

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
11-15456**

CHRISTOPHER CERESKO

Plaintiff-Appellant,

v.

**LVNV FUNDING and
GURSTEL, STALOCH & CHARGO, P.A.
Defendants-Appellees**

**On Appeal from
United States District Court
District of Arizona
The Honorable Edward C. Voss
No. 2:09-cv-00483-ECV**

**BRIEF OF AMICUS CURIAE, NATIONAL
ASSOCIATION OF RETAIL COLLECTION
ATTORNEYS, IN SUPPORT OF
LVNV FUNDING and GURSTEL, STALOCH &
CHARGO, P.A.'S APPELLEE'S BRIEF**

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National Association of Retail Collection Attorneys

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, the undersigned counsel for amicus curiae National Association of Retail Collection Attorneys (“NARCA”) states that NARCA is a 501(c)(6) organization that has no corporate parent and no publicly-held company owns ten percent or more of its stock.

Dated: July 25, 2011

Respectfully submitted,

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I.

**STATEMENT OF IDENTITY, INTEREST IN CASE, AND SOURCE
OF AUTHORITY TO FILE OF AMICUS CURIAE BRIEF**

The National Association of Retail Collection Attorneys (“NARCA”) is a nationwide, not-for-profit trade association comprised of attorneys and law firms engaged in the practice of debt collection law. NARCA members include over 700 law firms located in all fifty states, all of whom must meet association standards designed to ensure experience and professionalism. Members are also guided by NARCA’s code of ethics, which imposes an obligation of self-discipline beyond the requirements of state laws and regulations that govern attorneys.

NARCA members are regularly engaged by creditors to lawfully collect delinquent consumer debts, and thus must interpret and comply with federal and state laws governing debt collection, including the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692, *et seq.* As the only national trade association dedicated solely to the needs of consumer collection attorneys, NARCA has a significant interest in ensuring that the FDCPA is interpreted in a manner that allows collection attorneys to discharge their ethical duty to zealously¹ and lawfully

¹NARCA has previously participated as amicus curiae in other cases involving the interpretation of the FDCPA. (See, e.g., *Jerman v. Carlisle*, 130 S. Ct. 1605 (2010); *Heintz v. Jenkins*, 514 U.S. 291 (1995); *Ellis v.*

advance their client's legitimate interests, while not chilling the ability of creditors to obtain legal representation. Appellees LVNV Funding and Gurstel, Staloch & Chargo, P.S.'s Appellee Brief seeks to defend the District Court's ruling awarding attorneys' fees for a frivolous case. Without awards such as the one awarded in this case, NARCA's members will face an even greater tide of frivolous FDCPA actions. The tide of frivolous FDCPA lawsuits causes a chilling effect on collection attorneys who abide by their ethical duties to zealously and lawfully advance the interests of their clients. The District Court's award of fees to the Defendants/Appellees addresses concerns by NARCA members regarding their recourse after defeating a frivolous lawsuit brought in bad faith and for purposes of harassment. NARCA has a direct interest in this litigation.

Amicus curiae is authorized to state that Appellees LVNV Funding and Gurstel, Staloch & Chargo, P.S. have consented to the filing of this Brief, and states that it has concurrently filed a motion for leave to file this brief. (See Fed. R. App. P. 29(a).)

Solomon & Solomon, P.C., 591 F.3d 130 (2d Cir. 2010); *Guerrero v. RJM Acquisitions LLC*, 499 F.3d 926 (9th Cir. 2007).

II.
BACKGROUND

LVNV Funding retained Gurstel, Staloch & Chargo, P.S. to assist with collection of the debt owed by Christopher Ceresko. Gurstel, Staloch & Chargo, P.S. filed a collection lawsuit in which Gurstel, Staloch & Chargo, P.S. sought court costs. This state lawsuit was ultimately settled.

Plaintiff Christopher Ceresko filed this instant lawsuit against Appellees/ Defendants LVNV Funding and Gurstel, Staloch & Chargo, P.S. (collectively “GS&C”), claiming that GS&C violated the FDCPA in its attempt to collect a debt from Mr. Ceresko. In particular, Mr. Ceresko alleged that GS&C’s collection lawsuit contained a false representation when the state collection lawsuit stated in Paragraph 10 that “[c]ourt costs as actually incurred are chargeable to Defendant.” Plaintiff Ceresko alleged in the instant lawsuit that this statement was a misrepresentation because it failed to state that court costs are only awardable if the creditor prevails in the collection lawsuit. (ER 36; see 15 U.S.C. §§ 1692e, 1692f(1) (prohibiting debt collectors from making misrepresentations or using harassing efforts while attempting to collect a debt).)

The parties filed cross motions for summary judgment. GS&C’s motion for summary judgment was based in part on other cases in which courts had rejected

the exact same claim raised by other plaintiff debtors (and by the same counsel that represented Mr. Ceresko). The District Court held:

The court has no difficulty concluding that the statement in paragraph 10 of the state court collection action is not a false representation in connection with the collection of a debt and thus is not a violation of the FDCPA. In the preceding paragraph, Defendants cite the legal authority that allows the prevailing party to collect costs and attorneys' fees. Applying that legal authority, the next sentence merely alleges that Plaintiff will be responsible for the costs. Implicit in that allegation is that Defendants (plaintiffs in the state court action) intent to be the prevailing party. The following sentence then alleges what Plaintiff's attorneys fees obligation will be in the event of a default. That statement at issue is nothing more than an allegation that Plaintiff will have to pay Defendants' costs. The court finds as a matter of law that an allegation of this nature is not a violation of the FDCPA.

(ER 39.)

The District Court awarded judgment for GS&C as against Appellee/Plaintiff Ceresko. GS&C then filed a motion for attorneys' fees and costs as provided under 15 U.S.C. § 1692k(a)(3). Section 1692k(a)(3) provides for an award of fees and costs to a prevailing defendant if the lawsuit was filed in bad faith and for purposes of harassment:

On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award the defendant attorney's fees in relation to the work expended and costs.

The District Court concluded that Mr. Ceresko's argument that the prayer for relief was a misrepresentation was frivolous, made in bad faith, and for purposes of

harassment. The District Court noted that it had no problem reaching a conclusion as to this claim. The District Court also noted that there was no legal authority that supported Mr. Ceresko's argument and there were three cases prosecuted by Mr. Ceresko's counsel where the same arguments were made and rejected by other courts. The District Court concluded that Mr. Ceresko's action was brought in bad faith and for the purpose of harassment, supporting an award of attorneys' fees and costs to GS&C. (ER 63-64.)

Mr. Ceresko timely filed a notice of appeal. NARCA seeks to have permission to file an amicus curiae brief; such request is filed concurrently with the instant Brief. With respect to Federal Rule of Appellate Procedure 29(c)(5)(C), NARCA states that Appellee GS&C paid for a portion of the preparation of the Amicus Curiae Brief.

III.

SUMMARY OF ARGUMENT

GS&C ably defends the District Court's order awarding attorneys' fees and costs to GS&C, and explains why this Court should affirm the District Court's decision. Amicus curiae submits this Brief to emphasize the industry-wide significance of the issues presented in this appeal.

This appeal raises important issues regarding the circumstances that warrant

an award of attorneys' fees to a defendant under 15 U.S.C. § 1692k(a)(3). To put these issues in context, the filing of FDCPA actions has geometrically increased over the past decade, having topped 10,000 last year.

Courts have recognized that FDCPA cases more and more frequently address claims that are not legally or factually substantiated, or are minimally so. (See, e.g., *Sanders v. Jackson*, 209 F.3d 998, 1004 (7th Cir. 2000); *Jacobson v. Healthcare Fin. Servs., Inc.*, 434 F.Supp.2d 133, 138-39 & n.5 (E.D.N.Y. 2006); *Murphy v. Equifax Check Servs., Inc.*, 35 F.Supp.2d 200, 204 (D. Conn. 1999).) As these cases flood courtrooms, they use substantial resources of not only defendants but also substantial resources of the courts. The potential for recovery of fees by a defendant in FDCPA cases that are frivolous, brought in bad faith, for purposes of harassment is hoped to curtail an even greater increase in the number of cases filed. Without defendants having the ability to collect attorneys' fees and costs in FDCPA cases involving frivolous claims, bad faith, and harassment, there would be no stopping the flood of litigation that is only benefiting the plaintiff's bar in many instances.² From an industry-wide perspective, without the protection of this

² On commentator explained the realities of FDCPA litigation:

Essentially, in order to have their clients' legally owed debts eliminated, consumer attorneys bring a technical

attorneys' fees provision, collection attorneys may avoid collection litigation completely, thereby having a chilling effect on the availability of legal counsel for

violation against the collector, forcing the collector to settle. They are able to do this because attorneys usually take FDCPA claims on a contingent basis, as it becomes easy to convince a potential client to pay no fee upfront in exchange for potentially lucrative results. In addition, the plaintiff will only be required to pay the defendant's attorneys fees if the court determines the claim was brought in bad faith. As a consequence, a "cottage industry" of consumer-advocacy attorneys has been very successful at exploiting the ambiguities in the law in order to coerce collection agencies to drop their legitimate claims. These attorneys often threaten to sue if they are not paid a quick settlement, knowing the cost of defending an FDCPA claim can easily reach \$10,000 or more. Moreover, if the debtor prevails, the FDCPA requires the payment of attorneys' fees. One attorney in El Paso, New Mexico claims that suing for admittedly minor violations has been big business, as his average settling price is about \$7,500 plus a cessation of collection efforts. Essentially, for a collection agency, it is more cost effective to pay a settlement and forgive a debt than take a chance and fight a case in court, as several collectors have lost in the past due to minor violations. As a result of these ambiguities, collection agencies are forced to charge businesses more in order to offset the risk of an FDCPA lawsuit. Clearly, in order for the collections industry to survive, the law must be updated in order to allow honest collectors to perform their job effectively.

(William P. Hoffman, *Recapturing the Congressional Intent Behind the Fair Debt Collection Practices Act*, 29 St. Louis U. Pub. L. Rev. 549, 561-62 (2010) (footnotes omitted).)

creditors. Reversing the District Court's decision will competitively disadvantage collectors who refrain from using abusive debt collection practices, in direct contradiction of one of the FDCPA's two overriding and equally important policies. (See 15 U.S.C. § 1692(e).) Moreover, it threatens the efficacy of the multi-billion dollar debt collection industry. (See PricewaterhouseCoopers, *Value of Third-Party Debt Collection to the U.S. Economy in 2007: Survey and Analysis* (prepared for ACA International) (2006).³)

IV.

ARGUMENT

A. **Numerous FDCPA Cases Are Filed Without Regard to Legal or Factual Justification, Motivated by Attorney Fee Provisions Favoring Plaintiff.**

FDCPA case filings are on the rise. Based on a review of cases filed through PACER in federal courts throughout the nation which are coded as alleging claims under the FDCPA, approximately 4,400 FDCPA cases were filed in 2007; approximately 6,000 FDCPA cases were filed in 2008; almost 9,100 FDCPA cases were filed in 2009; and almost 10,900 FDCPA cases were filed in 2010. (*FDCPA and Other Consumer Lawsuit Statistics, December 16-31, 2010*, WebRecon (Jan.

³ According to the international accounting firm of PricewaterhouseCoopers, "third party debt collectors returned \$40.4 billion of debt to the US economy in 2007." (See PricewaterhouseCoopers, *supra*.) According to PricewaterhouseCoopers, the recovery efforts saved the average American household \$354 in 2007.

11, 2011), <https://www.webrecon.com/b/news-and-stats/page/2/>, pp. 8-9 (last visited July 25, 2011) (included in the Appendix) (FDCPA case filing statistics for 2008-2010).) There have been approximately 5,900 FDCPA cases filed in the first half of 2011, leading to the extrapolation that approximately 11,800 FDCPA cases are anticipated to be filed in 2011 for the entire year. (Waggoner, Darren, *Lawsuits Against Agencies, Creditors Jump in June's Second Half*, Collections & Credit Risk (July 13, 2011), <http://www.collectionscreditrisk.com/news/lawsuits-against-agencies-creditors-jump-in-june-3006957-1.html> (last visited July 25, 2011) (included in the Appendix) (FDCPA case filing statistics for first half of 2011).)

As FDCPA litigation has become more prevalent, courts have repeatedly recognized that the FDCPA's attorneys' fees provision that awards successful plaintiffs acts as an incentive to file FDCPA lawsuits or minimal or no merit. (See 15 U.S.C. § 1692k(a)(3); see also *Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA*, 130 S.Ct. 1605, 1631-32 (2010) (dissenting).) The Seventh Circuit has noted that most FDCPA cases have resulted in marginal impact, at best, but an award of attorneys' fees provides sufficient incentive to continue to pursue the FDCPA cases. (*Sanders, supra*, 209 F.3d at 1004 (noting that Plaintiff's attorneys "have a strong interest to litigate these cases - often times despite their marginal impact - in the form of attorneys' fees and costs they hope to recover").) "The

history of FDCPA litigation shows that most cases have resulted in limited recoveries for plaintiffs and hefty fees for their attorneys.” (*Id.*)

District courts have noted the fee-shifting FDCPA cannot be permitted to create a “windfall” for the FDCPA plaintiffs bar through the creation of a “cottage industry,” the primary aim of which is the production of attorneys’ fees, for the sake of attorneys’ fees. (See *Murphy, supra*, 35 F.Supp.2d at 204 (suggesting that the continuation of that FDCPA action merely increased attorneys’ fees and noting the FDCPA was not intended to “create a cottage industry for the production of attorney’s fees”); *Artese v. Academy Collection Serve., Inc.*, 2000 WL 133733, at *1 (D. Conn. 2000) (“The attorney’s fees often, indeed usually, run many times the statutory damages recoverable.”); accord *Vera v. Trans-Continental Credit & Collection Corp.*, 1999 U.S. Dist. LEXIS 6937, at 4-5 (S.D.N.Y. 1999).)

Indeed, one judge angrily conjectured how settlement negotiations likely proceed between an FDCPA plaintiff and the collector that is being sued under the FDCPA:

Defendant: “Even though I do not believe you will prevail, I recognize your action was filed in good faith and, therefore, even if my client prevails on your claim, he will not be entitled to attorney fees. Therefore, *in order to reduce his obligation to me* for my attorney fees, my client hereby offers you the amount he believes you will receive even if you win.”

Plaintiff's Attorney: "Ah, but if I prove even a technical violation, I will be entitled to attorney fees."

Defendant: "The offer includes your attorney fees through the date of the offer."

Plaintiff's Attorney: "Well, I believe it is possible that I can get more by going to trial so I reject your offer."

(*Clayton v. Bryan*, 753 So.2d 632, 635-36 (Fla. App. 2000) (dissenting op.).)

As one District Court from the Second Circuit explained:

Ironically, it appears that it is often the extremely sophisticated consumer who takes advantage of the civil liability scheme defined by this statute, not the individual who has been threatened or misled. The cottage industry that has emerged does not bring suits to remedy the "widespread and serious national problem" of abuse that the Senate observed in adopting the legislation, 1977 U.S.C.C.A.N. 1695, 1696, nor to ferret out collection abuse in the form of "obscene or profane language, threats of violence, telephone calls at unreasonable hours, misrepresentation of a consumer's legal rights, disclosing a consumer's personal affairs to friends, neighbors, or an employer, obtaining information about a consumer through false pretense, impersonating public officials and attorneys, and simulating legal process." Id. Rather, the inescapable inference is that the judicially developed standards have enabled a class of professional plaintiffs....

It is interesting to contemplate the genesis of these suits. The hypothetical Mr. Least Sophisticated Consumer ("LSC") makes a \$ 400 purchase. His debt remains unpaid and undisputed. He eventually receives a collection letter requesting payment of the debt which he rightfully owes. Mr. LSC, upon receiving a debt

collection letter that contains some minute variation from the statute's requirements, immediately exclaims "This clearly runs afoul of the FDCPA!" and-rather than simply pay what he owes-repairs to his lawyer's office to vindicate a perceived "wrong." "[T]here comes a point where this Court should not be ignorant as judges of what we know as men." *Watts v. State of Ind.*, 338 U.S. 49, 52, 69 S.Ct. 1347, 1349, 93 L.Ed. 1801 (1949).

(*Jacobson, supra*, 434 F.Supp.2d at 138-39 & n.5 (emphasis added) (concluding that the legal arguments presented by Plaintiff were frivolous and explaining that the only reason the Plaintiff was not sanctioned was because Defendant did not request sanctions).)

B. The United States Supreme Court Has Noted that Attorney Fee Awards to Prevailing Defendants in Cases Involving Bad Faith and Harassing Purpose Help to Stem the Tide of FDCPA Litigation.

In light of the current litigation climate where thousands of FDCPA cases are filed annually, defendants frequently argue against an expansive reading of the FDCPA, which will only result in a further flood of FDCPA litigation, motivated by the FDCPA's attorneys' fees provision. (See *Jerman, supra*, 130 S.Ct. at 1620-21.) In rejecting that argument, the United States Supreme Court explained:

[T]he FDCPA contains several provisions that expressly guard against abusive lawsuits, thereby mitigating the financial risk to creditors' attorneys.

(*Id.* at 1620.)

Specifically, the United States Supreme Court noted that the provision which

provides for an award of attorneys' fees to a defendant if the case is brought in bad faith and for purposes of harassment was one of the mechanisms to ensure that the plaintiffs bar does not file frivolous cases. (*Id.* at 1621.) This Court has already held that a district court cannot award attorneys' fees to an FDCPA defendant and against Plaintiff's attorney. (*Hyde v. Midland Credit Management, Inc.*, 567 F.3d 1137, 1141-42 (9th Cir. 2009).) If the FDCPA's attorneys' fees provision is interpreted as Appellant Ceresko argues, and an award cannot be made against Plaintiff's attorney as dictated by the Ninth Circuit in the *Hyde* decision, there will be virtually no frivolous FDCPA lawsuits where the prevailing defendant is awarded attorneys' fees.

C. Awarding Fees Against Mr. Ceresko Supports the FDCPA's Stated Policy.

Mr. Ceresko's arguments that fees were inappropriately awarded does not support the stated policies as set forth in the FDCPA statute: balancing the elimination of abusive debt collection practices with insuring that debt collectors who refrain from using abusive debt collection practices are competitively disadvantaged. (See 15 U.S.C. § 1692(e).) The dissent in the *Jerman* case explained the interplay between the FDCPA's purposes and interpreting of the

FDCPA:

When construing a federal statute, courts should be mindful of the effect of the interpretation on congressional purposes explicit in the statutory text. ... The statutory purpose was to “eliminate abusive debt collection practices” and to ensure that debt collectors who refrain from using those practices “are not competitively disadvantaged.” 15 U.S.C. § **1692(e)** (“Purposes”).

(*Jerman, supra*, 130 S.Ct. at 1632 (dissenting); accord *id.* at 1623; see also *Pressley v. Capital Credit & Collection Service, Inc.*, 760 F.2d 922, 924 (9th Cir. 1985).)

The Sixth Circuit has also cautioned against interpreting the FDCPA in a manner that “favors the consumer at the debt collector’s expense. The FDCPA is not one-sided”:

Without doubt, the broadly sweeping regulations of the statute protect consumers from abusive debt collection practices. If, however, the enacted purpose of the statute is equally “to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged,” 15 U.S.C. **1692(e)**, and the courts are to give life to the admonition ... that the standards are intended to protect collectors against “bizarre or idiosyncratic interpretations of collection notices,” the statute must be applied with some circumspection.

(*Federal Home Loan Mortg. Corp. v. Lamar*, 503 F.3d 504, 510-11 (6th Cir. 2007)

(quoting *Jacobson v. Healthcare Fin. Servs., Inc.*, 434 F.Supp.2d 133, 139

(E.D.N.Y. 2006)).)

The FDCPA's legislative history reveals that the fee shifting provision awarding fees to a prevailing defendant was included "to protect debt collectors from nuisance lawsuits." (S. Rep. No. 95-3825, at 5 (1977), 1977 U.S.C.C.A.N. 1695, 1700.) Protection from nuisance lawsuits supports that stated statutory policy that the FDCPA is intended to insure that debt collectors who refrain from improper debt collection activities are not competitively disadvantaged.

Here, if the Court reverses the District Court's ruling that granted attorneys' fees to Defendants/Appellees, the Court will act in direct contradiction to the statutorily stated policy to ensure that debt collectors who refrain from using abusive practices are not competitively disadvantaged. GS&C refrained from using abusive practices, but would be competitively disadvantaged if GS&C could not obtain an award of attorneys' fees for having to defend what the District Court considered an obviously frivolous case. If the District Court's decision is reversed, the standard created by the Court will be untenable and essentially nullify the application of the attorneys' fees provision with respect to an award in favor of defendant collection attorneys.

V.

CONCLUSION

The debt collection industry is a vital component to the U.S. economy. And yet, this industry is thwarted by numerous cases filed annually which are frivolous and filed in bad faith for purposes of harassment. To eliminate the ability of an FDCPA defendant to obtain an award of attorneys' fees under the facts of this case is to essentially remove the defendant's attorneys' fees provision from the section 1692k(a)(3) of the FDCPA. If these facts do not support an award of attorneys' fees to the collection attorneys and their client, then what circumstances would? The lawful collection attorney (and its client) should not be competitively disadvantaged by defending frivolous FDCPA lawsuits prosecuted by debtors as a way of responding to legitimate debt collection efforts without any recourse to recouping attorneys' fees as provided under section 1692k(a)(3). This Court of Appeals should affirm the District Court's award of attorneys' fees to Appellees.

Dated: July 25, 2011

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE
WITH TYPE-VOLUME LIMITATION, TYPEFACE
REQUIREMENTS, AND TYPE STYLE REQUIREMENTS**

1. This brief complies with the type-volume limitation of Fed. R. App. P.

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- This brief contains 3,578 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

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- This brief has been prepared in a proportionally spaced typeface using Word 2003 in 14 pitch Times New Roman font size.

Dated: July 25, 2011

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APPENDIX

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FD Other Consumer Lawsuit **Sta rch 1-15, 2011** **New York Times**

Posted in

There were about 477 lawsuits filed under consumer statutes in the first half of March 2011. Here is an approximate breakdown:

- 444 FDCPA
- 55 FCRA
- 15 TILA
- 5 TCPA

Summary:

- Of those cases, there were about 488 unique plaintiffs (including multiple plaintiffs in one suit).
- Of those plaintiffs, about 140 had sued under consumer statutes before.
- Combined, those plaintiffs have filed about 982 lawsuits since 2001
- Actions were filed in 120 different US District Court branches.
- About 417 different collection firms and creditors were sued.

The top courts where lawsuits were filed:

- 27 Lawsuits: Pennsylvania Eastern District Court – Philadelphia
- 24 Lawsuits: Illinois Northern District Court – Chicago
- 23 Lawsuits: Colorado District Court – Denver
- 19 Lawsuits: New York Eastern District Court – Brooklyn
- 17 Lawsuits: California Central District Court – Western Division – Los Angeles

- 15 Lawsuits: Georgia Northern District Court – Atlanta
- 15 Lawsuits: Minnesota District Court – Dmn
- 15 Lawsuits: New York Eastern District Court – Central Islip
- 14 Lawsuits: Michigan Eastern District Court – Detroit
- 9 Lawsuits: Michigan Western District Court – Southern Division

The most active consumer attorneys were:

- Representing 14 Consumers: David Michael Larson
- Representing 10 Consumers: Robert T. Healey, Jr.
- Representing 10 Consumers: Adam J. Fishbein
- Representing 10 Consumers: Tara Leigh Patterson
- Representing 9 Consumers: Andrew Ira Glenn
- Representing 9 Consumers: Amy Lynn Bennecoff
- Representing 9 Consumers: Dennis Robert Kurz
- Representing 8 Consumers: Craig Thor Kimmel
- Representing 8 Consumers: Phillip C. Rogers
- Representing 8 Consumers: Mark L Vavreck

Statistics Year to Date:

2224 total lawsuits for 2011, including:

- 2120 FDCPA
- 236 FCRA
- 103 TILA
- 102 TCPA

Number of Unique Plaintiffs: 2254 (including multiple plaintiffs in one suit)

The most active consumer attorneys of the year:

- Representing 61 Consumers: David Michael Larson
- Representing 58 Consumers: Craig Thor Kimmel
- Representing 37 Consumers: Lara Ruth Shapiro
- Representing 34 Consumers: Jack Dennis Card, Jr.
- Representing 32 Consumers: John Thomas Steinkamp

» No Comments

FDCPA and Other Consumer Lawsuit Statistics, February 16-28, 2011

Posted on March 11th, 2011 by admin

There were about 394 lawsuits filed under consumer statutes in the second half of February 2011. Here is an approximate breakdown:

- 378 FDCPA
- 21 FCRA
- 17 TCPA
- 12 TILA

Summary:

- Of those cases, there were about 410 unique plaintiffs (including multiple plaintiffs in one suit).
- Of those plaintiffs, about 125 had sued under consumer statutes before.
- Combined, those plaintiffs have filed about 754 lawsuits since 2001
- Actions were filed in 107 different US District Court branches.
- About 386 different collection firms and creditors were sued.

The top courts where lawsuits were filed:

- 26 Lawsuits: Colorado District Court – Denver
- 21 Lawsuits: Illinois Northern District Court – Chicago
- 16 Lawsuits: California Central District Court – Western Division – Los Angeles
- 14 Lawsuits: Michigan Eastern District Court – Detroit
- 13 Lawsuits: New York Eastern District Court – Brooklyn
- 11 Lawsuits: Pennsylvania Eastern District Court – Philadelphia
- 11 Lawsuits: Missouri Eastern District Court – St. Louis – Eastern Division
- 10 Lawsuits: Florida Southern District Court – Fort Lauderdale
- 9 Lawsuits: Connecticut District Court – New Haven
- 9 Lawsuits: Georgia Northern District Court – Atlanta

The most active consumer attorneys were:

- Representing 15 Consumers: David Michael Larson
- Representing 12 Consumers: Jack Dennis Card, Jr.
- Representing 8 Consumers: Craig J. Ehrlich
- Representing 7 Consumers: Daniel S. Blinn
- Representing 7 Consumers: Darin Shaw
- Representing 7 Consumers: David J. Philipps
- Representing 6 Consumers: Novlette Rosemarie Kidd
- Representing 6 Consumers: Steven R. White
- Representing 6 Consumers: Robert T. Healey, Jr.
- Representing 6 Consumers: Allison Marie Wolfe

Statistics Year to Date:

1750 total lawsuits for 2011, including:

- 1676 FDCPA
- 181 FCRA
- 88 TILA

- 97 TCPA

Number of Unique Plaintiffs: 1797 (including multiple plaintiffs in one suit)

The most active consumer attorneys of the year:

- Representing 47 Consumers: David Michael Larson
- Representing 47 Consumers: Craig Thor Kimmel
- Representing 32 Consumers: Jack Dennis Card, Jr.
- Representing 29 Consumers: Lara Ruth Shapiro
- Representing 28 Consumers: John Thomas Steinkamp

» [No Comments](#)

FDCPA and Other Consumer Lawsuit Statistics, February 1-15, 2011

Posted on March 1st, 2011 by admin

There were about 466 lawsuits filed under consumer statutes in the first half of February 2011. Here is an approximate breakdown:

- 456 FDCPA
- 57 FCRA
- 24 TCPA
- 17 TILA

Summary:

- Of those cases, there were about 500 unique plaintiffs (including multiple plaintiffs in one suit).
- Of those plaintiffs, about 137 had sued under consumer statutes before.
- Combined, those plaintiffs have filed about 917 lawsuits since 2001
- Actions were filed in 103 different US District Court branches.
- About 444 different collection firms and creditors were sued.

The top courts where lawsuits were filed:

- 32 Lawsuits: Illinois Northern District Court – Chicago
- 23 Lawsuits: California Central District Court – Western Division – Los Angeles
- 22 Lawsuits: Pennsylvania Eastern District Court – Philadelphia
- 19 Lawsuits: Colorado District Court – Denver
- 18 Lawsuits: California Southern District Court – San Diego
- 16 Lawsuits: Minnesota District Court – Dmn
- 16 Lawsuits: Florida Middle District Court – Orlando
- 15 Lawsuits: Connecticut District Court – New Haven
- 13 Lawsuits: Florida Southern District Court – Fort Lauderdale
- 13 Lawsuits: Michigan Eastern District Court – Detroit

The most active consumer attorneys were:

- Representing 15 Consumers: David Michael Larson
- Representing 15 Consumers: Daniel A. Edelman

- Representing 13 Consumers: Craig Thor Kimmel
- Representing 12 Consumers: Sergei Lemberg
- Representing 11 Consumers: J Phillip Bott
- Representing 11 Consumers: Daniel S. Blinn
- Representing 10 Consumers: Andrew I. Glenn
- Representing 9 Consumers: Lara Ruth Shapiro
- Representing 9 Consumers: John Thomas Steinkamp
- Representing 9 Consumers: James D. Pacitti

Statistics Year to Date:

1348 total lawsuits for 2011, including:

- 1299 FDCPA
- 161 FCRA
- 76 TILA
- 80 TCPA

Number of Unique Plaintiffs: 1402 (including multiple plaintiffs in one suit)

The most active consumer attorneys of the year:

- Representing 43 Consumers: Craig Thor Kimmel
- Representing 32 Consumers: David Michael Larson
- Representing 27 Consumers: John Thomas Steinkamp
- Representing 26 Consumers: Lara Ruth Shapiro
- Representing 23 Consumers: Daniel A. Edelman

» [No Comments](#)

FDCPA and Other Consumer Lawsuit Statistics, January 16-31, 2011

Posted on February 16th, 2011 by admin

There were about 440 lawsuits filed under consumer statutes in the second half of January 2011. Here is an approximate breakdown:

- 411 FDCPA
- 47 FCRA
- 29 TCPA
- 21 TILA

Summary:

- Of those cases, there were about 449 unique plaintiffs (including multiple plaintiffs in one suit).
- Of those plaintiffs, about 178 had sued under consumer statutes before.
- Combined, those plaintiffs have filed about 922 lawsuits since 2001
- Actions were filed in 102 different US District Court branches.

..

- About 440 different collection firms and creditors were sued.

The top courts where lawsuits were filed:

- 33 Lawsuits: Illinois Northern District Court – Chicago
- 22 Lawsuits: Pennsylvania Eastern District Court – Philadelphia
- 15 Lawsuits: Colorado District Court – Denver
- 14 Lawsuits: Florida Middle District Court – Tampa
- 13 Lawsuits: Michigan Eastern District Court – Detroit
- 13 Lawsuits: Minnesota District Court – Dmn
- 13 Lawsuits: Indiana Southern District Court – Indianapolis
- 12 Lawsuits: California Central District Court – Western Division – Los Angeles
- 11 Lawsuits: Connecticut District Court – New Haven
- 11 Lawsuits: Georgia Northern District Court – Atlanta

The most active consumer attorneys were:

- Representing 12 Consumers: Robert T. Healey, Jr.
- Representing 10 Consumers: Phillip C. Rogers
- Representing 9 Consumers: David J. Philipps
- Representing 9 Consumers: Craig Thor Kimmel
- Representing 8 Consumers: Daniel A. Edelman
- Representing 8 Consumers: Jack Dennis Card, Jr.
- Representing 8 Consumers: John Thomas Steinkamp
- Representing 7 Consumers: Adam Jon Fishbein
- Representing 7 Consumers: Adam Theodore Hill
- Representing 7 Consumers: Joshua R. Trigsted

Statistics Year to Date:

883 total lawsuits for 2011, including:

- 843 FDCPA
- 103 FCRA
- 59 TILA
- 56 TCPA

Number of Unique Plaintiffs: 919 (including multiple plaintiffs in one suit)

The most active consumer attorneys of the year:

- Representing 30 Consumers: Craig Thor Kimmel
- Representing 18 Consumers: Jack Dennis Card, Jr.
- Representing 18 Consumers: John Thomas Steinkamp
- Representing 17 Consumers: Lara Ruth Shapiro
- Representing 17 Consumers: David Michael Larson

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WebRecon named in Top 25

Posted on January 25th, 2011 by admin

Webrecon LLC was named one of the top 25 collection technology products of 2010 by Collection Advisor magazine!

» [No Comments](#)

FDCPA and Other Consumer Lawsuit Statistics, January 1-15, 2011

Posted on January 25th, 2011 by admin

There were about 441 lawsuits filed under consumer statutes in the first half of January 2011. Here is an approximate breakdown:

- 431 FDCPA
- 57 FCRA
- 38 TILA
- 27 TCPA

Summary:

- Of those cases, there were about 482 unique plaintiffs (including multiple plaintiffs in one suit).
- Of those plaintiffs, about 153 had sued under consumer statutes before.
- Combined, those plaintiffs have filed about 880 lawsuits since 2001
- Actions were filed in 101 different US District Court branches.
- About 426 different collection firms and creditors were sued.

The top courts where lawsuits were filed:

- 33 Lawsuits: California Central District Court – Western Division – Los Angeles
- 32 Lawsuits: Pennsylvania Eastern District Court – Philadelphia
- 20 Lawsuits: Colorado District Court – Denver
- 16 Lawsuits: New York Western District Court – Buffalo
- 15 Lawsuits: Illinois Northern District Court – Chicago
- 13 Lawsuits: Florida Southern District Court – Fort Lauderdale
- 11 Lawsuits: Michigan Eastern District Court – Detroit
- 10 Lawsuits: Indiana Southern District Court – Indianapolis
- 10 Lawsuits: California Northern District Court – San Francisco
- 10 Lawsuits: Connecticut District Court – New Haven

The most active consumer attorneys were:

- Representing 21 Consumers: Craig Thor Kimmel
- Representing 14 Consumers: Lara Ruth Shapiro
- Representing 12 Consumers: David Michael Larson
- Representing 11 Consumers: Arkady Eric Rayz
- Representing 10 Consumers: Jack Dennis Card, Jr.
- Representing 10 Consumers: John Thomas Steinkamp
- Representing 9 Consumers: Darin Shaw
- Representing 9 Consumers: Amy Lynn Bennecoff

- Representing 9 Consumers: Todd M Friedman
- Representing 8 Consumers: Sergei Lemberg

Statistics Year to Date:

441 total lawsuits for 2011, including:

- 431 FDCPA
- 57 FCRA
- 38 TILA
- 27 TCPA

Number of Unique Plaintiffs: 482 (including multiple plaintiffs in one suit)

The most active consumer attorneys of the year:

- Representing 21 Consumers: Craig Thor Kimmel
- Representing 14 Consumers: Lara Ruth Shapiro
- Representing 12 Consumers: David Michael Larson
- Representing 11 Consumers: Arkady Eric Rayz
- Representing 10 Consumers: Jack Dennis Card, Jr.

» [No Comments](#)

FDCPA and Other Consumer Lawsuit Statistics, December 16-31, 2010

Posted on January 11th, 2011 by admin

There were about 420 lawsuits filed under consumer statutes in the second half of December 2010. Here is an approximate breakdown:

- 393 FDCPA
- 61 FCRA
- 27 TILA
- 19 TCPA

Summary:

- Of those cases, there were about 454 unique plaintiffs (including multiple plaintiffs in one suit).
- Of those plaintiffs, about 149 had sued under consumer statutes before.
- Combined, those plaintiffs have filed about 753 lawsuits since 2001
- Actions were filed in 102 different US District Court branches.
- About 392 different collection firms and creditors were sued.

The top courts where lawsuits were filed:

- 29 Lawsuits: Illinois Northern District Court – Chicago
- 22 Lawsuits: Colorado District Court – Denver
- 20 Lawsuits: Pennsylvania Eastern District Court – Philadelphia
- 19 Lawsuits: Georgia Northern District Court – Atlanta
- 17 Lawsuits: California Central District Court – Western Division – Los Angeles

- 17 Lawsuits: New York Eastern District Court – Brooklyn
- 13 Lawsuits: Florida Southern District Court – Fort Lauderdale
- 12 Lawsuits: New York Western District Court – Buffalo
- 12 Lawsuits: Connecticut District Court – New Haven
- 11 Lawsuits: California Southern District Court – San Diego

The most active consumer attorneys were:

- Representing 22 Consumers: Jack Dennis Card, Jr.
- Representing 16 Consumers: Sergei Lemberg
- Representing 15 Consumers: David J. Philipps
- Representing 15 Consumers: Mary Elizabeth Philipps
- Representing 10 Consumers: David Michael Larson
- Representing 10 Consumers: Daniel S. Blinn
- Representing 9 Consumers: Darin Shaw
- Representing 8 Consumers: Geoffrey H. Baskerville
- Representing 7 Consumers: Kenneth R. Hiller
- Representing 7 Consumers: Todd M. Friedman

Statistics Year to Date:

13901 total lawsuits for 2010, including:

- 10914 FDCPA
- 1299 FCRA
- 529 TILA
- 234 TCPA

Annual comparisons:

2009: 9135 FDCPA, 1174 FCRA, 28 TCPA Cases
2008: 6025 FDCPA, 1164 FCRA, 16 TCPA Cases
2007: 4372 FDCPA, 1347 FCRA, 22 TCPA Cases
2006: 3710 FDCPA, 955 FCRA, 14 TCPA Cases

Number of Unique Plaintiffs: 454 (including multiple plaintiffs in one suit)

The most active consumer attorneys of the year:

- Representing 412 Consumers: Jack Dennis Card, Jr.
- Representing 353 Consumers: Sergei Lemberg
- Representing 318 Consumers: Brent F. Vullings
- Representing 293 Consumers: Todd Michael Friedman
- Representing 270 Consumers: David Michael Larson
- Representing 213 Consumers: Donald A. Yarbrough
- Representing 198 Consumers: Lara Ruth Shapiro
- Representing 187 Consumers: David J. Philipps
- Representing 176 Consumers: Ryan Scott Lee
- Representing 175 Consumers: Nicholas J. Bontrager

» No Comments

FDCPA and Other Consumer Lawsuit Statistics, December 1-15, 2010

Posted on December 29th, 2010 by admin

There were about 526 lawsuits filed under consumer statutes in the first half of December 2010. Here is an approximate breakdown:

- 516 FDCPA
- 49 FCRA
- 20 TCPA
- 17 TILA

Summary:

- Of those cases, there were about 561 unique plaintiffs (including multiple plaintiffs in one suit).
- Of those plaintiffs, about 181 had sued under consumer statutes before.
- Combined, those plaintiffs have filed about 995 lawsuits since 2001
- Actions were filed in 114 different US District Court branches.
- About 510 different collection firms and creditors were sued.

The top courts where lawsuits were filed:

- 39 Lawsuits: Colorado District Court – Denver
- 29 Lawsuits: Illinois Northern District Court – Chicago
- 24 Lawsuits: California Central District Court – Western Division – Los Angeles
- 20 Lawsuits: Connecticut District Court – New Haven
- 18 Lawsuits: Florida Southern District Court – Fort Lauderdale
- 17 Lawsuits: Pennsylvania Eastern District Court – Philadelphia
- 17 Lawsuits: Georgia Northern District Court – Atlanta
- 15 Lawsuits: California Southern District Court – San Diego
- 14 Lawsuits: Florida Middle District Court – Tampa
- 13 Lawsuits: Missouri Eastern District Court – St. Louis – Eastern Division

The most active consumer attorneys were:

- Representing 25 Consumers: Sergei Lemberg
- Representing 24 Consumers: Jack Dennis Card, Jr.
- Representing 19 Consumers: David Michael Larson
- Representing 14 Consumers: Dianne E. Zarlengo
- Representing 13 Consumers: Donald A. Yarbrough
- Representing 12 Consumers: Michael S Agruss
- Representing 11 Consumers: Darin Shaw
- Representing 10 Consumers: John Cole Gayle, Jr.
- Representing 10 Consumers: Craig Thor Kimmel
- Representing 9 Consumers: Daniel S. Blinn

Statistics Year to Date:

13504 total lawsuits for 2010, including:

- 10475 FDCPA
- 1230 FCRA

- 499 TILA
- 212 TCPA

Number of Unique Plaintiffs: 12688 (including multiple plaintiffs in one suit)

The most active consumer attorneys of the year:

- Representing 390 Consumers: Jack Dennis Card, Jr.
- Representing 339 Consumers: Sergei Lemberg
- Representing 308 Consumers: Brent F. Vullings
- Representing 258 Consumers: David Michael Larson
- Representing 207 Consumers: Donald A. Yarbrough

» [No Comments](#)

FDCPA and Other Consumer Lawsuit Statistics, November, 16-30, 2010

Posted on December 14th, 2010 by admin

There were about 449 lawsuits filed under consumer statutes in the second half of November, 2010. Here is an approximate breakdown:

- 454 FAIR DEBT COLLECTION ACT
- 40 FAIR CREDIT REPORTING ACT
- 16 TELEPHONE CONSUMER PROTECTION ACT
- 6 TRUTH IN LENDING ACT
- 37 STATE OF CALIFORNIA
- 13 STATE OF FLORIDA
- 7 STATE OF TEXAS
- 6 STATE OF PENNSYLVANIA
- 5 STATE OF COLORADO
- 3 STATE OF GEORGIA

Summary:

- Of those cases, there were about 466 unique plaintiffs (including multiple plaintiffs in one suit).
- Of those plaintiffs, about 147 had sued under consumer statutes before.
- Combined, those plaintiffs have filed about 803 lawsuits since 2001
- Actions were filed in 107 different US District Court branches.
- About 428 different collection firms and creditors were sued.

The top courts where lawsuits were filed:

- 27 Lawsuits: California Central District Court – Western Division – Los Angeles
- 25 Lawsuits: Minnesota District Court – Dmn
- 21 Lawsuits: Illinois Northern District Court – Chicago
- 21 Lawsuits: Pennsylvania Eastern District Court – Philadelphia
- 13 Lawsuits: Colorado District Court – Denver
- 13 Lawsuits: Florida Southern District Court – Fort Lauderdale
- 13 Lawsuits: Georgia Northern District Court – Atlanta

- 13 Lawsuits: New York Eastern District Court – Central Islip
- 12 Lawsuits: New York Southern District Court – Foley Square
- 12 Lawsuits: New York Western District Court – Buffalo

The most active consumer attorneys were:

- Representing 12 Consumers: James D. Pacitti
- Representing 12 Consumers: Mark L Vavreck
- Representing 11 Consumers: Alan C Lee
- Representing 10 Consumers: Todd M Friedman
- Representing 10 Consumers: Sergei Lemberg
- Representing 10 Consumers: Jack Dennis Card, Jr.
- Representing 10 Consumers: Craig Thor Kimmel
- Representing 9 Consumers: Brent F. Vullings
- Representing 9 Consumers: Joseph Mauro
- Representing 8 Consumers: Frank J. Borgese

Statistics Year to Date:

12986 total lawsuits for 2010, including:

- 9959 FDCPA
- 1181 FCRA
- 482 TILA
- 192 TCPA

Number of Unique Plaintiffs: 466 (including multiple plaintiffs in one suit)

The most active consumer attorneys of the year:

- Representing 366 Consumers: Jack Dennis Card, Jr.
- Representing 314 Consumers: Sergei Lemberg
- Representing 305 Consumers: Brent F. Vullings
- Representing 239 Consumers: David Michael Larson
- Representing 194 Consumers: Lara Ruth Shapiro

» [No Comments](#)

FDCPA and Other Consumer Lawsuit Statistics, November, 1-15, 2010

Posted on November 30th, 2010 by admin

There were about 558 lawsuits filed under consumer statutes in the first half of November, 2010. Here is an approximate breakdown:

- 535 Fair Debt Collection Practices Act
- 72 Fair Credit Reporting Act
- 24 Telephone Consumer Protection Act
- 19 Truth in Lending Act

Summary:

- Of those cases, there were about 577 unique plaintiffs (including multiple plaintiffs in one suit).
- Of those plaintiffs, about 164 had sued under consumer statutes before.
- Combined, those plaintiffs have filed about 1022 lawsuits since 2001
- Actions were filed in 129 different US District Court branches.
- About 497 different collection firms and creditors were sued.

The top courts where lawsuits were filed:

- 34 Lawsuits: California Central District Court – Western Division – Los Angeles
- 29 Lawsuits: Illinois Northern District Court – Chicago
- 22 Lawsuits: Georgia Northern District Court – Atlanta
- 22 Lawsuits: Florida Southern District Court – Fort Lauderdale
- 18 Lawsuits: Minnesota District Court – Dmn
- 17 Lawsuits: Colorado District Court – Denver
- 13 Lawsuits: Florida Middle District Court – Tampa
- 13 Lawsuits: Maryland District Court – Baltimore
- 12 Lawsuits: California Central District Court – Southern Division – Santa Ana
- 12 Lawsuits: Florida Southern District Court – Miami

The most active consumer attorneys were:

- Representing 40 Consumers: Jack Dennis Card, Jr.
- Representing 12 Consumers: Todd M Friedman
- Representing 12 Consumers: Kenneth R. Hiller
- Representing 11 Consumers: Sergei Lemberg
- Representing 11 Consumers: David Michael Larson
- Representing 11 Consumers: Andrew Ira Glenn
- Representing 9 Consumers: Todd M. Friedman
- Representing 9 Consumers: Eric Scott Fortas
- Representing 9 Consumers: Michael S. Agruss
- Representing 9 Consumers: Mary Elizabeth Philipps

Statistics Year to Date:

10116 total lawsuits for 2010, including:

- 9440 FDCPA
- 1136 FCRA
- 475 TILA
- 172 TCPA

Number of Unique Plaintiffs: 9639 (including multiple plaintiffs in one suit)

The most active consumer attorneys of the year:

- Representing 352 Consumers: Jack Dennis Card, Jr.
- Representing 304 Consumers: Sergei Lemberg
- Representing 273 Consumers: Brent F. Vullings
- Representing 233 Consumers: David Michael Larson
- Representing 188 Consumers: Lara Ruth Shapiro

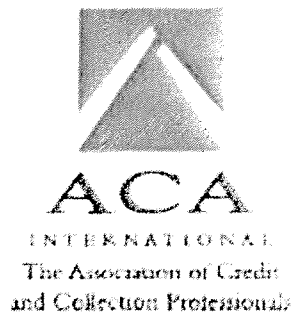
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SCOPE OF USE

The Value of Third-Party Debt Collection To The U.S. Economy: Survey and Analysis was commissioned by ACA International for the purpose of educating an audience which includes, but is not limited to, consumers, policy makers, the press, members of ACA International and non-members of ACA International about the value of the collection industry and its impact on the U.S. economy.

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**VALUE OF THIRD-PARTY DEBT
COLLECTION TO THE U.S. ECONOMY:
SURVEY AND ANALYSIS**

Prepared for

ACA International

June 27, 2006

National Economic Consulting

NEC

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**VALUE OF THIRD-PARTY DEBT COLLECTION TO THE U.S.
ECONOMY: SURVEY AND ANALYSIS**

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VALUE OF THIRD-PARTY DEBT COLLECTION TO THE U.S. ECONOMY: SURVEY AND ANALYSIS

EXECUTIVE SUMMARY

The third-party debt collection industry plays an important role in the U.S. economy. The industry employs hundreds of thousands of Americans as collection professionals, who collect on past-due accounts referred to them by various credit grantors, such as credit card issuers, banks, retail stores, hospitals and other health care services, or by Federal, state and local governments. Business purchases of this industry and personal purchases by its owners and workers ripple through the economy, supporting hundreds of thousands more jobs across the country. Further, the industry benefits the economy by recovering billions of dollars in delinquent debt each year that would otherwise go uncollected.

To quantify the value of third-party debt collection to the U.S. economy, ACA International retained PricewaterhouseCoopers LLP to conduct a survey and economic analysis of third-party debt collections.¹ The survey, carried out in the spring of 2006, reveals that in 2005 the industry's collection efforts resulted in \$39.3 billion of debt being returned to creditors on a commission basis. The economic benefits of third-party debt collection are significant.

Value to Consumers

For consumers, the benefit of third-party debt collection can be seen through reduced consumer prices and greater consumer purchasing power, since consumers would likely be faced with higher prices if businesses were unable to recoup losses resulting from bad debt. This survey and analysis shows that the \$39.3 billion in debt returned to creditors on a commission basis is equivalent to an average savings of \$351 per American household that might have otherwise been spent had businesses been forced to raise prices to cover the unrecovered debt. The average per household savings attributable to third-party debt returned to creditors translates into approximately 19 bags of groceries, 129 days of electricity or 155 gallons of gasoline.²

Value to Businesses

Businesses, large and small, benefit from third-party debt collection because debt recoveries help them keep costs down and reduce their risk of financial insolvency and

¹ ACA represents over 5,500 members worldwide in the credit and collection industry, including third-party collection agencies, asset buyers, attorneys, creditors, and vendor affiliates.

² According to the Mid-America Crop Life Association, a typical bag of groceries cost \$18.79 in the United States in 2004. The Energy Information Administration reported that the average monthly residential electric bill was \$81.42 and the average price of regular gasoline (all grades) was \$2.27 in 2005.

bankruptcy that may be triggered by unrecovered bad debt. The \$39.3 billion in debt returned to creditors on a commission basis was equivalent to a 22 percent reduction in private-sector bad debt in 2005,³ and was equal to 3 percent of all U.S. corporate profits before tax, 4.5 percent of before tax profits of all U.S. domestic non-financial corporations, and 11.4 percent of the before tax profits of all U.S. domestic financial corporations.

Value to Creditors

The \$39.3 billion in debt returned to creditors on a commission basis in 2005 was roughly 2 percent of total consumer credit outstanding and more than 62 percent of new consumer credit issued. It was equivalent to 3.3 percent of total household borrowing in the United States in 2005.

In addition, third-party debt collectors are increasingly working with Federal agencies and state and local governments. In fiscal year 2005, the Federal government referred \$13.7 billion in delinquent receivables to private collection agencies (PCAs) resulting in collections of \$693.5 million; up from \$351.3 million in FY 2000.⁴ In the area of Federal student loans, for example, the \$603.1 million that PCAs returned to the Department of Education in fiscal year 2005 represents the average loan aid received by 122,681 college students during the 2004/05 academic year.⁵

Over the last fifteen years, employment in the third-party debt collection industry has more than doubled, from less than 70,000 in 1990 to nearly 150,000 in 2005.⁶ We estimate from our economic impact model that the industry's payroll reached nearly \$5 billion in 2005. Including business purchases by the industry and personal purchases by its owners and workers, we estimate the industry directly and indirectly supported 426,700 jobs with a payroll of \$15.0 billion in 2005.

³ Based on data from the Statistics of Income Division of the Internal Revenue Service, the amount of bad debt write-offs claimed by the private sector (corporations, partnerships, and non-farm sole proprietorships) on their tax returns is estimated to be \$141 billion in 2005. The percentage reduction in bad debt is calculated as follows: $\$39.3 \text{ billion} / (\$141 \text{ billion} + \$39.3 \text{ billion}) = 22\%$.

⁴ Financial Management Service, U.S. Department of Treasury, *Fiscal Year 2005 Report to Congress on U.S. Government Receivables and Debt Collection Activities of Federal Agencies*. March 2006. Currently, the Department of Education, the Department of Treasury, and the Department of Health and Human Services have each established contracts with PCAs to collect debts owed to the Federal government. In addition to collecting debts, PCAs also help Federal agencies establish repayment agreements and resolve debts administratively (e.g., by determining if a debtor is bankrupt, disabled or deceased).

⁵ College Board, *Trends in Student Aid 2005*, Table 7a: Loan aid per full-time equivalent (FTE) student during the 2004/05 academic year was \$4,916.

⁶ Data from *Current Employment Statistics* survey by the U.S. Bureau of Labor Statistics show that about 150,000 collection professionals were employed by third-party collection agencies (as defined under NAICS code 56144) in 2005. Outside of the third-party debt collection industry, many collection professionals work in banks, retail stores, government, physician's offices, hospitals, and other institutions that lend money and extend credit. All together, bill and account collectors as a profession held about 456,000 jobs in 2004, the most recent year for which data are available from the *Occupational Outlook Handbook* by the BLS.

VALUE OF THIRD-PARTY DEBT COLLECTION TO THE U.S. ECONOMY: SURVEY AND ANALYSIS

I. INTRODUCTION

The third-party debt collection industry employs hundreds of thousands of Americans as collection professionals. They collect on past-due accounts referred to them by various credit grantors, such as credit card issuers, banks, retail stores, hospitals and other health care services, or by Federal, state and local governments. By recovering billions of dollars in delinquent debt each year that would otherwise go uncollected, the industry generates important benefits to the U.S. economy. For consumers, the benefit of third-party debt collection can be seen through reduced consumer prices and greater consumer purchasing power, since consumers would likely be faced with higher prices if businesses were unable to recoup losses resulting from bad debt. Businesses, large and small, benefit from third-party debt collection because debt recoveries help them keep costs down and reduce their risk of financial insolvency and bankruptcy that may be triggered by unrecovered bad debt.

To develop a more complete picture of the economic importance of the third-party debt collection industry, PricewaterhouseCoopers LLP was retained by ACA International to conduct a survey of third-party debt collection agencies. The survey was fielded between February and April of 2006 to 992 U.S. third-party collection agencies selected from Dun and Bradstreet's ("D&B's") universe of U.S. third-party debt collection agencies. The third-party collection agencies that responded to the survey were representative of the population in terms of revenues and number of employees as reported by D&B.

The rest of the report is organized as follows. Section II of this report describes the survey and summarizes the results. Section III discusses the economic importance of third-party debt collection. The survey and estimation methodology is discussed in Section IV. An appendix includes a list of the survey questions and information about PricewaterhouseCoopers LLP's National Economic Consulting group, which prepared this study.

II. THIRD-PARTY DEBT COLLECTION SURVEY

PricewaterhouseCoopers LLP conducted a survey of third-party debt collection agencies in order to collect data that could be used to estimate the key measures of economic impact for the industry in 2005. The population for the survey consists of third-party debt collection agencies listed in Dun and Bradstreet's ("D&B's") business file. The third-party collection agencies that responded to the survey were representative of the population in terms of revenues and number of employees as reported by D&B.

Based on the survey, we estimate the total amount of debt recovered in 2005 by third-party debt collection agencies to be \$51.4 billion, of which \$49.1 billion represented gross collections on a commission basis. Gross recoveries by the third-party debt collection industry on purchased accounts represented \$2.3 billion. Debt returned to creditors on a commission basis in 2005 was \$39.3 billion.

Table II.1 – Debt Recovered by Third-Party Debt Collection Agencies in 2005
(Billions)

Economic Measure	Estimated Value
Debt Recovered	\$51.4
<i>Commission Basis</i>	\$49.1
<i>Purchased Accounts</i>	\$2.3
Net Debt Returned on a Commission Basis	\$39.3

Note: The margin of error at the 90 percent confidence interval is $\pm 20\%$ for the estimated "debt recovered" and $\pm 24\%$ for the estimated "net debt returned on a commission basis".

The total revenues of third-party collection agencies in 2005 from debt collection are estimated to be \$12.1 billion, of which \$9.8 billion is from commissions and \$2.3 billion is from debt recovered on purchased accounts.⁷ We estimate that third-party debt collection agencies employed 168,343 workers in 2005.⁸

⁷ The margin of error at the 90-percent confidence interval for total revenues is $\pm 15\%$.

⁸ The margin of error at the 90-percent confidence interval for employees is $\pm 13\%$.

III. THIRD-PARTY DEBT COLLECTION AND THE U.S. ECONOMY

Over the last fifteen years, employment in the third-party debt collection industry has more than doubled, from less than 70,000 in 1990 to nearly 150,000 in 2005.⁹ We estimate from our economic impact model that the industry's payroll reached nearly \$5 billion in 2005. Including business purchases by the industry and personal purchases by its owners and workers, we estimate the industry directly and indirectly supported 426,700 jobs with a payroll of \$15.0 billion in 2005.

Third-party debt collection generates significant benefits for both U.S. consumers and businesses. Debt returned to creditors of \$39.3 billion on a commission basis by the third-party debt collection industry in 2005 helped maintain lower prices for consumers. The \$39.3 billion returned to creditors was equivalent to an average savings of \$351 per American household in 2005 or 0.8% of the median U.S. household income of \$44,389,¹⁰ had businesses been forced to charge higher prices in the absence of this debt recovery.¹¹

To put this number in perspective, the Mid American Crop Life Association estimates that a typical bag of groceries cost approximately \$18.79 in 2004. Similarly, the U.S. Department of Energy's Energy Information Administration estimates that in 2005 the average monthly residential electric bill was \$81.42 and the average price of regular unleaded gasoline was \$2.27. Thus, had businesses been forced to charge higher prices in the absence of this debt recovery, debt returned to creditors by the third-party debt collection industry saved the average household the equivalent of approximately 19 bags of groceries, 129 days of electricity, or 155 gallons of gasoline in 2005.

Businesses, large and small, benefit from third-party debt collection because debt recoveries help cut down potential bad debt write-offs, thus reducing the risk of financial insolvency and bankruptcies for businesses nationwide. We estimate the amount of bad debt write-offs claimed by the private sector on their tax returns was about \$141 billion in 2005.¹² This means debt returned to creditors by the third-party debt collection industry helped reduce private-sector bad debt by 22 percent in 2005.¹³

⁹ Data from *Current Employment Statistics* survey by the U.S. Bureau of Labor Statistics show that about 150,000 collection professionals were employed by third-party collection agencies (as defined under NAICS code 56144) in 2005. Outside of the third-party debt collection industry, many collection professionals work in banks, retail stores, government, physician's offices, hospitals, and other institutions that lend money and extend credit. All together, bill and account collectors as a profession held about 456,000 jobs in 2004, the most recent year for which data are available from the *Occupational Outlook Handbook* by the BLS.

¹⁰ U.S. Census Bureau, "Income, Poverty, and Health Insurance Coverage in the United States: 2004," August 2005.

¹¹ According to the U.S. Census Bureau, there were 112 million households in the United States in 2004, the most recent year for which data were available.

¹² The IRS data show that U.S. corporations and partnerships took deductions for bad debt write-offs of \$151 billion and \$12 billion in 2003, respectively. On the basis of the historical pattern of bad debt write-offs, we estimate that the private sector bad debt write-offs totaled \$141 billion in 2005.

In addition to helping businesses keep costs down, third-party debt collectors are increasingly working with Federal agencies and state and local governments. In fiscal year 2005, the Federal government referred \$13.7 billion in delinquent receivables to private collection agencies (PCAs) resulting in collections of \$693.5 million; up from \$351.3 million in FY 2000.¹⁴ In the area of Federal student loans, for example, the \$603.1 million that PCAs returned to the Department of Education in fiscal year 2005 represents the average loan aid received by 122,681 college students during the 2004/05 academic year.¹⁵ With the enactment of *The American Job Creation Act of 2004*, which created section 6306 of the Internal Revenue Code allowing the use of private collection agencies in the collection of Federal tax debts, the use of third-party debt collectors by the Federal government is likely to rise, resulting in an increase in the collections and additional money returned to the government.

Third-party debt collection and debt returned to creditors in 2005 can be compared to other relevant economic statistics. As shown in Table III.1, total outstanding consumer credit in the United States increased by \$62.5 billion in 2005 to \$2.2 trillion. Thus, debt returned to creditors in 2005 by the third-party debt collection industry was roughly 2 percent of total consumer credit outstanding and more than 62 percent of new consumer credit issued.

Debt returned to creditors in 2005 by the third-party debt collection industry was equivalent to 3.3 percent of total household borrowing in the United States in 2005.¹⁶

As noted above, most of the bad debt written off by the private sector was written off by corporations. In 2005, third-party debt collections returned to creditors was equal to almost 3 percent of all U.S. corporate profits before tax, 4.5 percent of before tax profits of all U.S. domestic non-financial corporations, and 11.4 percent of the before tax profits of all U.S. domestic financial corporations.

¹³ This is calculated as follows: \$39 billion / (\$141 billion + \$39 billion) = 22%.

¹⁴ Financial Management Service, U.S. Department of Treasury, *Fiscal Year 2005 Report to Congress on U.S. Government Receivables and Debt Collection Activities of Federal Agencies*. March 2006. Currently, the Department of Education, the Department of Treasury, and the Department of Health and Human Services have each established contracts with PCAs to collect debts owed to the Federal government. In addition to collecting debts, PCAs also help Federal agencies establish repayment agreements and resolve debts administratively (e.g., by determining if a debtor is bankrupt, disabled or deceased).

¹⁵ College Board, *Trends in Student Aid 2005*, Table 7a: Loan aid per full-time equivalent (FTE) student during the 2004/05 academic year was \$4,916.

¹⁶ Including mortgage borrowing.

Table III.1 –Third-Party Debt Collection Relative to Key Economic Variables, 2005

	Amount (in \$ billions)	Total Debt Collected, as a Percent of	Debt Returned to Credit Grantors, as a Percent of
Third Party Debt Collection⁽¹⁾			
Total Debt Collected	51.4		
Debt returned to Original Credit Grantors	39.3		
Consumer Credit⁽²⁾			
Net Change in Consumer Credit	62.5	82.3%	62.9%
Total Consumer Credit Outstanding	2,188.7	2.3%	1.8%
Other Household Debt⁽²⁾			
Total Household Borrowing	1,204.7	4.3%	3.3%
All Household Debt Outstanding	11,496.6	0.4%	0.3%
Corporate Profits Before Tax⁽²⁾			
Corporate Profits Before Tax	1,417.3	3.6%	2.8%
Domestic Nonfinancial	867.5	5.9%	4.5%
Domestic Financial	345.9	14.9%	11.4%

Sources:

- (1) PricewaterhouseCoopers LLP estimates based on the 2006 Credit and Collection Industry Survey.
- (2) Federal Reserve Board, "Flow of Funds Accounts of the United States." Release Z.1, March 9, 2006.

IV. SURVEY AND ESTIMATION METHODOLOGY

Sampling Frame Development

As a first step in creating our sampling frame, PricewaterhouseCoopers LLP purchased a list of collection agencies from Dun & Bradstreet (“D&B”). In order to avoid sending surveys to multiple locations within the same firm, we asked that the list be limited to headquarters operations and single location entities located in the United States. In addition to the name and address of the firm, we requested that D&B provide us with a contact person, the firm’s phone number, revenues and employment. This data would be used to help develop our estimates of total collections in the industry.

Once this list was obtained we removed all records which had a primary Standard Industrial Classification (SIC) code that was not 7322 (“Adjustment and Claims Services”). Finally, working with ACA International we attempted to identify instances in which the name, address, or phone number for the contact person was incorrect. In these cases, an attempt was made to contact the business to determine the correct mailing address and contact person. We also attempted to identify and eliminate any firms that were no longer in business or were subsidiaries of other businesses on our list. During this stage of the process we identified a number of firms that were no longer in the debt collection business and eliminated them from our sampling frame.

After completing our processing, we had a listing of 6,164 third-party collection agencies. The total revenues for these third-party collection agencies as shown by D&B were \$11.8 billion, and the total employee count as shown by D&B was 171,681. ACA International requested that seven additional businesses that were not in the D&B listings for third-party collection agencies be included in the sampling frame. This brought the total number of firms in the sampling frame to 6,171.

Sample Design

The statistical analysis uses a prediction-based (also known as model-based) statistical methodology. As such, we selected a balanced sample with respect to a quantity that is known for all members of the sampling frame. We chose to use the revenue data supplied by D&B for this purpose. Because the seven extra firms that ACA International requested be included in the study were not in the D&B listings for third-party collection agencies, we did not have the revenue data for them. Therefore, we placed these seven firms in a certainty stratum and surveyed all of them. However, responses from these firms were not used to represent their agencies in the sampling frame. Instead, response values from these firms were added to the sampling frame estimates to obtain the final results.

We selected a balanced sample using a selection methodology described in Valliant et al.¹⁷ In following this methodology, we divided the sampling frame into two additional strata: one for the 111 largest agencies in terms of revenues, and another for the remaining 6,053 agencies. All firms in the “large agency” stratum were selected for the sample, and 874 firms from the remaining stratum were selected. In total 992 firms were selected for the sample. Table IV.1 is a summary of our sample design.

Table IV.1 – Sample Design

Stratum	Number of Companies	Total Sales per D&B (Billions)	Sample Size
1. ACA International Additions	7		7
2. Highest D&B Sales Stratum	111	\$7.69	111
3. Remaining D&B Stratum	6,053	\$4.07	874
Total	6,171	\$11.76	992

Response Quality Review

A survey questionnaire was sent to each agency in the sample. We received responses from 117 of them. Diagnostic analysis was performed on the response data, and several questionable response values were identified. For example, some responses had unusually high gross collections when compared with other similar agencies. Also, we had a few respondents whose gross collections on a commission basis (Question 1) were less than or equal to the commissions earned (Question 2). Some survey questions were also left blank, making it unclear whether this meant that the respondent did not want to provide us the information or if a blank was a response of zero.

We contacted agencies identified in our diagnostic analysis in order to determine if the response value we received was correct for the question. In some cases we confirmed that the response value provided by the agency was correct, but in other cases the respondent told us that the original value was incorrect, and provided us with the correct value. We were not able to reach all the agencies with questionable responses, and the questionable responses for these agencies were treated as “no response.” The survey analysis is based on the remaining 114 complete responses. Table IV.2 is a summary of the unweighted responses we received for the survey questions.

¹⁷ Valliant, R., Dorfman, A. H., and Royall, R. M. (2002). *Finite Population Sampling and Inference: A Prediction Approach*. John Wiley & Sons, Inc., New York.

Table IV.2 – Survey Response Summary
(Dollar amount in millions)

Question	Response Count	Average	Median
1. Gross Collections on a Commission Basis	114	\$ 67.7	\$ 11.2
2. Commissions Earned	114	\$ 12.9	\$ 2.5
3. Revenue from Purchased Accounts	114	\$ 6.0	\$ -
4. Number of Employees	114	346	41
5. Number of Telephone Collectors	114	199	22

Estimation

We used a prediction- (or model-) based statistical methodology as described in Valliant et al. to derive national estimates for the third-party debt collection industry. Under this methodology, statistical regression is used to develop mathematical relationships between auxiliary variables such as D&B revenues or employment with survey response values of all survey respondents within each stratum. The mathematical relationship is then used to predict values for all unobserved members of the sampling frame based on the auxiliary information. Survey response values are aggregated along with predicted values within and across strata to obtain estimates. The variances of the estimates are calculated by comparing observed and predicted values for each survey response. Variances are calculated within each stratum and then totaled for the overall variance. The margin of error of each estimate is based on the corresponding variance, and is assessed at the 90-percent confidence level using a confidence factor based on Student's t distribution. The results of this estimation methodology for each survey question are provided in Table IV.3.

Table IV.3 – Estimation Results

Question	Estimated Value	Margin of Error
1. Gross Collections on a Commission Basis (Billion)	\$ 49.1	± 21%
2. Commissions Earned (Billion)	\$ 9.8	± 16%
3. Revenue from Purchased Accounts (Billion)	\$ 2.3	± 49%
4. Number of Employees	168,343	± 13%
5. Number of Telephone Collectors	99,907	± 16%

APPENDIX A
SURVEY QUESTIONS

Data referred to in the main text are based on the responses to the following five survey questions.

COLLECTIONS

1. In 2005, what was the total amount of gross collections generated by your agency on debt collected on a commission basis? \$ _____
2. In 2005, what was the total amount of commissions earned by your agency on accounts referred to you for collection? \$ _____
3. In 2005, what was the total amount of revenue generated by your agency from gross recoveries on accounts you purchased and own? \$ _____

EMPLOYEES

4. How many total employees (counting full-time and part-time equally) did you employ as of December 31, 2005? (Example: 3 full-time and 2 part-time would be 5 total employees.) _____
5. How many telephone collectors (counting each employee who communicates with debtors by telephone for any reason) did you employ as of December 31, 2005? _____

APPENDIX B

ABOUT PRICEWATERHOUSECOOPERS NATIONAL ECONOMIC CONSULTING

Since 1984, PricewaterhouseCoopers LLP's National Economic Consulting (NEC) group has provided clients with a broad range of economic, statistical, and modeling services. NEC is an integral part of the Washington National Tax Services office, the firm's policy analysis and advocacy organization. Our clients include corporations, trade associations and coalitions, government agencies, law firms, and other organizations.

Economic Impact Analysis

We analyze the impacts of private sector decisions on the economy, as well as the effects of government decisions on the private sector. For companies, we estimate the contributions of their operations to the regional economy. For trade associations, we quantify the industry-wide impacts of government mandates, such as environmental regulations. For associations and coalitions, we project the effects of tax and spending proposals on economic indicators, such as employment, investment, and exports, by industry and geography.

Survey, Research, Statistical and Data Analysis, and Benchmarking

We focus on locating the data our clients need, drawing on our team's experience using a wide range of public and proprietary databases and our experience working with large computer files. We also have experience designing and assisting with the implementation of company surveys for associations and coalitions, maintaining professional standards of confidentiality and increasing compliance with anti-trust regulations. In addition, we help clients implement proprietary benchmarking studies to enable comparison of their performance to that of their peers.

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Lawsuits Against Agencies, Creditors Jump In June's Second Half

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Collections & Credit Risk | Wednesday, July 13, 2011

By Darren Waggoner

Lawsuits filed against collection agencies and creditors jumped to 614 in the June 16-30 period, up from 584 in the second half of May and 500 in the first half of June, according to data pulled from U.S. District Courts.

Consumers filed an estimated 567 consumer statute lawsuits in the second half of June, including 476 cases citing Fair Debt Collection Practices Act (FDCPA) violations, 66 Fair Credit Reporting Act (FCRA) violations and 40 Truth-in-Lending Act (TILA) offenses. There were an estimated 601 unique plaintiffs in the cases.

Of the plaintiffs, approximately 173 had sued under consumer statutes before. Combined, the plaintiffs have filed an estimated 1,065 consumer statute lawsuits since 2001, reports WebRecon LLC, a Grand Rapids, Mich.-based firm that tracks the data from the courts. Actions were filed in 121 different court branches.

Year-to-date, an estimated 6,378 total lawsuits have been filed against collection agencies and creditors - including 5,888 FDCPA violations, 622 FCRA violations and 620 TILA cases.

David M. Larson has represented 184 consumers in 2011, the most active consumer attorney this year, followed by Craig T. Kimmel, who has represented 167 consumers. In the June 16-30 period, Larson represented 18 consumers against agencies and creditors.

To comment on this story, contact Darren Waggoner at 312.777.1379. Please "like" us on our new facebook page.



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I hereby certify and declare under penalty of perjury that the following statements are true and correct:

1. I am over the age of 18 years and am not a party to the within cause.

My business address is 400 Capitol Mall, 27th Floor, Sacramento, CA 95814.

2. I hereby certify that on July 25, 2011, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

3. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

EXECUTED this 25th day of July, 2011, at Sacramento, California


Maureen McGuire