Consumer Debt Collection Facts

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As the Consumer Financial Protection Bureau (CFPB) moves closer to issuing regulations under the Fair Debt Collection Practices Act, this summary of key facts about consumer debt collection shows the need for greater consumer protections.

Debt Collection is a Pervasive Part of American Life

- In 2017, the CFPB estimated that 70 million Americans had or were contacted about a debt in collection in the prior year.
- In 2016, 33% of Americans with credit reports and 45% of residents of predominantly nonwhite zip codes with credit reports had debt in collection.
- Encore Capital Group, Inc., one of the nation's largest debt buyers, claims that 20% of US consumers either owe it money currently or have owed it money in the past.
- Consumers generally default on debt due to unemployment, illness, divorce, or other unanticipated hardships..[1]

Consumers Are Inundated with Debt Collection Calls

- Debt collectors estimate contacting consumers more than a billion times a year.
- Credit card companies "limit" their debt collectors to 3-15 calls *per account* per day.
- The collection industry has asked the CFPB to allow 6 debt collection calls per day, 186 calls per month, and 2,190 calls per year for each collection account.

Debt Collection is the Top Consumer Complaint

- In 2016, debt collection was the largest source of complaints in the Federal Trade Commission's (FTC) database of consumer complaints, generating nearly 850,000 complaints,[2] and also the leading source of consumer complaints to the CFPB.
- At the CFPB, "continued attempts to collect debt not owed" was the most common type of collection complaint reported by 41% of consumers, with 61% of these stating that the debt is not theirs and 27% reporting that the debt was paid.

Debt Collection Is Big Business

- In 2017, the IbisWorld reported that there were 8513 collection agencies in the U.S.
- The collection industry generated an estimated $11 billion in revenue in 2017.

Debt Collectors Sue Millions of Struggling Consumers Annually

- In a national survey conducted by the CFPB, 15% of all consumers who had been contacted about a debt in collection were sued in the past year.
- State courts are clogged with millions of suits by debt collectors.,[3]
- Debt collectors rely on court rules that allow them to obtain default judgments in an overwhelming majority of lawsuits,[4] often without presenting any evidence.
- Less than 10% of consumers are represented by an attorney when they are sued on a debt,[5] making it virtually impossible for these consumers to present their defenses.

Debt Buying Changed the Way Debts Are Collected

- Debt buyers purchase consumer debts that were written off by the original lender for an average of just pennies on the dollar[6] but aggressively seek to collect the full amount of the debt – often adding interest, penalties, and attorney's fees.
- Debt buyers purchase accounts in bulk, frequently obtaining only an electronic spreadsheet with minimal information about the debts.[7]
- Debts purchased by debt buyers may be old, including some that are past the statute of limitations.[8]
- The face value of defaulted consumer debt purchased by debt buyers increased from less than $10 billion in 1993 to $98 billion in 2013.[9]
- Credit card and other debt sellers may not even guarantee that the accuracy of the information provided to the debt buyer.[10]

Rising Student Loan Debt Will Harm Families for Decades

- Of the nearly 42 million federal student loan borrowers, 1 in 4 borrowers are delinquent on their loans and approximately 7.5 million borrowers are currently in default on roughly $125 billion of student loan debt.[11]
- In February 2015, the U.S. Department of Education found high incidences of materially inaccurate representations with 5 of its 22 private collection agencies.

Medical Debt Continues to Affect Millions of Americans

- In 2016, 18% of Americans with credit reports and 21% of residents of predominantly nonwhite zip code with credit reports had medical debt in collection.
- In a national survey, 59% of respondents that were contacted by a creditor or debt collector about a debt were contacted about a medical debt.

For further information, visit https://www.nclc.org/issues/debt-collection.html or contact Margot Saunders (msaunders@nclc.org) or April Kuehnhoff (akuehnhoff@nclc.org).

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[1] *See*, *e.g.*, Office of Pol'y Dev. & Res., U.S. Dept. of Housing & Urban Dev. Report to Congress on the Root Causes of the Foreclosure Crisis 15 (2010) ("It is generally understood that most borrowers become delinquent due to a change in their financial circumstances that make[s] them no longer able to meet their monthly mortgage obligations. These so called 'trigger events' commonly include job loss or other income curtailment, health problems, or divorce."); J. Michael Collins, *Exploring the Design of Financial Counseling for Mortgage Borrowers in Default*, 28 J. Fam. Econ. Issues 207, 213 tbl. 2 (2007) (showing job loss as the most common self-reported cause of mortgage nonpayment, followed by medical problems (affecting 28% of borrowers in default), unfair loan terms (20%), income reduction (20%), injury/accident (19%), home repair/improvement (19%), death in family (18%), and credit card management (15%)); Elizabeth Warren and Amelia Warren Tyagi, The Two-Income Trap: Why Middle-Class Parents Are (Still) Going Broke 81 (Basic Books 2016 ed.), citing 2001 Consumer Bankruptcy Project (87% of families with children cite job loss, medical problems, or divorce or separation as the reason for their divorce while the remaining 13% cite bad investment, crime victim, credit card overspending, natural disaster, other explanation, or no explanation); Barry Adler, Ben Polak, & Alan Schwartz, *Regulating Consumer Bankruptcy: A Theoretical Inquiry,* 29 J. Legal Stud. 585, 589 (2000) ("Many scholars and reformers believe that the insolvency is exogenous: the consumer borrower becomes insolvent through no fault of his own, in consequence of job loss, illness, or the like."); Theresa A. Sullivan, Elizabeth Warren, and Jay Lawrence Westbrook, The

Fragile Middle Class: Americans in Debt (Yale University Press 2000), *citing* 1991 Consumer Bankruptcy Project (respondents' reasons for filing for bankruptcy were: job (67.5%), family (22.1%), medical (19.3%), creditor problems (13.6%), other (13.6%), and housing (6.2%) (multiple responses permitted)); S. Rep. No. 382, 95th Cong., 1st Sess. 1, reprinted in 1977 U.S.C.C.A.N. 1695, citing David Caplovitz, Consumers in Trouble: A Study of Debtors in Default 54 (The Free Press 1974).

[2.] The Consumer Sentinel Network stores consumer complaints received by the FTC, various states, the Better Business Bureaus, the CFPB, and other federal agencies.

[3] *See* Mary Spector, et al, OUR TURN: Debt bill hurts consumers, The Brownsville Herald (Jan. 16, 2018) ("In 2017 alone, collection attorneys filed more than 160,000 cases to collect consumer debts in justice courts across the state. This number represents a 10 percent year-over-year increase since 2013."); Mary Spector and Ann Baddour, Collection Texas-Style: An Analysis of Consumer Collection Practices in and out of the Courts, 67 Hastings L.J. 1427, 1446 (2016), citing Tex. Office of Court Admin., Annual Statistical Report for the Texas Judiciary: Fiscal Year 2015, p. 44 (2015) (in fiscal year 2015, 170,409 lawsuits were filed statewide in Texas to collect a debt); Paul Kiel, For Nebraska's Poor, Get Sick and Get Sued, ProPublica (Apr. 28, 2016) (in Nebraska, approximately 79,000 debt collection lawsuits were filed in 2013, and in New Mexico, 30,000 suits were filed); Annie Waldman & Paul Kiel, "Racial Disparity in Debt Collection Lawsuits: A Study of Three Metro Areas," ProPublica (Oct. 8, 2015) (during a five year period there were 116,289 judgments in debt collection lawsuits in St. Louis City and County, Missouri; 278,566 in Cook County, Illinois; and 128,918 in Essex County, New Jersey); Jessica Mendoza, et al. "Collection claims abuses move up to higher courts," Boston Globe (Mar. 28, 2015) (from 2004 to 2013 at least 1.2 million cases were filed in Massachusetts small claims and district court sessions by professional debt collectors); Peter A. Holland, "Junk Justice: A Statistical Analysis of 4,400 Lawsuits Filed By Debt Buyers", 26 Loy. Consumer L. Rev. 179 (2014) (reporting that debt buyers filed 40,796 lawsuits in 2009; 43,581 in 2010; 37,202 in 2011; 22,566 in 2012; and 24,317 in 2013); Susan Shin and Claudia Wilner, New Economy Project, The Debt Collection Racket in New York (June 2013) (reporting that debt collectors filed 195,105 lawsuits against New Yorkers in 2011); Claudia Wilner and Nasoan Sheftel-Gomes, Neighborhood Economic Development Advocacy Project, Debt Deception: How Debt Buyers Abuse the Legal System to Prey on Low Income New Yorkers (2010) ("In New York City, debt collectors filed approximately 300,000 lawsuits per year between 2006 and 2008.").

[4] *See, e.g.*, Ellen Harnick, Lisa Stifler, and Safa Sjadi, Debt Buyers Hound Coloradans in Court for Debts They May Not Owe (Center for Responsible Lending, Dec. 2016) ("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) (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, 3 (New Economy Project, June 2013) (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) (39.46% of served cases in Dallas County ended with a default judgment for the plaintiff); Claudia Wilner and Nasoan Sheftel-Gomes, Neighborhood Economic Development Advocacy Project, Debt Deception: How Debt Buyers Abuse the Legal System to Prey on Low Income New Yorkers (2010) (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).

[5]*See* Testimony of April Kuehnhoff, National Consumer Law Center, Before the Massachusetts Joint Financial Services Committee In support of S.120/H.2811, An act relative to fairness in debt collection (Sept. 25, 2017), citing data collected by Erika Rickard, Associate Director of Field Research at Harvard Law School's Access to Justice Lab, in September 2017 using the Massachusetts Trial Court Electronic Case Access at http://www.masscourts.org (in four Massachusetts district court small claims sessions, the percentage of consumers sued to collect consumer debts who were represented by attorneys ranged from 0.3% to 1.4% in 2016); Paul Kiel, "So Sue Them: What We've Learned About the Debt Collection Lawsuit Machine," ProPublica (May 5, 2016) (99% of defendants sued by New Jersey collection law firm Pressler & Pressler did not have attorneys; 97% of defendants in debt collection cases filed in New Jersey's lower level court in 2013 did not have attorneys; 91% of defendants in Missouri debt collection cases in 2013 did not have attorneys); Samantha Liss, "When a nonprofit health system outsources its ER, debt collectors follow," St. Louis Post-Dispatch (Apr. 17, 2016) (reporting that in 1,078 lawsuits filed by CP Medical in St. Louis, St. Louis County and St. Charles County between December 2, 2014 and March 10, 2016, only 17 defendants had an attorney); Chris Albin-Lackey, Human Rights Watch, Rubber Stamp Justice: US Courts, Debt Buying Corporations, and the Poor (Jan. 2016) (consumers had legal representation in 3 out of 247 cases in a randomized sample of lawsuits filed in New York by debt buyers in 2013 that resulted in judgments); Peter Holland, "Junk Justice: A Statistical Analysis of 4400 Lawsuits Filed by Debt Buyers," 26 Loy. Consumer L. Rev. 179 (2014) (consumers were represented by an attorney in only 2% of debt collection lawsuits in Maryland); Susan Shin and Claudia Wilner, New Economy Project, The Debt Collection Racket in New York (June 2013) (attorneys represented consumers in only 2% of debt collection cases filed in New York City); 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) (fewer than 10% of defendants served in debt collection lawsuits were represented by an attorney in Dallas County, Texas); Claudia Wilner and Nasoan Sheftel-Gomes, Neighborhood Economic Development Advocacy Project, Debt Deception: How Debt Buyers Abuse the Legal System to Prey on Low Income New Yorkers (2010) (only 1% of people sued by debt buyers in New York City are represented by counsel). See also Paula Hannaford-Agor, et al., The Landscape of Civil Litigation in State Courts 32 (National Center for State Courts, 2015) (noting that defendants were represented in 13% of small collection cases but not distinguishing between debt collection and other small claims cases).

[6] *See, e.g.,* Consumer Financial Protection Bureau, The Consumer Credit Card Market, *328-29 (Dec. 2017);* Federal Trade Commission, The Structure and Practices of the Debt Buying Industry *(Jan. 2013).*

[7] *See, e.g.*, Consumer Financial Protection Bureau, Market Snapshot: Online Debt Sales (Jan. 2017); Dalié Jiménez, Dirty Debts Sold Dirt Cheap, 52 Harv. J. on Legis. 41 (2015); Federal Trade Commission, The Structure and Practices of the Debt Buying Industry (Jan. 2013). But see Consumer Financial Protection Bureau, The Consumer Credit Card Market, 329-330 (Dec. 2017) (reporting that some documentation is now transferred in credit card debt sales).

[8] Consumer Financial Protection Bureau, Market Snapshot: Online Debt Sales (Jan. 2017) (median age for a portfolio was five years after chargeoff and a "substantial portion" of accounts for sale were likely to be beyond the statute of limitations); Federal Trade Commission, The Structure and

Practices of the Debt Buying Industry T-7 (Jan. 2013) (more than 30% of the debt purchased by debt buyers from other debt buyers was over six years old).

[9] The Nilson Report: Issues 792 (July 2003) and 1041 (May 2014).

[10] Dalié Jiménez, Dirty Debts Sold Dirt Cheap, 52 Harv. J. on Legis. 41 (2015); Federal Trade Commission, The Structure and Practices of the Debt Buying Industry (Jan. 2013). See also Consumer Financial Protection Bureau, The Consumer Credit Card Market (Dec. 2015) (some credit card companies qualify warranties of accuracies as to the "best of the seller's knowledge).

11 Consumer Financial Protection Bureau, Student Loan Servicing: Analysis of Public Input and Recommendations for Reform, (Sept. 2015); The Institute for College Access and Success, Default Rate Declines, Yet 611,000 Defaulted on Federal Student Loans, (Sept. 2015). "A loan is delinquent when loan payments are not received by the due dates. A loan remains delinquent until the borrower makes up the missed payment(s) through payment, deferment, or forbearance." U.S. Department of Education, Federal Student Aid, Glossary.