Comments

to the

Bureau of Consumer Financial Protection

12 CFR Part 1006[1]

Docket No. CFPB-2-13-0033

RIN 3170-AA41

Advance Notice of Proposed Rulemaking

Debt Collection – Necessary Changes to the Regulatory Landscape

Submitted by the

Center for Responsible Lending

February 28, 2014

I. Introduction and Summary of Recommendations

These comments are submitted by the Center for Responsible Lending (CRL), a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, one of the nation's largest nonprofit community development financial institutions. For thirty years, Self-Help has focused on creating asset-building opportunities for low-income, rural, women-headed, and minority families, primarily through financing safe, affordable home loans. In total, Self-Help has provided over $6 billion of financing to almost 70,000 low-wealth families, small businesses and nonprofit organizations and serves more than 80,000 mostly low-income families through 30 retail credit union branches in North Carolina, California and Chicago.

The third-party debt-collection industry has grown tremendously over the past few decades, with 2010 revenue more than 6.5 times that of 1972, after controlling for inflation.[2] The industry's participants make more than one billion consumer contacts annually for hospitals, government entities, banks and credit card companies, student loan lenders, telecommunications companies, and utility providers.[3]

Although debt collection plays an important role in the functioning of the U.S. credit market, it may also expose American households to unnecessary abuses, harassment, and other illegal conduct. The Federal Trade Commission (FTC) received over 200,000 complaints about debt collection in 2013—second only to complaints regarding identity theft.[4]

A growing concern is the expansion of the debt-buying industry.[5] Debt buyers are specialized companies that purchase charged-off or other delinquent debt from credit card companies, banks, and other creditors for pennies-on-the-dollar. When debt buyers acquire portfolios of charged-off debt, they rarely purchase documentation of the debts. These portfolios are typically sold "as is," and often, account information is inaccurate, outdated, or missing, particularly if the debt is resold multiple times. The inaccuracies and lack of basic information—as well as the collection tactics used by debt buyers—result in consumers being harassed and wrongly sued for debts they do not owe or have already paid or settled, and courts around the country are overwhelmed by a flood of cases filed against consumers.

We commend the Consumer Financial Protection Bureau (CFPB) for initiating rulemaking on the important issue of debt collection that impacts so many consumers in this country. More than 1 in 7 adults are being pursued by debt collectors in the U.S., for amounts averaging about $1,500.[6] The Fair Debt Collection Practices Act (FDCPA) was enacted in 1977. Although the FDCPA contains important protections, the Act has always been limited in important ways, and compliance is woefully inadequate. Given the rise in new technologies and avenues for abuse, the significant increase in collections by debt buyers, as well as growing problems in the area of debt collection generally, the time is ripe for the CFPB to act. We urge the CFPB to issue strong rules that clarify and expand needed protections and build in fairness, transparency and enforceability that will make the rules work for consumers.

In our discussion, we focus largely on the issues relevant to debt buying and the business and collection practices utilized by debt buyers – some unique to debt buyers, but some not. We briefly summarize the debt buying market, the common abuses, and their impacts on consumers.

We then offer recommendations to remedy these problems. We also discuss briefly and offer recommendations to improve debt collection practices more broadly.

II. The Debt Buying Industry

A. Market and Industry Overview

Since the 1990s, the debt-buying industry has grown substantially, with companies shifting towards buying (and re-selling) charged-off consumer debts. Three main trends have spurred industry growth: (1) increasing availability of consumer credit – particularly credit cards – in the 1990s and 2000s; (2) higher delinquency and charge-off rates in the 2000s; and (3) the routine incorporation of sales of charged-off debts into creditor accounting strategies.[7]

Credit card debt consistently makes up more than three-quarters of debt sold to debt buyers.[8] However, while credit card debt will remain a significant portion of debts purchased by debt buyers, decreasing charge-off rates and amounts in recent years,[9] and changes in banks' sales practices mean that debt buyers are looking to other types of debt to purchase, including cell phone bills, auto loan deficiencies, student loans, and mortgage deficiencies.[10]

Debt Buyers

Although expansion in the debt-buying industry has slowed in recent years, it remains relatively new and growing. DBA International, the industry's trade association, reports it has over 400 debt-buying company members, in addition to associated vendors.[11] The majority of debt buyers—including the largest debt buyer, Sherman Financial Group—are privately-held companies. Only four companies are publicly-traded.[12] As a result, only sparse data and other information are available on the size and attributes of the industry as a whole, although reports in recent years shed some light.

From 2006-2009, the top nine debt buyers purchased more than 5,000 portfolios comprising almost 90 million consumer accounts for about $143 billion of consumer debt.[13] These companies paid less than $6.5 billion for the debt, or about 4.5 cents-per-dollar.[14] This market is heavily-concentrated: these nine debt buyers purchased three-quarters (76%) of all consumer debt in 2008.[15]

Debt Sellers

Banks are the entities that most commonly sell charged-off consumer debt, as they originate large portions of the most common debts purchased by debt buyers: credit card balances, student loan debt, mortgage deficiencies, auto loan deficiencies, and other forms of consumer credit. Other common debt sellers are healthcare providers, telecommunications companies, utility service providers, and municipalities.

Bank debt sales are highly concentrated among the largest banks. According to the Office of the Comptroller of the Currency, the 19 largest banks make up the majority of bank debt sales, with 82% of annual total average sales of debt concentrated among the five largest banks.[16] Over the past few years, those 19 banks sold approximately $37 billion in charged-off debt each year.[17] In part because of increased regulatory focus, at least two banks –Wells Fargo and JPMorgan Chase—halted their sale of charged-off debt in 2013.[18]

B. Agreements Between Buyers and Sellers of Debt

The purchase and sale agreements between the portfolio seller – typically a bank – and the debt buyer dictate the price and face value of the debt being sold. The agreements also outline what is being sold to the debt buyer: the types of debts included in the portfolio, the information accompanying the accounts, the accuracy of the account information, and any documentation supporting the accounts.

According to the FTC, the seller is the party that tends to dictate the terms of the purchase and sale agreement.[19] These contracts dictate which debts are included in the portfolio, the pricing, the information that flows with the accounts at the time of sale or available later, the resale of the debts, and any guarantees (or lack thereof) on the debts and accompanying information.[20]

When debt buyers purchase debt portfolios, they receive an electronic database or spreadsheet (or access to such a database) summarizing the debts included in the portfolio.[21] These files often include only a name, last known address (sometimes the address on the original credit application), the amount allegedly owed, the charge-off date, and the date and amount of the last payment.[22] Notably, very few portfolios include documentation for the debts being sold. Based on an analysis of 3.9 million accounts purchased by six of the largest debt buyers from March to August 2009, the FTC estimated that debt buyers received documentation for as little as six percent of the accounts at the time of purchase.[23]

Further, charged-off debts are often sold "as is," without any representations, warranties, or guarantees as to the accuracy of the amounts claimed to be owed or the collectability of the debts.[24] Although some contracts allow debt buyers to obtain documentation of the debt for a small percentage of cases or for a certain period of time, subsequent purchasers of the debt often either are unable to obtain documentation from the original creditor or have to rely on previous purchasers of the debt to obtain the documentation.[25] Even if a debt buyer may have the contractual right to obtain documentation from the original creditor, the creditor may no longer have such documentation or, if it does, may charge a high price for it.[26]

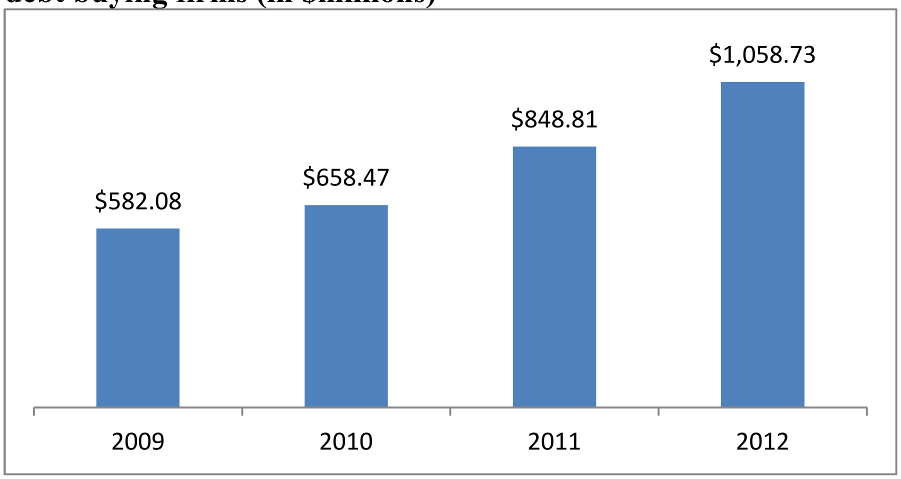
C. Collection Practices

Like original creditors, debt buyers use a variety of practices to collect on the debt they have purchased.[27] The collection activities range from using phone or mail contacts with the help of technologies like skip-tracing and predictive dialing systems to track down consumers, reporting debts to credit bureaus, refinancing the debts into new credit products, and litigation.[28]

Many debt buyers use exclusive networks of attorneys or law firms for their litigation.[29] These attorneys and firms are paid on a contingency basis, often a fee-per-dollar-collected, and they sometimes earn higher fees for exceeding targets on the accounts placed with them.[30]

Numerous reports have documented the rise in litigation as a means to collect debts.[31] SEC filings from publicly-traded debt buyers similarly reveal an increased focus on the use of legal collections for the debts they purchase.[32] Among the four debt buyers that disclose proceeds from legal collections in their public filings, this income increased from $582 million to just over $1 billion between 2009 and 2012. Similarly, a 2009 debt collection industry survey conducted in the midst of the economic crisis found that collection agencies—including debt buyers—were turning more frequently to legal collections, litigation, and post-judgment strategies and doing so more quickly.[33]

Figure 1: Increased proceeds from legal collections over four years at four publicly-traded debt buying firms (in $millions)



Source: Aggregated proceeds from legal collections from data reported in 10-K filings from Asset Acceptance Capital Corp., Encore Capital Group, Inc. Portfolio Recovery Associates, and Square Two Financial Corp.

State civil courts, including small claims courts, have experienced a deluge of debt collection litigation, often overwhelming court and judicial capacity.[34] The FTC observed that "[t]he majority of cases on many state court dockets on a given day often are debt collection matters," and the surge of cases "has posed considerable challenges to the smooth and efficient operation of courts."[35] A successful lawsuit gives the debt buyer additional and more powerful tools to collect on the judgment, including wage garnishment, bank account seizure, and property attachment.

D. <u>Debt Buyer Collection Abuses and Predatory Practices</u>

As mentioned previously, debt collection makes up a large share of all complaints received by the FTC. Common complaints include misrepresentation about the amount or legal status of the debt, harassing and excessive contact, obscene or abusive language, and illegal threats to sue.[36] Additionally, CRL conducted a national poll that showed 90% of consumers are concerned about debt collectors using bad or incomplete information to target the wrong people, seek payment on debts already paid, or file lawsuits without the necessary evidence to prove their case.[37]

As detailed below, consumers face significant harm from debt buyer collection litigation abuses such as (1) defective, inaccurate, and/or insufficient proof of debt; (2) robo-signing; (3) suing to collect "time-barred" debt; (4) improper and "sewer" service; and (5) abuse of default judgments.

1. Defective, Inaccurate, and/or Insufficient Proof of Debt

The agreements between debt sellers and debt buyers often dictate that "as is" accounts are sold with limited information and documentation for the accounts.[38] As a result, unreliable records are used to collect or bring suits on debts that cannot be substantiated, are inaccurate in amount, or may not be owed by the consumer. In its 2009 workshop report, the FTC concluded that the information received by debt buyers is frequently "inadequate and results in attempts to collect from the wrong consumer or to collect the wrong amount."[39] The FTC also found in its study of debt-buyer practices that "both sellers and buyers knew that some accounts included within a portfolio might have incomplete or inaccurate data, including data on important information such as the then-current balances on accounts."[40]

Even if debt buyers receive account documents with the portfolio or at a later date, the sales contracts make clear that "account documents, when available, may be inaccurate and that the provision of account documents could not be relied upon to establish the outstanding balance of an account or that the account represented a valid and collectable debt."[41]

Given these problems, it is very possible that debt buyers could attempt to collect from or sue the wrong person, for the wrong amount, or for illegitimate or already paid debts. Nevertheless, insufficient and inaccurate proof of the claims often goes undetected by consumers and the courts. In most states, the information required in a collection lawsuit is minimal, particularly in small claims courts where procedures and evidentiary standards are often relaxed. Complaints rarely contain more information than the fact or allegation that the consumer had a credit card account (or other service contract) that he or she used, the debt buyer that purchased the account, and the amount allegedly owed. Significantly, these complaints do not provide critical information on the debt that would be helpful to consumers in deciding whether and how to respond to the complaint, such as the original creditor's name; the date of default; or a breakdown of the principal, interest, and fees claimed to be due.[42]

An even more fundamental problem occurs when debt buyers do not provide evidence that they own the debt subject to the lawsuit. This issue is more prevalent with debt buyers who are not the initial purchasers of the debt. Typically, the debt buyer offers the chain of ownership of the debt in its complaint only when required to do so, and even then the proof of ownership is often lacking or false.

Debt buyers may also file lawsuits knowing that they cannot prove ownership or the amount owed, in hopes of obtaining a default judgment.[43] In recent years, state courts have sometimes rejected debt-buyer lawsuits when consumers challenge them, finding a lack of necessary documentation to prove that they own the debt.[44] However, these cases are not the norm, and most debt buyer lawsuits go unchallenged, as described below.

2. Robo-Signing

To obtain a default judgment against a borrower, a debt buyer typically submits an affidavit of proof of the debt. Even when a case goes to trial, affidavits are frequently used to establish proof of the debt or to support business records being entered as evidence in the cases. Disturbingly, many of these affidavits may be false, as court cases and news stories suggest many are being "robo-signed" (that is, produced with no attempt to verify that the claims are accurate.)

Examples of robo-signing are not hard to find. After a more than two year investigation of JPMorgan Chase Bank, the OCC found that the bank filed false and improperly-signed affidavits in court.[45] A 2010 study of New York debt-buyer cases found that one individual signed all affidavits filed by three debt buyers, and if extrapolated to every case filed by those companies in one year, that individual would have signed affidavits in more than 47,500 cases during that year.[46] In Ohio, an employee of Midland Credit Management, an Encore Capital Group subsidiary, signed 200 to 400 affidavits per day, attesting to personal knowledge of the facts related to each account subject to the lawsuit, despite having none.[47] According to a New York Times article, an employee of Asta Funding, one of the publicly-traded debt buyers, testified in court that she signed about 2,000 affidavits per day, swearing in each affidavit that she personally reviewed and verified the debts sought in the lawsuit.[48]

3. Collecting Time-Barred Debts

Reports suggest that debt buyers attempt to collect on debts beyond the applicable statute of limitations, both in and out of court. As the FTC has noted, one of the primary concerns over the aging of debts in the debt-buying process is that "the information that collectors have about these debts may become less accurate over time, making it more likely that collectors will seek to recover from the wrong consumer, recover the wrong amount, or both."[49]

A second problem is when debt buyers sue or threaten suit on time-barred debts (beyond the time period allowed to bring a lawsuit). These statutes of limitations protect consumers and courts by ensuring that evidence necessary for the case will be in existence at the time of the lawsuit.[50] Debts beyond the statute of limitations are not extinguished in most states, however; if a lawsuit is filed, the consumer must raise this issue in court or the debt buyer will succeed in its lawsuit.[51]

Additionally, a debt buyer might attempt to collect on a time-barred debt out of court.[52] If a consumer is pressured into making a payment on a time-barred debt, that action may "revive" the debt in many states and trigger the start of a new statute of limitations period.[53]

Although courts have generally held that bringing a lawsuit on a time-barred debt is an unfair practice under the Federal Debt Collection Practices Act,[54] there is currently no widespread prohibition or ban on the practice. As a result, the FTC concluded that debt buyers' conduct in collecting, threatening to sue, or suing on time-barred debt remains a major concern.[55]

4. Improper and "Sewer" Service of Lawsuits

Debt buyers and their associated law firms typically hire process server agencies to serve collection lawsuits on consumers. According to a report by New York legal service providers, process services are usually independent contractors, paid a rate of \$3-\$6 per purported completed service. Significantly, they are not paid for attempted but unsuccessful service.[56] These payment practices provide little incentive for the process servers to ensure actual service on debtor defendants in debt collection suits. Reports document the prevalence of "sewer service" in certain jurisdictions, the practice of intentionally failing to serve court papers on debtors (instead, figuratively throwing them in the sewer) and then filing false affidavits of service with courts.[57] The New York report found that at least 71% of the people in the files they reviewed were either not served or served improperly.[58] No studies have explored the extent of service of process problems or sewer service nationwide.[59]

Some consumers do not receive notice of the suit because it is sent to the wrong person or an old address, often the borrower's address at the time of credit-card account application.[60] A report by New York legal services providers includes one case study of a consumer who found out about six collection suits against her only after her wages were garnished. Three of the lawsuits were served at the wrong address, and the other three were allegedly served on a family member who did not exist.[61]

5. Small Claims Court and Default Judgments

Debt collectors have increased their usage of the court system, relying on the assumption that for a variety of reasons, many people will not show up in court when sued on their debts. If a consumer does not respond to or appear in court to defend a debt collection lawsuit, a collector typically obtains a default judgment against them, and problems with insufficient and inaccurate proof of debt, robo-signed affidavits, and improper service of process usually go unquestioned. The result is that default judgments are obtained against consumers based on questionable evidence, falsified court documents, or in cases that should never have been filed in the first place.[62] One review of a sample of New York City debt buyer cases revealed that debt buyers prevailed in 94.3% of lawsuits, usually by obtaining default judgments.[63]

Reasons that consumers may not respond to or appear in court to defend a debt collection lawsuit include lack of notice of the case, the amount of the alleged debt, income of the defendant, inability to obtain legal representation, inability to appear in person because the case is out of state or due to employment constraints, confusion about the debt or plaintiff suing, and misleading information from the collector's attorney.[64] Additionally, consumers simply may not understand the process and the need to appear.

Judges and clerks generally do not challenge the evidence debt buyers offer for default judgments.[65] It is not surprising then that default judgments appear to be the norm in debt-collection lawsuits. A recent report on cases in New York state found that in 2011, 80% of all default judgments in the state were in debt-collection cases.[66] Another study of the Minnesota courts determined that debt collectors won an estimated 2,400 default judgments per month throughout the state in 2007.[67] In 2007, in Cook County, Illinois debt collectors won default judgments in 60,699 cases out of 130,000 cases filed.[68]

Default judgments extend the life of the debts, and allow collectors to seize bank accounts, garnish wages, and place liens on property. Default judgments may be difficult to overturn, even if wrongly obtained or against the wrong person.

E. Consumer Impact

Although the financial impact of debt-buyer abuses on U.S. households has not yet been fully calculated, the following harms are evident: (1) a disproportionate impact on vulnerable consumers; (2) excessive financial costs; (3) the overriding of protections on Social Security and other exempt funds; and an inability to deal effectively with lawsuits due to (4) lack of legal representation and (5) overwhelmed courts.

1. Disproportionate Impact on Vulnerable Consumers

Some reports and news articles suggest that communities of color, older Americans, and low- and moderate-income communities experience higher rates of debt buyer lawsuits and abuses.

Senior citizens, many of whom are living on a fixed income, are frequently victims of these abuses. Studies report that older Americans are sometimes pressured or threatened into lawsuit settlements with harassing phone calls, threats to personal property, and threats of the loss of what little money they have.[69] Others are sued without their knowledge and must hire an attorney in order to get a judgment overturned, sometimes after their bank accounts have already been seized or their wages garnished.[70] Still other older Americans are sued but then contacted by collectors and their attorneys and incorrectly told that as long as they make payments they do not need to appear in court, resulting in default judgments.[71] Many of these older consumers are victims of identity theft or had already paid off the debts years previously.[72]

Some studies indicate that a greater percentage of debt buyer cases end in default judgments when the consumers are from communities of color or low- and moderate-income communities. A study of 365 debt buyer cases in New York City found that default judgments obtained by debt buyers were disproportionately concentrated among these consumers.[73] Of those cases, 91% of people sued and 95% of people with default judgments against them lived in low- and moderate-income communities. About half of the people sued by debt buyers (51%) and with default judgments entered against them (56%) lived in communities that had majority African-American or Latino populations. Similarly, as illustrated in Figure 2 below, a study of New York State debt-collection cases found that the ten zip codes with the highest concentrations of default judgments per 1,000 residents were all predominantly (75% or more) non-white communities.[74]

Figure 2: New York zip codes with the highest concentrations of default judgments (per 1,000 residents)

Rank	Zip Code	Neighborhood	% Non-White
1	12207	Greater South End, Albany	80%
2	14215	Kenfield, Buffalo	86%
3	11422	Rosedale, Queens	95%
4	12202	Arbor Hill, Albany	75%
5	11411	Cambria Heights, Queens	99%
6	11412	Jamaica, Queens	100%
7	14211	Schiller Park, Buffalo	84%
8	11434	Jamaica, Queens	99%
9	11420	South Ozone Park, Queens	93%
10	11413	Jamaica, Queens	99%

Source: Susan Shin and Claudia Wilner, *The Debt Collection Racket in New York: How the Industry Violates Due Process and Perpetuates Economic Inequality* at 3 (New Economy Project 2013)

2. Excessive Financial Costs

As previously noted, default judgments often mask debt-buying and collection abuses, and are improperly sought and granted. Debt buyers also use judgments to inflate the amounts owed by tacking on court costs, interest, and attorneys' fees, some of which are not authorized by the underlying loan contract.[75]

With a judgment in hand, the debt buyer becomes armed with the ability to freeze a consumer's bank account, garnish wages, report the judgment to a credit reporting agency, or pressure the consumer into an unaffordable and improvident payment plan.[76] In some states, debt collectors can even have consumers arrested when judgments go unpaid,[77] or seize personal property to satisfy the judgments. Collectors are often able to do the same when consumers do not comply with settlement agreements entered into the court record. In most states, judgments are enforceable for 10-20 years; in some states, judgments may be renewed continuously. This ability to enforce judgments for an extended amount of time prevents consumers from being able to get a fresh start.

3. Overriding Protections on Social Security and Other Exempt Funds

Federal and state laws exempt certain funds from collection and seizure to satisfy judgments. These funds include Social Security and Supplemental Security Income, disability benefits, child support and alimony, unemployment benefits, workers' compensation benefits, public assistance, pension funds, and veterans' benefits. When a collector obtains a judgment against a consumer, the collector is able to recover on the judgment by seizing or garnishing the consumer's bank account. Notwithstanding federal and state laws that protect certain funds, banks will often freeze consumers' accounts that contain exempt funds while the collector obtains a garnishment order from the court.[78]

Debt buyers also coerce consumers into agreeing to settlements or payment plans even though the consumer's income is made entirely of funds exempt from collection and seizure. Often consumers are unaware that their income is protected from collection, and collectors and their attorneys take advantage of this imbalance in knowledge and threaten consumers with legal action if they do not pay something on the debt.

4. Lack of Legal Representation

Those few consumers who do appear at court proceedings when sued by debt buyers usually lack legal representation. Low- and moderate-income consumers are often unable to afford legal representation, and legal services providers' ability to represent such consumers is increasingly limited.[79] Additionally, because of the nature of debt collection cases and the small dollar amount involved, many private attorneys are reluctant to take collection defense cases.[80] Court statistics from New York State indicate that only two percent of consumers sued by creditors have legal representation.[81]

Debt buyers hold a distinct advantage over unrepresented consumers who are not aware of potential defenses to raise, such as a statute of limitations defense or an objection to unreliable evidence. In many courts, judges urge unrepresented consumers to talk with the collection attorneys to come up with a settlement agreement, even though the consumer may have valid defenses.[82] Other times, threats of jail and seizure of property from courts and collector attorneys alike are enough to pressure consumers into settlements that on debts that may not even be owed, and that are also unaffordable and unfavorable to the consumer.[83]

Due to lack of representation, debt buyer abuses go largely uncontested and unnoticed, resulting in judgments for debt buyers and negative impacts for consumers.[84] By contrast, in those infrequent cases where a consumer *does* have representation, debt buyers often quickly drop the lawsuit, and if not, rarely prevail.[85]

5. Overwhelmed Courts

State courts, particularly small-claims courts, have become overwhelmed by debt-collection lawsuits. According the FTC's 2009 report on debt-collection challenges, the majority of cases on state court dockets on any given day are debt-collection cases.[86] In 2008, the Chicago Tribune reported that one judge in Cook County had 12,000 debt-collection lawsuits on his docket, more than double from the year before.[87] In New York State, debt collectors filed almost 200,000 cases in 2011.[88]

State courts, especially small-claims courts, are not equipped to deal with this volume of debt-collection cases.[89] As a result, courtrooms are run inefficiently; cases cannot be given the attention they need; and consumers are sometimes pressured into improvident settlements by debt collection attorneys and judges alike.[90] The relentless volume of cases often results in consumers, who almost always lack legal representation, facing a judicial system where they are treated as guilty until proven innocent.[91] Ultimately, the clogged court systems harm consumers, and prevent them from receiving the due process to which they are entitled. Unfortunately, this problem is self-perpetuating. Because debt buyers achieve easy and quick – but often undeserved – victories, this encourages them to continue their heavy use of litigation as a collection tactic, and so the courts become even more clogged, and more consumers are harmed.

F. Recommendations – Debt Buyers

The following recommendations are included here in the section on debt buyers because these issues are of particular importance – and the subject of significant abuse – in the debt buyer context. The recommendations apply to all collectors, however.

1. **Require Documentation about the Debt Prior to Collection Efforts.** Collectors should have documentary evidence that they are collecting the right debt from the right person before beginning collections. We urge the CFPB to require creditors and collectors to have the information necessary to fully substantiate and verify the debt being sought prior to the initiation of collections. Any rule should require that before any collection activity is initiated on a debt, the collector must have in its possession or have accessed information about the debt and determined that the debt is collectable and that the collector seeks to collect from the correct person. By requiring this information at the federal level, federal regulators will pave the way for states to pass legislation and change regulations and court rules to address debt buyer abuses in debt collection litigation prevalent in their states.

   This necessary information relating to the debt should include all of the following:

a. A legible copy of the original contract, including the name of the original creditor, or signed application, or other documents that provide evidence of the consumer's liability.
b. The name, address, phone number and Social Security number of the consumer
c. The amount owed on the debt, itemized between principal, interest and fees assessed (for both closed- and open-end credit).
d. A copy of all or the last 12, whichever is fewer, account statements, or similar electronic record.
e. All account numbers ever used by the bank and its predecessor(s), if any, to identify the account. These should include the consumer's last account number prior to charge-off, the current account number, and any other account or reference numbers that the bank used to identify the account.
f. A document that provides the name of the issuing bank, the brand (or store) name, if any, the date and amount of the last payment, and the date of default, as well as the date of charge-off, and the amount owed at charge-off, if applicable.
g. Information regarding any outstanding or unresolved disputes and fraud claims, as well as any disputes and fraud claims from 6 months prior to default.
h. The date, source and amount of the most recent payment.

2. **Require Information about the Debt Collection Process for all Collections.** We recommend that the CFPB require that all relevant information about the collection process, as well as new information about the debt and the consumer, be transferred between collectors. This information should include all of the following:
   a. Requests and responses to validation requests or disputes.
   b. Consumer's request to stop contact.
   c. Settlements concerning the debt.
   d. Status of debt in relation to the statute of limitations.
   e. Representation of the consumer by an attorney and attorney's contact information.
   f. Information regarding inconvenient time or place for communication.
   g. Discharge of debt or listed in bankruptcy.
   h. Illness or disability claimed by the consumer or known to the collector.
   i. Known or claimed violation of the FDCPA to date.
   j. Whether the consumer is a member of the military.
   k. Whether, and to what extent, the source of the consumer's income is federally exempt funds, such as Social Security funds and/or SSI benefits, or VA benefits.
   l. Times and places the consumer has articulated are or are not convenient for the consumer to be contacted.
   m. Other information relevant to the collection of the debt.

3. **Require Documentation When Initiating a Collection Lawsuit.** Suing a consumer over debt can have significant consequences for that consumer. As such, in addition to having the information necessary to verify the debt before initiating collections, a collector initiating legal action should have the proper documentation to establish the existence of a valid contract, as well as its own right to sue on it. As such, the CFPB should require that any party initiating a lawsuit (or other legal proceeding) for the collection of a consumer debt

must have in its possession, and attach to the complaint when filed, copies of all of following documents:

- **a.** A copy of the contract or other evidence of agreement.
- **b.** If the collector is collecting on behalf of the original creditor, a document from the original creditor authorizing the collector to sue on the specific account on behalf of the original creditor; or
- **c.** If the collector is claiming ownership of the debt, a copy of the assignment or chain of assignments of that specific account from the original creditor to the collector; or
- **d.** If the collector is collecting on behalf of a debt buyer, a document from the debt buyer and a copy of the assignment or chain of assignments of that specific account from the original creditor to the debt buyer suing on the debt.

The party initiating the collection action must have these documents in a form that will meet all evidentiary requirements in the jurisdiction in which the action is filed. This regulation should be applicable even in those jurisdictions that may not require these records.

4. **Strengthen Rules Relating to Time-Barred Debt.** The CFPB should codify cases that have held that it is a violation of the FDCPA to initiate or threaten collection lawsuits as to debts that are time-barred. Additionally, the CFPB should prohibit the collection of time-barred debts.

III. Debt Collection Generally

Although the debt buying industry has become a growing and problematic presence in the debt collection field, it certainly is not the only area of unfair, deceptive, or abusive practices. Indeed, abuses are rampant throughout the debt collection space. We recommend that the CFPB take the additional actions outlined herein that apply generally to all collections.

1. **Prohibit Unfair, Deceptive, and Abusive Practices, as well as Harassing Debt Collection Activities by Creditors and Collectors.** The same conduct that is prohibited by the FDCPA should be considered illegal for first party collectors (creditors) to engage in. As such, the CFPB should apply FDCPA and other debt collection rules to original creditors. Moreover, the CFPB should explicitly state in regulations that debt buyers are subject to the FDCPA.

2. **Clarify and Improve Available Remedies for Harmed Consumers.** Improved regulations by themselves will not stop the illegal acts of debts collectors. There must be strong provisions giving harmed consumers the ability challenge these illegal actions, and the threat of real consequences for debt collectors. As such, we strongly urge the CFPB to adopt new and bolster existing rules that facilitate private enforcement against debt collection abuses. We recommend that the CFPB clarify that injunctive relief is available and that multiple statutory damages may be awarded in a single action for multiple violations of the FDCPA. Currently, one badly worded notice to a consumer will precipitate the same amount of statutory damages under the FDCPA as numerous harassing and abusive collection efforts. Therefore, debt collectors who are deliberately and routinely violating the law have no incentive to behave – the costs for complying with the law are higher than the costs for violating the law. Also considering the increasing number of small, judgment-proof debt collectors, it is essential that courts have the authority in private FDCPA litigation to deter

future misconduct with an injunction and the threat of being held in contempt of court.

3. **Clarify Section 1692e(10) of the FDCPA Regarding Robo-Signing Practices.** Section 1692e(10) is a provision that broadly prohibits the use of any false representation or deceptive means to collect a debt. Despite the broad nature of this prohibition, however, courts have unreasonably narrowed its application in several circumstances relating to state court debt collection litigation. The CFPB should correct these erroneous interpretations of the FDPCA. First, the CFPB should clarify that all false statements made to collect a debt are actionable under the FDCPA, whether directed at consumers or at third parties (including false statements made in court). Second, the CFPB should clarify by regulation that a debt collection attorney violates the FDCPA when it files a lawsuit without having conducted an independent review of the file to determine that the action has merit. Third, the CFPB should clarify in its rules that the practice of filing lawsuits without having the intent or ability ever to prove the debt violates § 1692e and e(10) of the FDCPA.

4. **Require Creditors to Provide Simpler Notices of the Consumer's Right to Request Verification of the Debt, and the Right to Cease Communication.** Currently, notices sent by debt collectors tend to track the statutory language, which is not understandable for most consumers. The CFPB should provide a form notice that conveys the required information in plain language, in large type, on the front page, set off by typography, margins, or in a boxed area, such as the following:

> *You can dispute this debt at any time, either orally or in writing. If you write to us within thirty days of when you get this letter, regarding:*
> *(1) A question or a dispute about all or any part of the debt, or*
> *(2) A request for the name and address of the original creditor we will stop collecting until we mail you our response.*
> *Also, we will stop calling or writing you if you tell us that you refuse to pay or want us to stop collecting.*

5. **Clarify and Strengthen The Responsibilities of a Creditor or Collector in Responding to Disputes.** As the extensive case law challenging inadequate verifications under the FDCPA demonstrates, disputed debts are rarely, if ever, properly resolved. The FDCPA requires that collectors provide "verification" of a debt, upon request, the common meaning of which is to prove through investigation and with evidence. The CFPB should reject the decisions of courts that have allowed a less than full and complete response to a dispute, and require that fully responsive information and documentation, specifically addressing the details of the consumer's dispute be provided by the collector in response to a dispute.

6. **Require Itemization of the Principal, Interest and Fees.** The CFPB should require that collectors and creditors itemize the principal, interest and fees charged in response to a request for verification of the debt. This is basic information to which any alleged debtor is entitled, and will allow the consumer to raise appropriate defenses. This information is also relevant to tax issues associated with a potential settlement.

7. **Prohibit Forced Arbitration.** Debt collectors, debt buyers and creditors should be barred from depriving consumers of their day in court by compelling arbitration of consumer claims relating to collection abuses.

8. **Prevent Abuses of Credit Reports.** Consumers do not always know or understand how debt collection efforts interact with their credit reports. Debt collectors may take advantage of this and make representations about the effect of debt payments on credit reports, credit scores, and creditworthiness in order to coerce consumers to pay. These representations are likely to be deceptive. For this reason, the CFPB should require debt collectors and buyers to make the following disclosures:
   - **a.** If a debt is already reported on the consumer's credit report: "*Paying this debt will not remove it from your credit report, it will only show that the account has been paid. Paying this debt could, but might not necessarily, improve your credit record or score.*"
   - **b.** If a debt is not obsolete, does not show up on a credit report, and the creditor or collector does not have the current ability to report it because it is not currently a furnisher to the national Credit Reporting Agencies: "*This debt does not show up on your credit report. Paying this debt will not help your credit record or score.*"
   - **c.** If a debt is obsolete: "*This debt is too old to be included in your credit report. Paying this debt will not help your credit record or score.*"

---

[1] Advance Notice of Public Rulemaking, Bureau of Consumer Financial Protection, 12 CFR Part 1006 [Docket No. CFPB-2013-0033] RIN 3170-AA41, *available at* http://files.consumerfinance.gov/f/201311_cfpb_anpr_debtcollection.pdf.

[2] Robert M. Hunt, "Understanding the Model: The Life Cycle of a Debt" at 10, 14 (June 6, 2013), *available at* http://www.ftc.gov/sites/default/files/documents/public_events/life-debt-data-integrity-debt-collection/understandingthemodel.pdf .

[3] *Id.* at 9, 10.

[4] *Federal Trade Commission, FTC Announces Top National Consumer Complaints for 2013* (Feb. 27, 2014), *available at* http://www.ftc.gov/news-events/press-releases/2014/02/ftc-announces-top-national-consumer-complaints-2013.

[5] *See generally* Federal Trade Commission, *The Structure and Practices of the Debt Buying Industry* (Jan. 2013) [hereinafter, "FTC, *Debt Buying Report 2013*"], *available at* http://www.ftc.gov/sites/default/files/documents/reports/structure-and-practices-debt-buying-industry/debtbuyingreport.pdf.

[6] Federal Reserve Bank of New York, *Quarterly Report on Household Debt and Credit* at 15 (Feb. 2014), *available at* http://www.newyorkfed.org/householdcredit/2013-Q4/HHDC_2013Q4.pdf .

[7] Federal Reserve Board, *Charge-Off and Delinquency Rates on Loans and Leases at Commercial Banks* (Last update Feb. 18, 2014) [hereinafter, "FRB, *Charge-Off and Delinquency Rates*"], *available at* http://www.federalreserve.gov/releases/chargeoff/chgallsa.htm; FTC, *Debt Buying Report 2013* at 12-14.

[8] FTC, *Debt Buying Report 2013* at 7-8.

[9] According to Federal Reserve Board statistics, charge-off rates of credit-card debts (and other consumer loans) peaked in 2010. FRB, *Charge-Off and Delinquency Rates*. Similarly, the OCC recently reported that charge-off amounts by the 19 largest banks have declined from their peak of $130 billion in 2010 to $67.8 in 2012, a 48% decline. Office of the Comptroller of the Currency, *Statement of the Office of the Comptroller of the Currency Provided to the Subcommittee on Financial Institutions and Consumer Protection; Senate Committee on Banking, Housing, and Urban Affairs; "Shining a Light on the Consumer Debt Industry*" at 3 (July 17, 2013) [hereinafter, "OCC, *Consumer Debt Industry*"], *available at* http://www.occ.gov/news-issuances/congressional-testimony/2013/pub-test-2013-116-oral.pdf.

[10] *See generally* Katie Hebeisen, "Breaking Into New Debt Buying Markets: With Credit Card Debt Availability Waning, Asset Buyers Are Exploring Other Options," *Collector* (Feb. 2012), *available at* http://www.digital-collector.com/collectormagazine/201202#pg1. *See also* FRB, *Charge-Off and Delinquency Rates*; OCC, *Consumer Debt Industry*.

[11] DBA International, *DBA International's Comments Related to Debt Collection for the FTC Debt Collection Workshop* (2007) [hereinafter "*DBA Comments*"], *available at* http://www.scribd.com/doc/84949524/DBA-INTERNATIONAL%E2%80%99S-COMMENTS-RELATED-TO-DEBT-COLLECTION-FOR-THE-FTC-DEBT-COLLECTION-WORKSHOP.

[12] These publicly-traded debt buyers are Encore Capital Group, Portfolio Recovery Associates, Inc., Asta Funding, Inc., and SquareTwo Financial. Encore Capital Group acquired another previously-publicly-traded company, Asset Acceptance Capital Corp. in June 2013. Encore Capital Group, *Quarterly Report for Quarterly Period Ended June 30, 2013 (Form 10-Q)* (accessed from U.S. Securities and Exchange Commission website).

[13] FTC, *Debt Buying Report 2013*. More than 80% of these debts were acquired from the original creditor. *Id.* at 43.

[14] *Id.* at D-1.

[15] *Id.* at 38 n.161.

[16] OCC, *Consumer Debt Industry* at 3.

[17] *Id.*

[18] Maria Aspan, "Wells Fargo Halts Card Debt Sales as Scrutiny Mounts," *American Banker* (July 28, 2013) [hereinafter "Aspan, "Wells Fargo"], *available at* http://www.americanbanker.com/issues/178_144/wells-fargo-halts-card-debt-sales-as-scrutiny-mounts-1060922-1.html; Maria Aspan & Jeff Horwitz, "Chase Halts Card Debt Sales Ahead of Crackdown," *American Banker*, *available at* http://www.americanbanker.com/issues/178_126/chase-halts-card-debt-sales-ahead-of-crackdown-1060326-1.html.

[19] FTC, *Debt Buying Report 2013* at 24.

[20] *Id.* at 24-28.

[21] *DBA Comments.*

[22] FTC, *Debt Buying Report 2013* at 34-37.

[23] *Id.* at 35 and n.150.

[24] Jeff Horwitz, "Bank of America Sold Card Debts to Collectors Despite Faulty Records," *American Banker* (Mar. 29, 2012), *available at* http://www.americanbanker.com/issues/177_62/bofa-credit-cards-collections-debts-faulty-records-1047992-1.html.

[25] U.S. Government Accountability Office, *Credit cards: Fair Debt Collections Practices Act Could Better Reflect the Evolving Debt Collection Marketplace and Use of Technology* at 45 (Sept. 2009) [hereinafter "GAO, *Debt Collection Report*"], *available at* http://www.gao.gov/new.items/d09748.pdf.

[26] Peter A. Holland, "The One Hundred Billion Dollar Problem in Small Claims Court: Robo-Signing and Lack of Proof in Debt Buyer Cases," 6 *Journal of Business and Technology Law* 259, 262 (2011) [hereinafter "Holland, *One Hundred Billion Dollar Problem*"], *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1875727.

[27] GAO, *Debt Collection Report* at 29.

[28] *Id.*

[29] Encore Capital Group *2013 Annual report (Form 10-K)*; Portfolio Recovery Associates *2013 Annual Report (Form 10-K)*; SquareTwo Financial Corporation *2013 Annual Report (Form 10-K)*.

[30] Encore Capital Group *2013 Annual report (Form 10-K)*; SquareTwo Financial Corporation *2013 Annual Report (Form 10-K)*.

[31] GAO, *Debt Collection Report* at 40-42; Federal Trade Commission. *Repairing a Broken System: Protecting Consumers in Debt Collection Litigation and Arbitration* (July 2010) at 5 [hereinafter "FTC, *Repairing a Broken System 2010*"], *available at* http://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-bureau-consumer-protection-staff-report-repairing-broken-system-protecting/debtcollectionreport.pdf; Claudia Wilner and Nasoan Sheftel-Gomes, *Debt Deception: How Debt Buyers Abuse the Legal System to Prey on Lower-Income New Yorkers* at 6 (May 2010) [hereinafter "Wilner and Sheftel-Gomes, *Debt Deception*"], *available at* http://www.nedap.org/pressroom/documents/DEBT_DECEPTION_FINAL_WEB.pdf. Original creditors use legal collections as well and are increasingly resorting to lawsuits to collect debts. These suits contribute to the increase in debt-collection litigation in state courts, but the business model described above relates solely to debt buyers. In addition, original creditors have been accused of some of the debt-buying abuses, such as robo-signing and using inadequate and/or inaccurate proof to collect on a debt.

[32] Portfolio Recovery Associates *2013 Annual Report (Form 10-K)*; SquareTwo Financial Corporation *2013 Annual Report (Form 10-K)*.

[33] Patrick Lunsford, "More Payment Plans and Legal Collections, Say ARM Companies in Survey" *insideARM.com* (Jan. 27, 2009), available at http://www.insidearm.com/daily/debt-collection-news/debt-collection/more-payment-plans-and-legal-collections-say-arm-companies-in-survey/.
[34] Beth Healy, "Dignity Faces a Steamroller; Small-Claims Proceedings Ignore Rights, Tilt to Collectors," *The Boston Globe* (2006) [hereinafter "Healy, *Dignity Faces a Steamroller*"], *available at* http://www.boston.com/news/special/spotlight_debt/part2/page1.html.
[35] U.S. Federal Trade Commission. *Collecting Consumer Debts: The Challenges of Change* at 55 (2009) [hereinafter "FTC, *Debt Report 2009*"], *available at* http://www.ftc.gov/sites/default/files/documents/reports/collecting-consumer-debts-challenges-change-federal-trade-commission-workshop-report/dcwr.pdf.
[36] *Id.* at 16-21; GAO, *Debt Collection Report* at 35.
[37] Press Release, Poll Shows Strong Consumer Support for Financial Regulation (Sept. 11, 2013) (poll question number 21), *available at* http://www.responsiblelending.org/other-consumer-loans/consumer-financial-protection-bureau/research-analysis/poll-shows-strong-consumer-support-for-regulation.html.
[38] According to the Federal Trade Commission's recent report on the debt buying industry, all or almost all accounts sold to debt buyers came with the following information from the seller: (1) the name, street address and social security number of the debtor; (2) the original creditor's account number; (3) the outstanding balance; and (4) the date the debtor opened the account. FTC, *Debt Buying Report 2013* at 34-35. Other important information does not always accompany an account, however. Seventy-two percent indicated the amount owed at charge-off, while less than one-half of the accounts came with the name of the original creditor, and less than one-third indicated the interest rate on the account. *Id.*
[39] FTC, *Debt Report 2009* at 24.
[40] FTC, *Debt Buying Report 2013* at C-7-C-8.
[41] *Id.* at C-13.
[42] Appleseed and Jones Day, *Due Process and Consumer Debt: Eliminating Barriers to Justice in Consumer Credit Cases* 20-21 (2010) [hereinafter "Appleseed and Jones Day, *Due Process and Consumer Debt*"], *available at* http://appleseednetwork.org/wp-content/uploads/2012/05/Due-Process-and-Consumer-Debt.pdf.
[43] *See, e.g.*, Royal Financial Group, LLC v. Perkins, ---S.W.3d----, 2013 WL 4419343 (Mo. Ct. App. 2013) in which debt buyer Royal Financial Group admitted that it did not purchase the debt from the original creditor, did not have evidence of prior transfers of ownership, could make no representations as to the accuracy or enforceability of the debt because it had received none, and had no documentation of the debt showing that the consumer owed the debt or the additional fees, interest, and charges claimed. The court concluded: "On the contrary, the record clearly demonstrates that Royal could not legally prosecute its claim and never had any intention to do so. As such, the petition was an empty threat of further action that could not legally be taken. . . ."
[44] *See, e.g., Green v. Calvary Portfolio Services, LLC*, 700 S.E.2d 741 (Ga. Ct. App. 2010); *Shipley v. Unifund CCR Partners*, 331 S.W.3d 27 (Tex. App. 2010); *Unifund CCR Partners v. Youngman*, 89 A.D.3d 1377 (N.Y. App. Div. 2011); *CACH, LLC v. Kulas*, 21 A.3d 1015 (Me. 2011); *CACH, LLC v. Askew*, 358 S.W.3d 58 (Mo. 2012).
[45] *In the Matter of JPMorgan Chase Bank, et al.*, Case No. 2013-138 (Consent Order Sept. 18, 2013), *available at* http://www.occ.gov/static/enforcement-actions/ea2013-138.pdf.
[46] Wilner and Sheftel-Gomes, *Debt Deception* at 14.
[47] *Midland Funding, LLC v. Brent*, 644 F. Supp.2d 961 (N.D. Ohio 2009).
[48] David Segal, "Debt Collectors Face a Hazard: Writer's Cramp," *The New York Times* (Oct. 31, 2010), *available at* http://www.nytimes.com/2010/11/01/business/01debt.html.
[49] FTC, *Debt Buying Report 2013* at 42.
[50] *U.S. v. Kubrick*, 444 U.S. 111 (1979).
[51] FTC, *Repairing a Broken System* at 22-31.
[52] *Id.*
[53] *Id.*
[54] *See, e.g.*, *Basile v. Blatt, Hasenmiller, Leibsker & Moore LLC*, 642 F. Supp.2d 842 (N.D. Ill. 2009).
[55] FTC, *Debt Buying Report 2013* at 44.
[56] Wilner and Sheftel-Gomes, *Debt Deception* at 6.
[57] *See generally* Wilner and Sheftel-Gomes, *Debt Deception*; Appleseed and Jones Day, *Due Process and Consumer Debt*.
[58] Wilner and Sheftel-Gomes, *Debt Deception* at 9.
[59] FTC, *Repairing a Broken System* at 9-10.
[60] *Id.* at 8; Wilner and Sheftel-Gomes, *Debt Deception* at 6.

[61] Wilner and Sheftel-Gomes, *Debt Deception* at 7.
[62] *See generally* Holland, *One Hundred Billion Dollar Problem*.
[63] Wilner and Sheftel-Gomes, *Debt Deception* at 8.
[64] *See, e.g.,* Russell Engler, "Out of Sight and Out of Line: The Need For Regulation of Lawyers' Negotiations With Unrepresented Poor Persons," 85*California Law Review* 79 (1997), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=835604; Mary Spector, "Debt, Defaults and Details: Exploring The Impact of Debt Collection Litigation on Consumers and Courts," 6 *Virginia Law & Business Review* 257 (Fall 2011), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1975121;Wilner and Sheftel-Gomes, *Debt Deception* at 6-7.
[65] Healy, *Dignity Faces a Steamroller*.
[66] Susan Shin and Claudia Wilner, *The Debt Collection Racket in New York: How the Industry Violates Due Process and Perpetuates Economic Inequality* at 3 (New Economy Project 2013) [hereinafter, "Shin and Wilner, *Debt Collection Racket*"], *available at* http://www.nedap.org/documents/DebtCollectionRacketUpdated.pdf.
[67] Sam Glover, "Has The Flood of Lawsuits Swept Away Minnesotans' Due Process Rights?" *William Mitchell Law Review* (2009), *available at* http://www.wmitchell.edu/lawreview/documents/9.glover.pdf.
[68] Ameet Sachdev, "Debt Collectors Pushing to Get Their Day in Court: More Aggressive Strategies Fill Court Dockets, Result in Mistaken Identities," *The Chicago Tribune* (June 8, 2008) [hereinafter "Sachdev, 'Debt collectors'"] *available at* http://articles.chicagotribune.com/2008-06-08/news/0806080066_1_debt-collectors-court-papers-pushing.
[69] *See, e.g.*, Rachel Terp and Lauren Bowne, *Past Due: Why Debt Collection Practices and The Debt Buying Industry Need Reform Now*, Consumers Union (Jan. 2011) [hereinafter "Terp and Bowne*, Past Due*"], *available at* http://www.defendyourdollars.org/pdf/Past_Due_Report_2011.pdf;
Wilner and Sheftel-Gomes, *Debt Deception*.
[70] Terp and Bowne*, Past Due.*
[71] Michael Rezendes and Francie Latour, "No Mercy For Consumers: Firms' Tactics Are One Mark of a System That Penalizes Those Who Owe," *The Boston Globe*, *available at* http://www.boston.com/news/special/spotlight_debt/part1/page1.html.
[72] Healy, *Dignity Faces a Steamroller*; Wilner and Sheftel-Gomes, *Debt Deception*; Terp and Bowne*, Past Due.*
[73] Wilner and Sheftel-Gomes, *Debt Deception* at 10-12.
[74] Shin and Wilner, *Debt Collection Racket* at 5, Chart 1.
[75] Wilner and Sheftel-Gomes, *Debt Deception* at 8.
[76] *Id.* at 7.
[77] Healy, *Dignity Faces a Steamroller*; Jim Gallagher, "Debtors Prison: It's Back and It's Here," *St. Louis Post-Dispatch* (Jan. 15, 2012), *available at* www.stltoday.com/business/columns/jim-gallagher/debtors-prison-it-s-back-and-it-s-here/article_4683672a-3be5-11e1-a381-001a4bcf6878.html.
[78] FTC, *Repairing a Broken System 2010* at 31-35.
[79] *See generally* Legal Services Corporation, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans, an Updated Report of the Legal Services Corporation* (Sept. 2009), *available at* http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf.
[80] Holland, *One Hundred Billion Dollar Problem* at 266; Julie M. Bradlow, "Procedural Due Process Rights of *Pro Se* Litigants," 55 *University of Chicago Law Review* 659 (Spr. 1988)
[81] Shin and Wilner, *Debt Collection Racket* at 3.
[82] Sachdev, *"Debt Collectors"*
[83] Healy, *Dignity Faces a Steamroller*; FTC, *Debt Report 2009*; Appleseed and Jones Day, *Due Process and Consumer Debt*; Wilner and Sheftel-Gomes, *Debt Deception*.
[84] Lauren Goldberg, *Dealing in Debt: The High-Stakes World of Debt-Collection After FDCPA*, 79 S. CAL. L. REV. 711, 741–42 (2006), *available at* http://lawreview.usc.edu/wp-content/uploads/slideshow/Goldberg_Lauren_79_3_New.pdf.
[85] John C. Rudolf, "Pay Garnishments Rise As Debtors Fall Behind," *The New York Times* (Apr. 1, 2010), available at http://www.nytimes.com/2010/04/02/business/economy/02garnish.html; Wilner and Sheftel-Gomes, *Debt Deception* at 17; Goldberg, *Dealing in Debt* at 45 (2006).
[86] FTC, *Debt Report 2009* at 55.
[87] Sachdev, "*Debt Collectors*"
[88] Shin and Wilner, *Debt Collection Racket* at 1.
[89] Healy, *Dignity Faces a Steamroller*.

[90] *Id.*; Sachdev, *"Debt Collectors"*; FTC, *Debt Report 2009* at 55-58; Wilner and Sheftel-Gomes, *Debt Deception* at 13.

[91] Healy, *Dignity Faces a Steamroller*.