



Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

**Re: *Notice of Ex Parte Presentation Debt Collection Practices (Regulation F)*
*[Docket No. CFPB-2019-0022]***

On July 17, 2020, the following individuals, members of both the American Bar Association (ABA) and the National Creditors Bar Association (NCBA), participated in a meeting: Brit Suttell, Caren Enloe, and Tomio Narita. Additionally, an individual from the ABA: Larson Frisby, Associate Director of Government Affairs; and an individual from NCBA, Nathan Willner, Government Affairs Officer met with the following Consumer Financial Protection Bureau (CFPB) staff members: Tom Pahl, Deputy Director, Jennifer Stocket, Deputy Assistant Director, Office of Financial Institutions, John McNamara, Assistant Director of Consumer Lending, and Tricia-Kerney-Willis, Assistant Director, Office of Financial Institutions. Also participating were outside advisors to the NCBA, John Anderson and Jared Sawyer with the firm Rich Feuer Anderson.

During the meeting, NCBA and ABA representatives expressed support for the CFPB's efforts to finalize a rule related to debt collection. The NCBA and ABA both addressed their comment letters submitted to the CFPB in response to the Notice of Proposed Rule (NPR), and specifically addressed concerns about *Section 1006.18 (g) – Safe harbor for meaningful attorney involvement in debt collection litigation submissions* (Safe Harbor). The NCBA and ABA also expressed their organizations' alignment of position related to the safe harbor.

Specifically, the ABA addressed why the Safe Harbor was flawed and should be removed. First, the ABA noted the Safe Harbor would codify the "meaningful attorney involvement" doctrine, which is not included in federal statutes, including the Fair Debt Collection Practices Act (FDCPA). This doctrine is creation of the courts through a misreading of the FDCPA. Second, the ABA noted that the Safe Harbor would undermine the courts' authority to regulate and discipline attorneys in litigation. In practice, the Safe Harbor would create a double standard instead of allowing courts to regulate all attorneys equally and fairly. Finally, the ABA advised that the Safe Harbor would undermine the attorney-client privilege and work-product doctrines. Debt collection attorneys would be forced to reveal client confidences to take advantage of the Safe Harbor.

NCBA representatives supported the ABA's positions and concerns with the Safe Harbor. NCBA representatives specifically highlighted how the Safe Harbor may be applied in practice. Real world application would result in a breach of attorney-client communication and is contrary to Federal Rules of Civil Procedure.

Addressing a question from the CFPB, both the ABA and NCBA noted that simply mirroring the Safe Harbor with Rule 11 of the Federal Rules of Civil Procedure would not fully address the organizations' concerns.

NCBA and ABA look forward to working with the CFPB as it seeks to finalize the NPR and ultimately protect consumers from false, deceptive and misleading representations during the litigation process.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Liz Terry". The signature is fluid and cursive, with a large initial "L" and "T".

Liz Terry
Executive Director