

# What Creditors Can Do From The Fair Debt Collection Practices Act

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Oversight Hearing on Fair Debt Collection Practices Act  
Fair Debt Collection Practices Act  
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Fair Debt Collection Retaining Private Counsel to Furnish Collection Services in the Case of Indebtedness Owed the United States  
Clearinghouse Review  
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Debt Collection Practice in California  
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Debt Collection Manual  
Debt Collection Harassment  
Fair Debt Collection: Text of the Fair Debt Collection Practices Act  
Federal Supplement  
Fair Debt Collection United States. Congress. House. Committee on Banking, Finance, and Urban Affairs. Subcommittee on Consumer Affairs and Coinage  
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Subcommittee on Consumer Affairs and Coinage  
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Fair Debt Collection Practices Act Home Rule Act Amendment Debt Collection Practice in California Fair Debt Collection Practices Debt Collection Manual Debt Collection Harassment Fair Debt Collection: Text of the Fair Debt Collection Practices Act Federal Supplement Fair Debt Collection *United States. Congress. House. Committee on Banking, Finance, and Urban Affairs. Subcommittee on Consumer Affairs and Coinage LandMark Publications Landmark Publications Robert J. Hobbs United States. Congress. House. Committee on the Judiciary. Subcommittee on Administrative Law and Governmental Relations United States. Congress. Senate. Committee on Banking, Housing, and Urban Affairs Robert J. Hobbs Robert J. Hobbs Landmark Publications United States. Congress. House. Committee on Banking, Finance, and Urban Affairs. Subcommittee on Consumer Affairs and Coinage Barry Leonard United States. Congress. Senate. Committee on Governmental Affairs. Subcommittee on Governmental Efficiency and the District of Columbia Manuel H. Newburger California. Department of Consumer Affairs Robert J. Hobbs Robert J. Hobbs Robert J. Hobbs*

this casebook contains a selection of u s court of appeals decisions that analyze interpret and apply provisions of the fair debt collection practices act the selection of decisions spans from 2014 to the date of publication the fdcpa regulates the conduct of debt collectors defined to include any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts or who regularly collects or attempts to collect directly or indirectly debts owed or due or asserted to be owed or due another id 1692a 6 among other things the fdcpa prohibits debt collectors from using any false deceptive or misleading representation or means in connection with the collection of any debt and from using unfair or unconscionable means to collect or attempt to collect any debt id 1692e 1692f the statute provides a non exhaustive list of conduct that is deceptive or unfair e g falsely implying that the debt collector is affiliated with the united states id 1692e 1 debt collectors who violate the fdcpa are liable for actual damages statutory damages of up to 1 000 and attorney s fees and costs see id 1692k a *in re dubois 834 f 3d 522 4th cir 2016* the definition of debt collector which is contained in 1692a 6 is comprised of two parts the first part defines the classes of persons that are included within the term debt collector while the second part defines those classes of persons that are excluded from the definition of debt collector the first part defining those who are included provides in relevant part the term debt collector means any person 1 who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts or 2 who regularly collects or attempts to collect directly or

indirectly debts owed or due or asserted to be owed or due another notwithstanding the exclusion provided by clause f of the last sentence of this paragraph the term includes any creditor 3 who in the process of collecting his own debts uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts 15 u s c 1692a 6 emphasis added stated more simply this provision defines a debt collector as 1 a person whose principal purpose is to collect debts 2 a person who regularly collects debts owed to another or 3 a person who collects its own debts using a name other than its own as if it were a debt collector henson v santander consumer usa inc 817 f 3d 131 4th cir 2016 the second part of 1692a 6 defines the classes of persons that are excluded from the definition of debt collector so that a person who meets one of the definitions of debt collector contained in the first part of 1692a 6 will not qualify as such if it falls within one of the exclusions

this casebook contains a selection of u s court of appeals decisions that analyze interpret and apply provisions of the fair debt collection practices act volume 1 of the casebook covers the district of columbia circuit and the first through the fifth circuit court of appeals the statutory purposes of the fdcpa are to eliminate abusive debt collection practices by debt collectors to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged and to promote consistent state action to protect consumers against debt collection abuses 15 u s c 1692 e the legislative history of the passage of the fdcpa explains that the need for the fdcpa arose because of a number of different collection abuses such as the use of obscene or profane language threats of violence telephone calls at unreasonable hours and misrepresentation of a consumer s legal rights kropelnicki v siegel 290 f 3d 118 127 2d cir 2002 quoting s rep no 95 382 at 2 1977 reprinted in 1977 u s c c a n 1695 1696 the legislative history of the fdcpa is clear that the statute also was intended to eliminate the recurring problem of debt collectors dunning the wrong person s rep no 95 382 at 4 reprinted in 1977 u s c c a n at 1699 the report of the house of representatives explained this bill also protects people who do not owe money at all in the collector s zeal collection efforts are often aimed at the wrong person either because of mistaken identity or mistaken facts this bill will make collectors behave responsibly towards people with whom they deal certainly a person who has a common name and is being hounded by a debt collector because of the debts of another person deserves the protection this legislation will offer in far too many cases debt collectors do not even bother to double check common names before beginning collection efforts h r rep 95 131 at 8 1977 wagner v chiari ilecki llp 973 f

3d 154 2nd cir 2020

companion disk contains material found in appendices a h and j with the exception of certain introductory material full text of supreme court s opinion in heintz v jenkins index to book sample complaints discovery trial documents and other pleadings

this casebook contains a selection of u s court of appeals decisions that analyze interpret and apply provisions of the fair debt collection practices act volume 2 of the casebook covers the sixth through the eleventh circuit court of appeals congress enacted the fdcpa in 1977 to eliminate abusive debt collection practices by debt collectors to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged and to promote consistent state action to protect consumers against debt collection abuses 15 u s c 1692 e the fdcpa prohibits debt collectors from collecting any amount including any interest fee charge or expense incidental to the principal obligation unless such amount is expressly authorized by the agreement creating the debt or permitted by law id 1692f 1 debt collectors are strictly liable for fdcpa violations donohue v quick collect inc 592 f 3d 1027 1030 9th cir 2010 and a debt collector who violates the fdcpa is liable for actual damages attorney s fees and costs and additional damages not to exceed 1 000 per violation 15 u s c 1692k the fdcpa is broadly remedial and should be liberally construed in favor of consumers mcadory v m n s assocs llc 952 f 3d 1089 1092 9th cir 2020 to avoid liability debt collectors may raise the limited affirmative defense that their conduct was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error 15 u s c 1692k c the burden is on the debt collector to prove this defense by a preponderance of the evidence id mccollough v johnson rodenburg lauinger llc 637 f 3d 939 948 9th cir 2011 the bona fide error defense requires a showing that the debt collector 1 violated the fdcpa unintentionally 2 the violation resulted from a bona fide error and 3 the debt collector maintained procedures reasonably adapted to avoid the violation id urbina v national business factors inc 9th cir 2020

this is a print on demand edition of a hard to find publication this annual report summarizes the admin and enforcement actions the ftc has taken under the fair debt collection practices act fdcpa during 2009 these actions are part of the ftc s ongoing effort to curtail deceptive unfair and abusive debt collection practices such practices cause substantial consumer

injury including payment of amounts not owed unintended waivers of rights invasions of privacy and emotional distress the fdcpa prohibits deceptive unfair and abusive practices by third party collectors this report summarizes 1 the types of consumer complaints the ftc received in 2009 2 recent developments in ftc law enforcement and 3 the ftc s 2009 consumer and industry education and policy initiatives illus

focuses on the federal fair debt collection practices act and other federal and state consumer remedies for deceptive unfair and illegal collection practices

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