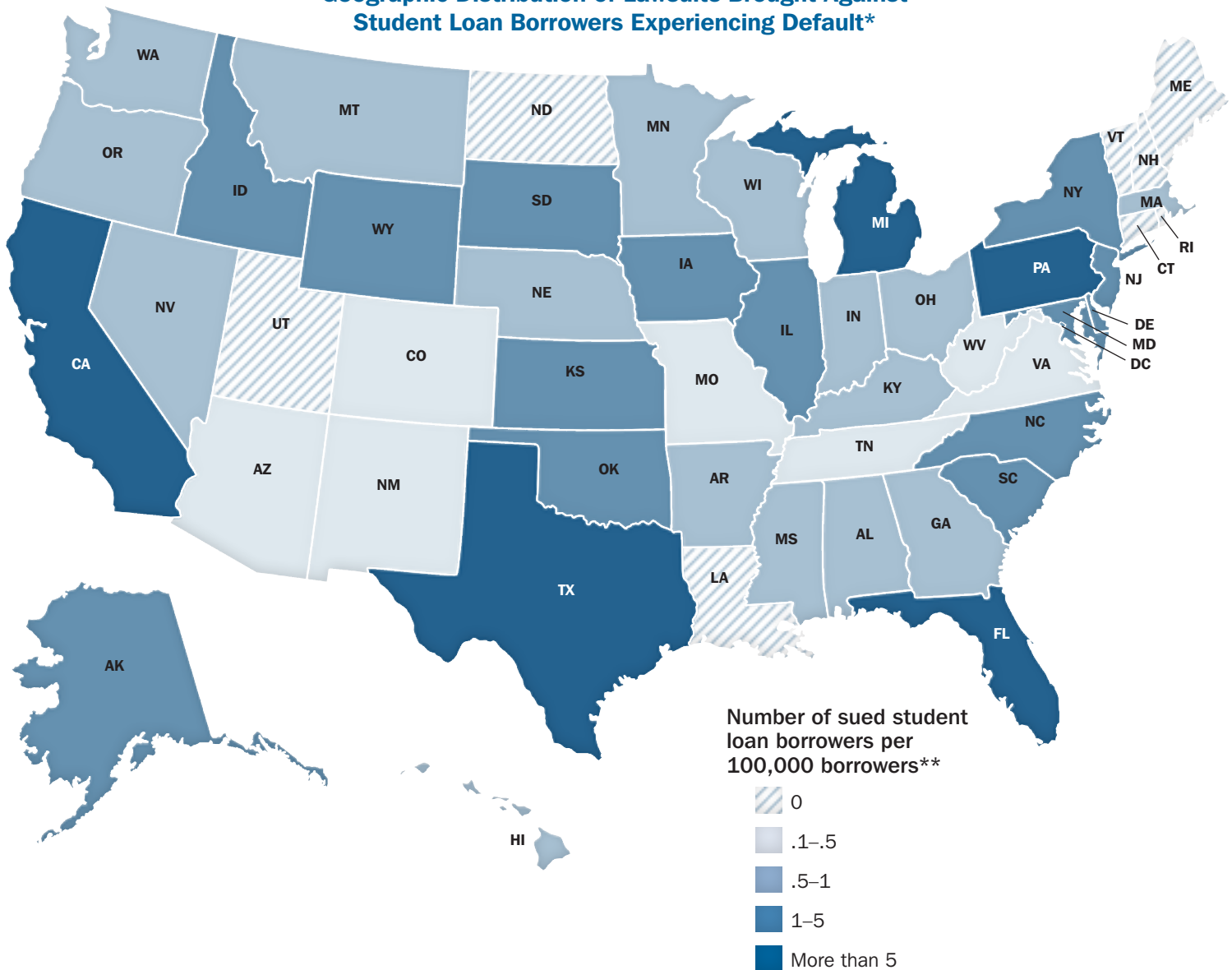
Based on the number of borrowers in each state, cases against borrowers experiencing default are concentrated in Texas, Michigan, Pennsylvania, California, and Florida.<sup>17</sup> This may be because all of

the private law firms that pursued suits against more than 50 student loan borrowers between January 2016 and June 2018 are headquartered in four of these five states: KML Law Group in Pennsylvania; Becker & Poliakoff in Florida; Goldsmith & Hull in California; Irsfeld, Irsfeld, & Younger in California; the Law Office of Jacquelyne M Nguyen in California; Ray & Wood in Texas; Kyle Law Group in Texas; and Newman & Marquez in Florida. KML Law Group sued the largest number of borrowers: 232; one of those borrowers was Adriene McNally (previously discussed).

Pennsylvania stands out with almost 15 out of every 100,000 of that state’s student loan borrowers sued for collection during the relevant time period. In contrast, no cases were brought against student loan borrowers in Connecticut, Louisiana, Maine, North Dakota, New Hampshire, Rhode Island, Utah, or Vermont. The national average during the period from January 2016 to June 2018 is just under 4 cases for every 100,000 students who borrow from the federal government.

MAP

**Geographic Distribution of Lawsuits Brought Against Student Loan Borrowers Experiencing Default\***

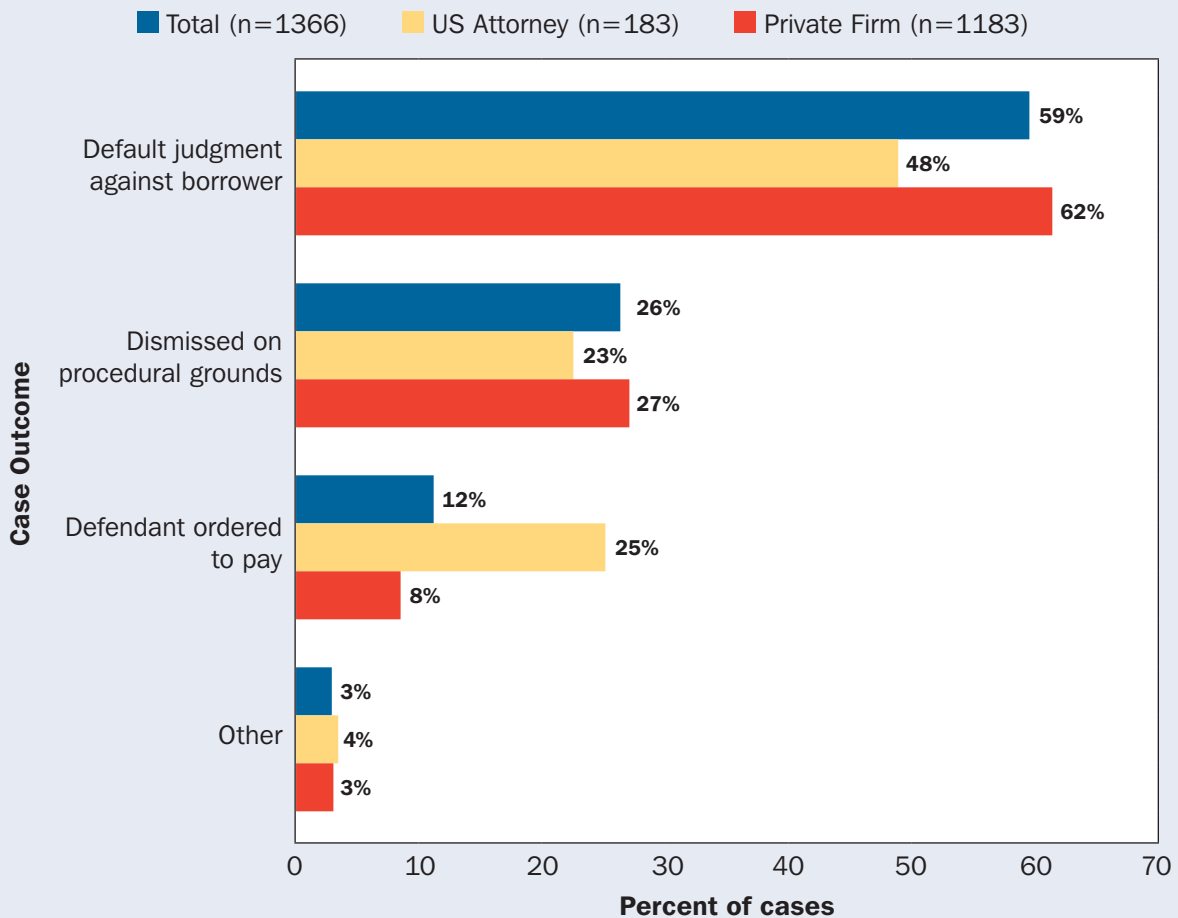


\*Based on the zip code of residency of the defaulted student loan borrower, where possible. For cases in which this information was redacted or not provided (n=277), it was assumed that borrowers lived in the state in which they were sued.  
 \*\*Federal Student Loan Portfolio, Department of Education, “Portfolio by Location,” as of September 30, 2018 (last accessed January 18, 2019), <https://studentaid.ed.gov/sa/about/data-center/student/portfolio>.

## COLLECTION SUIT OUTCOMES

Often already facing financial hardship, consumers sued to collect on any type of loan may struggle to respond to a pending lawsuit for many reasons, such as lack of notice, misunderstanding the requirements to file a legally proper written response, or inability to find affordable legal representation.<sup>18</sup> Unfortunately, this allows debt collectors to exploit these weaknesses, relying on court rules that allow them to obtain default judgments in an overwhelming majority of lawsuits, often without presenting any evidence.<sup>19</sup> A judgment is a determination by a court as to the outcome of a lawsuit, including any amounts owed. Default judgments, which can result in a creditor establishing a lien on a borrower's assets, such as personal property or a home, are automatic judgments entered in favor of the plaintiff (the U.S. government, in these cases), because the defendant (the student loan borrower) does not file an appearance or respond to the complaint within the prescribed time frame.

CHART 3  
**Legal Outcomes of Student Debt Collection Cases**



\*Ongoing suits excluded  
 Source: National Consumer Law Center.

Cases brought against student loan borrowers often result in default judgments against the borrowers. Almost 60% of cases analyzed by NCLC resulted in a default judgment against the borrower, though this figure was lower—slightly less than 50%—for cases brought by federal employees rather than the private firms. More research is needed to analyze the trends in cases that had other outcomes.

Some of these debt collection lawsuits ultimately resulted in judgments for as much as five times the amount the student loan borrower initially owed for the government. In 2016, for example, lawyers from the firm Becker & Poliakoff sued a borrower who took out \$4,000 in federal student loans in 1987. A default judgment was entered against the borrower two months later for \$22,406.16 after neither she nor an attorney on her behalf filed a response to the complaint. The federal government secured a judgment for more than five times the amount borrowed without the judge ever laying eyes on the borrower.

## OUTSOURCING LITIGATION

The ED is just one of many federal agencies that refers past due debts to the DOJ for collection. Once a debt is referred, the DOJ is then responsible for selecting a strategy to pursue debt collection litigation, either assigning the case to a federal prosecutor or farming it out to one of the private law firms with which it contracts. In fiscal year 2016, the ED's referrals represented only 12% of those received by the DOJ, but 72% of the caseload the DOJ placed with private counsel derived from the ED's referrals. This means that debt owed to the ED was disproportionately handed over to private law firms for legal action.<sup>20</sup> Of the \$87 million collected from defaulted student loan borrowers between 2012 and 2017, most of that money—\$63 million, or 72% of the total—was recovered by debt collection law firms hired by the DOJ.<sup>21</sup> Approximately 85% of the cases filed against defaulted student loans borrowers between January 2016 and June 2018 (1,332 cases out of a total of 1,565) were brought by these private law firms, who earn a contingent fee calculated as a percentage of the amount student loan borrowers are forced to pay.

For their efforts suing student loan borrowers who owe money to the ED, these collection firms pocketed over \$14.6 million in contingent fees between October 2011 and September 2016.<sup>22</sup>

Some of these firms, however, have skeletons in their closets. KML Law Group, formerly known as Goldbeck McCafferty, rebranded after allegedly using paralegals instead of lawyers to sign legal papers related to residential mortgage foreclosures. The original complaint accused the law firm of engaging in fraud in mortgage foreclosures and participating in the unauthorized practice of law.<sup>23</sup> And a lawsuit against Newman & Marquez, which resulted in settlement, alleged that the firm had unlawfully sought to collect prejudgment interest and falsely represented the amount of the consumer debt in question.<sup>24</sup>

Moreover, of the 31 firms that brought suit on behalf of the federal government in this sample, complaints were publicly filed by consumers with the Consumer Financial Protection Bureau against 4 of the firms: Kyle Law Group, Newman & Marquez, Goodman Frost, and Overton Russell. Seven additional firms—Becker & Poliakoff, the Law Office of Jacquelyne M Nguyen, O’Reilly Rancilio, Prober & Raphael, Holzman Corkery, Potestivo, and KML Law Group—are the subjects of unpublished complaints.<sup>25</sup> Though the number of complaints is not particularly voluminous, they include allegations from student loan borrowers that the firms have sued borrowers without proper notification.<sup>26</sup> These allegations are consistent with well-recorded problems across debt collection, not just confined to the collection of student loans.

National research has found that at least 71% of people sued as a result of defaulted debt were either not served or were served improperly, meaning that they were not appropriately notified of the lawsuits filed against them.<sup>27</sup> Given the history of consumer abuses by the collection industry, this raises questions about whether it is appropriate for the Department of Justice to rely on private collection agency law firms. While there is no evidence of systemic abuse by the firms that contract with the DOJ, given problems in the industry and the high number of default judgments in these cases, extra scrutiny is warranted.

*While the minimum principal balance for students to be legally pursued by “regular DOJ offices” is \$45,000, this figure drops to just \$600 for private attorneys.*

Outsourcing the collection of government debts leaves already vulnerable student loan borrowers at the mercy of private collection firms. The structure of their compensation arrangements gives them the incentive to sue borrowers for the largest amount possible.

Moreover, as previously described, the most recent unredacted ED collection manual available to the public indicates that while the federal government limits itself to suing student loan borrowers who have allegedly defaulted on relatively large debts, private collection agencies are not so hampered in their litigatory enthusiasm. While the minimum principal balance for students to be legally pursued by “regular DOJ offices” is \$45,000, this figure drops to just \$600 for private attorneys.<sup>28</sup> Meaning that even borrowers with extremely small outstanding balances are sued by private collection firms.



## CONCLUSION AND RECOMMENDATIONS

The data analyzed in this report paints a troubling picture of the efforts by the U.S. Department of Education to pursue defaulted student loan borrowers through litigation. Although the number of student loan borrowers sued each year by the federal government is not huge, the consequences of a federal judgment on a defaulted student loan are grave. In addition to the government's general collection authority (wage garnishment, loss of the Earned Income Tax Credit and other tax credits, and withholding of Social Security benefits), a judgment allows the government to threaten borrowers' homes and bank accounts. Lamentably, the evidence suggests that communities of color are disproportionately impacted by lawsuits and thus are more likely to suffer the consequences of these judgments. Unfortunately, the data needed to explain these racial disparities either does not exist or is not publicly available.

Private debt collection attorneys are obtaining most of these judgments. The use of private attorneys has allowed government to sue more borrowers with significantly lower balances. The fact that more than half of all the judgments are default judgments is also troubling, especially when considering known abuses in the private debt collection industry. Based upon these results, we make the following recommendations.

- **The U.S. Departments of Education and Justice should track and make publicly available data in order to track racial disparities in student loans.** While the data presented here indicates that legal action against defaulted student loan borrowers is concentrated in geographic areas where people of color comprise a disproportionately large share of the population, more data on student loan borrowers experiencing default is necessary to fully understand these disparate outcomes and work to protect all student loan borrowers from the harsh consequences of student loan default.
- **The U.S. Departments of Education and Congress should take steps to address and prevent racial disparities in student lending.**
- **The Department of Justice should review its guidelines for when to refer cases to litigation to avoid punitive lawsuits against borrowers with low balances and no ability to repay their loans.** Moreover, the compensation system for these firms must be altered. At present, the payment system incentivizes firms to go after as many borrowers as possible and seek the largest possible recovery. The DOJ, in conjunction with ED, should consider altering this payment structure so that firms have an incentive to reach a fair settlement that takes into account the financial hardships of those struggling to pay off their student loans.
- **The Department of Justice should rigorously oversee its contractors and ensure that they comply with all federal laws and court rules.** Given that more than half of all cases wind up with default judgments, it is critical to ensure that borrowers are treated fairly in the process. The federal government should be wary of working with those who have a history of using abusive or misleading debt collection practices. The DOJ should take into account information from local, state, and federal regulators regarding complaints filed against these firms, as well as its own records concerning their past practices.



- **The Department of Education should use its discretion to vacate judgments for borrowers who want to get out of default and back in good standing.** Some guaranty agencies have, for example, agreed to vacate judgments after borrowers make a series of payments. The Department of Education should offer a similar program. It should set a payment amount that the borrower can afford, and agree to vacate the judgment once the borrower makes a series of payments. Critically, ED should be transparent about the requirements to vacate the judgments so that borrowers know how to access this option.
- **The Department of Education and Congress should improve debt collection policies in order to make it easier for borrowers to get out of default and in good standing, and avoid collection suits.<sup>29</sup>** Rather than suing those already experiencing financial hardship, ED should reform the rehabilitation and consolidation processes for student loans, as well as require reasonable settlements and compromises. ED should create standardized guidelines for settlements and compromises that include significant principal reduction and the elimination of fees and accrued interest. Accepting a reasonable settlement is likely to cost less over the long-term than years of collection efforts and resorting to the courts.
- **The Department of Education and Congress should implement better default prevention policies, such as automatically enrolling delinquent borrowers in income driven repayment plans, and improving oversight of loan servicers to prevent borrowers from defaulting in the first place.<sup>30</sup>** Borrowers will not suffer the consequences of default if they never enter default in the first place, yet the federal government has generally prioritized collection over preventing default. Reforms to prevent defaults could include automatically enrolling delinquent borrowers in income-driven repayment (IDR) plans, simplifying IDR eligibility for public assistance recipients, expanding IDR to all federal loan borrowers, improving pre-default counseling, and requiring student loan servicers to describe all options to borrowers throughout the delinquency process.
- **Congress should redefine the definition and consequences of student loan default to ensure that falling behind does not threaten the financial security of borrowers and their families.<sup>31</sup>**

## ENDNOTES

1. Consumer Federation of America, Press Release: “New Data: More Than 1.1 Million Federal Student Loan Defaults in 2016” (March 14, 2017), available at [https://consumerfed.org/press\\_release/new-data-1-1-million-federal-student-loan-defaults-2016/](https://consumerfed.org/press_release/new-data-1-1-million-federal-student-loan-defaults-2016/) (last visited Jan. 18, 2019).
2. Kristen Blagg, *The need for clear-eyed policymaking on student loan defaults*, Brookings Institute (Aug. 10, 2018), <https://www.urban.org/urban-wire/need-clear-eyed-policymaking-student-loan-defaults>.
3. Judith Scott-Clayton, *The looming student loan default crisis is worse than we thought*, Brookings Institute (Jan. 11, 2018), <https://www.brookings.edu/research/the-looming-student-loan-default-crisis-is-worse-than-we-thought/>.
4. Ben Miller, *New Federal Data Show a Student Loan Crisis for African American Borrowers*, Center for American Progress (Oct. 16, 2017), <https://www.americanprogress.org/issues/education-postsecondary/news/2017/10/16/440711/new-federal-data-show-student-loan-crisis-african-american-borrowers/>.
5. These suits were found by searching for cases concerning student loans with the United States of America as the plaintiff on PACER, an online database of United States federal court documents.
6. U.S. Dep’t of Educ., PCA Manual Ch. 9, (2015), obtained through FOIA; see also U.S. Dep’t of Educ., Loan Servicing and Collection - Frequently Asked Questions: JPJ-Q2: For Department-held loans with judgments, will the Department vacate judgments?, available at <https://ifap.ed.gov/LoanServicingandCollectionInfo/LSCFAQ.html#JPJ-Q2>.
7. U.S. Dep’t of Educ., PCA Procedures Manual: 2009 ED Collections Contract, Version 1.2, at 22 (updated July 12, 2012). On file with NCLC.
8. Bobby Allyn, *supra* note 1.
9. *Johnney v. DeVos*, Case No. 2:19-CV-641 (C.D. Cal. Jan. 28, 2019).
10. U.S. Dep’t of Educ., Loan Servicing and Collection - Frequently Asked Questions, *supra* note 7.
11. Ben Miller, *supra* note 5.
12. *Id.*
13. Paul Kiel & Annie Waldman, “The Color of Debt: How Collection Suits Squeeze Black Neighborhoods,” *ProPublica* (Oct. 8, 2015), <https://www.propublica.org/article/debt-collection-lawsuits-squeeze-black-neighborhoods>.
14. Catherine Ruetschlin & Dedrick Asante-Muhammad, *The Challenge of Credit Card Debt for the African American Middle Class*, Demos & NAACP (December 2013), [https://www.demos.org/sites/default/files/publications/CreditCardDebt-Demos\\_NAACP\\_0.pdf](https://www.demos.org/sites/default/files/publications/CreditCardDebt-Demos_NAACP_0.pdf).
15. *Id.*
16. See e.g. Nat’l Consumer Law Ctr., *Letter to Secretary of Education John King*, (Aug. 17, 2016), <https://www.studentloanborrowerassistance.org/wp-content/uploads/2013/05/ltr-sec-king-race-student-debt.pdf>.
17. The number of borrowers by state was used because ED does not make publicly available the number of student loan borrowers experiencing default by state across the federal student loan portfolio.
18. See Comments to the Bureau of Consumer Financial Protection, Nat’l Consumer Law Ctr. (February 28, 2014), [https://www.nclc.org/images/pdf/debt\\_collection/comments-cfpb-debt-collection-anprm-2-28-14.pdf](https://www.nclc.org/images/pdf/debt_collection/comments-cfpb-debt-collection-anprm-2-28-14.pdf).
19. See, e.g., Ellen Harnick et al., *Debt Buyers Hound Coloradans in Court for Debts They May Not Owe*, Center for Responsible Lending (Dec. 2016), [https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/colorado\\_debt\\_buying.pdf](https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/colorado_debt_buying.pdf) (“A review of 375

- randomly selected cases filed by four debt buyers in the county courts in five Colorado counties from 2013 through 2015 revealed that 71 percent of the cases resulted in default judgments against the individuals sued.”); Mary Spector and Ann Baddour, *Collection Texas-Style: An Analysis of Consumer Collection Practices in and out of the Courts*, 67 *Hastings Law Journal* 1427, 1449 (2016), [http://www.hastingslawjournal.org/wp-content/uploads/Spector\\_Baddour-67.5.pdf](http://www.hastingslawjournal.org/wp-content/uploads/Spector_Baddour-67.5.pdf) (in analysis of data for 40 Texas counties for fiscal year 2015, 31.6% of cases ended with default judgment); Susan Shin and Claudia Wilner, *The Debt Collection Racket in New York*, New Economy Project (June 2013), <https://www.neweconomynyc.org/wp-content/uploads/2014/08/DebtCollectionRacketUpdated.pdf> (42% of debt collection lawsuits in New York state resulted in default judgments); Mary Spector, *Debts, Defaults, and Details: Exploring the Impact of Debt Collection Litigation on Consumers and Courts*, 6 *Va. L. & Bus. Rev.* 257, 288 (2011), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1975121](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1975121) (39.46% of served cases in Dallas County ended with a default judgment for the plaintiff); Claudia Wilner and Nasoan Sheftel-Gomes, *Debt Deception: How Debt Buyers Abuse the Legal System to Prey on Low Income New Yorkers*, Neighborhood Economic Development Advocacy Project (2010), [https://www.neweconomynyc.org/wp-content/uploads/2014/08/DEBT\\_DECEPTION\\_FINAL\\_WEB-new-logo.pdf](https://www.neweconomynyc.org/wp-content/uploads/2014/08/DEBT_DECEPTION_FINAL_WEB-new-logo.pdf) (study of 336 cases filed by debt buyers in New York City found that 81% resulted in default judgments). See also Peter Holland, *Junk Justice: A Statistical Analysis of 4400 Lawsuits Filed by Debt Buyers*, 26 *Loy. Consumer L. Rev.* 179, 226 (2014) (comparing the results of seven prior studies between 1967 and 2010 and finding that between 70% and 94% of consumers “failed to respond” to collection lawsuits); Fed. Trade Comm’n, *Repairing a Broken System* 7 (July 2010) (“panelists from throughout the country estimated that sixty percent to ninety-five percent of consumer debt collection lawsuits result in defaults, with most panelists indicating that the rate in their jurisdictions was close to ninety percent”; collecting studies).
20. U.S. Dep’t of Justice, *Debt Collection Recovery Activities of the Department of Justice for Civil Debts Referred for Collection Annual Report* (Feb. 2016), <https://www.justice.gov/jmd/page/file/955961/download>.
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  26. Consumer Complaint Database, Consumer Financial Protection Bureau, *Complaint 1327870*, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/1327870> (last visited January 16, 2018).
  27. Legal Aid Society et al., *Debt Deception* (May 2010), [https://www.neweconomynyc.org/wp-content/uploads/2014/08/DEBT\\_DECEPTION\\_FINAL\\_WEB-new-logo.pdf](https://www.neweconomynyc.org/wp-content/uploads/2014/08/DEBT_DECEPTION_FINAL_WEB-new-logo.pdf).
  28. U.S. Dep’t of Educ., PCA Procedures Manual: 2009 ED Collections Contract, *supra* note 8.

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29. See Deanne Loonin, *The Student Loan Default Trap*, Nat'l Consumer Law Ctr., (2012), <https://www.studentloanborrowerassistance.org/wp-content/uploads/File/student-loan-default-trap-report.pdf>.
  30. *Id.* See also "Civil Rights Principles for the Reauthorization of the Higher Education Act," (April 28, 2018), [http://www.nclc.org/images/pdf/student\\_loans/cr-priorities-hea2018.pdf](http://www.nclc.org/images/pdf/student_loans/cr-priorities-hea2018.pdf).
  31. NCLC's complete recommendations for the reauthorization of Higher Education Act can be found at [http://bit.ly/NCLC\\_HEA\\_Recs](http://bit.ly/NCLC_HEA_Recs).

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