

American Bar Association's Consumer Financial Services Committee Fellows Protest ABA's Support for H.R. 5082, Which Could be Attached to Omnibus Budget Bill

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H.R. 5082 Would Allow Lawyers to Abuse Consumers in Debt Collection Lawsuits, Exempt Attorneys and Firms from Federal Debt Collection Enforcement and CFPB Oversight

Washington, D.C. — Attorneys selected by the American Bar Association (ABA) to represent the interests of consumers wrote the ABA President today condemning the ABA's decision to back H.R. 5082, the Practice of Law Technical Clarification Act of 2018. The bill would strip consumers of vital protections by exempting attorneys and law firms engaged in debt collection litigation from the Fair Debt Collection Practices Act (FDCPA) and eliminate Consumer Financial Protection Bureau (CFPB) oversight. "The ABA is pushing for a floor vote in the House and also pressuring members of the Senate Appropriations Committee to slip it in to the omnibus budget bill," **said April Kuehnhoff, staff attorney at the National Consumer Law Center.**

"Without consulting the members of its committee most impacted by the decision, the ABA elected to partner with creditor attorneys in support of H.R. 5082—a position that does not reflect that of the bar at large," **said Jennifer Wagner, co-director of Mountain State Justice and Consumer Fellow to the Consumer Financial Services Committee of the ABA.** "Enforcement of FDCPA violations and CFPB oversight of attorney conduct do not interfere with attorneys' obligation to represent their clients appropriately and ethically."

H.R. 5082 would carve out an exception, just for attorneys and law firms, immunizing them from liability when they abuse the debt collection process in court. By exempting lawyers from enforcement of the FDCPA for conduct in litigation, the bill will encourage collection attorneys to file more lawsuits, further clogging the already overburdened trial courts.

"The ABA represents the broad legal community, but in supporting H.R. 5082 it chose to side with debt collection attorneys over attorneys that represent consumers," **said Steve Sharpe, an attorney at the Legal Aid Society of Southwest Ohio and Consumer Fellow to the Consumer Financial Services Committee of the ABA.** "The ABA chose to support this bill without consulting the consumer advocates it appointed as fellows. Had they reached out, we would have explained how this bill will harm consumers."

Representative Vicente Gonzalez (D-TX), a co-sponsor of the bill alongside Rep. Alex Mooney (R-WV), took heat for his support of this harmful legislation with more than 75 Texas-based law professors and attorneys writing the Congressman urging him to pull his support of an earlier version of the bill. Their appeal appears to have fallen on deaf ears as the H.R. 5082 moves closer to a floor vote, with the misguided backing of the ABA. The bill is also opposed by 20 state Attorneys General and 43 consumer groups.

This bill attempts to turn back the clock on decades of recognition by Congress and the courts that

consumers must be protected from false, misleading, and unfair practices by lawyers collecting debts in courts. H.R. 5082 would allow collection attorneys to engage in egregious practices such as:

- Proceeding to trial without any witnesses or admissible evidence, hoping that consumers will not show up or asking the court to reschedule if they do.
- Routinely filing court documents without confirming the accuracy of that information, often resulting in default judgments based on inaccurate information.
- Filing lawsuits in courts hundreds of miles away from the consumers' homes, making it nearly impossible for most consumers to appear in court to defend themselves.
- Filing lawsuits on ancient zombie debt after the legal time limit to sue has expired and when consumers are less likely to have critical records to prove their payments.
- Seeking fees or costs that are not legally allowable, adding to the amount of judgments against consumers who cannot afford attorneys.

For a list of additional egregious practices rubber-stamped by the bill, read NCLC's issue brief breaking down the harmful impact of H.R. 5082.