



September 18, 2019

Ms. Kathleen Kraninger  
Director  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

**Re: Comments from NACA regarding the Proposed Rule on Debt Collection Practices (Regulation F), Docket No. CFPB–2019–0022, RIN 3170–AA41**

*Submitted via [www.regulations.gov](http://www.regulations.gov)*

The National Association of Consumer Advocates (NACA) appreciates the opportunity to comment on the Consumer Financial Protection Bureau’s proposed rule on debt collection practices.<sup>1</sup> NACA is a nonprofit association of private and public sector attorneys, legal services attorneys, law professors, and law students whose primary focus is the protection and representation of consumers. We are actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means.

Empirical research, consumer complaints, and consumer attorneys’ sharing of some of their clients’ experiences show us that the debt collection market is beset by unfair, deceptive, and abusive practices that harm ordinary people and their families. The time is ripe for substantive rulemaking that would strengthen existing protections available to consumers under the Fair Debt Collection Practices Act (FDCPA), the federal statute that became law more than four decades ago. But the CFPB’s exercise of its authority to issue a regulation on debt collection practices falls far short of addressing the dire need to reduce collection abuses and alleviate the related burdens on vulnerable people. Indeed, the current proposal does not address serious deficiencies in the debt collection market, such as substantiation of debt. The proposal also contains suggestions that would severely weaken existing consumer safeguards.

Earlier this month, NACA released a survey that reports consumers’ experiences through the eyes of attorneys who assist consumers with debt collection-related concerns.<sup>2</sup> The survey collects data about consumer attorneys’ experiences and interactions representing consumers with debts in collection, including matters related to collectors’ communications with consumers and attempted collection of time-barred debt. The survey snapshot also explored consumers and their attorneys’ experiences relative to a number of proposals in the CFPB’s plan. This comment letter borrows liberally from the survey results.

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<sup>1</sup> In addition to this comment letter, NACA is a signatory on other comment letters that address specific issues in the CFPB’s proposed rule.

<sup>2</sup> National Association of Consumer Advocates, *Advocates Mull the New and Old in Debt Collection, An Online Survey Snapshot: Consumer Attorneys Report on How Debt Collectors Treat Their Clients*, September 2019, [https://www.consumeradvocates.org/sites/default/files/naca\\_report\\_survey\\_debtcollectionpractices092019.pdf](https://www.consumeradvocates.org/sites/default/files/naca_report_survey_debtcollectionpractices092019.pdf).

### **The rule should prioritize an end to communications harassment.**

Collectors are relentless in their pursuit of consumers to collect debt. In our consumer attorney survey, most responding participants had consumer clients who received seven or more calls in a week from a debt collector. The survey question mirrored the CFPB's proposal which would allow debt collectors to make up to seven attempted calls per week per debt. It asked consumer attorneys to estimate how many consumers they represented in the past two years in cases where the consumer received seven or more calls in a week from a debt collector. Most responding participants – 79% of private attorneys and 74% of legal aid attorneys – had consumer clients who received seven or more calls in a week from a debt collector.

Overwhelmingly, most responding attorneys, 81%, have clients who were contacted by a debt collector even after the consumer asked the collector to stop calling. And 89% represented consumers in the past two years who were contacted by a collector even after the consumer told the collector that s/he did not owe the debt. The results also show collectors' willingness to disregard consumers' requests and the information consumers provide. Meanwhile, the CFPB's proposal would not require any protections against collections for debts not owed by consumers.

#### ***Excessive and harassing phone calls over a debt not owed, California<sup>3</sup>***

*Over the course of four months in 2017, Arthur Graham received over 350 calls on his cellphone attempting to collect on a debt he did not owe. During this time, it was not unusual for Mr. Graham to receive up to seven calls a day.*

*Mr. Graham's life had been spiraling since his wife's death in 2008. Shortly after her death, Mr. Graham fell behind on mortgage payments on his home in Littlerock, California and was forced to file bankruptcy. His home was foreclosed on in 2015 and sold and refinanced twice. At that point, Mr. Graham no longer had any financial obligations related to the house.*

*Yet in 2016, a collector began sending Mr. Graham letters attempting to collect on his previous mortgage. The calls to his cellphone began soon after. During at least one of these calls, Mr. Graham informed a representative that he had already discharged the debt that the entity was attempting to collect. Despite this, and repeated verbal requests to stop calling, the entity continued to call Mr. Graham on his cellphone multiple times a day.*

*As a result of the relentless collections calls, Mr. Graham became nervous and unable to sleep and developed a pain in his shoulder as a result of stress. Because of this, Mr. Graham had to begin taking prescription sleeping pills and visit a chiropractor to treat his pain. Mr. Graham works as a heavy equipment operator and needs to be well-rested before work lest he injure himself or others.*

*To finally put an end to the constant phone calls over a debt he did not owe, Mr. Graham filed suit against the collector alleging violations of the Fair Debt Collection Practices Act and the Rosenthal Fair Debt Collection Practices Act.*

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<sup>3</sup> All stories included in this comment letter were submitted by consumer attorneys.

### ***Harassing phone calls even after request to stop calling, California***

*Pauline Hanson is 62 years old and lives out of her car which she usually parks outside a local sheriff's office in Lancaster, California. Ms. Hanson had gone through a series of misfortunes: she had been laid off her job, moved to take care of her ailing father, and became homeless shortly after his death. On top of all of that, she had \$17,000 in credit card debt which she had no means of paying off.*

*That has not stopped the bank from trying. Beginning in August 2018, Ms. Hanson began receiving phone calls from the bank attempting to collect on the debt. They began by calling once a day and escalated until Ms. Hanson was receiving five collection calls a day.*

*During one of the first calls, Ms. Hanson spoke with a bank employee and explained in great detail that she was homeless, living off social security, and simply could not pay. She informed the representative that she was revoking consent for further phone calls and that she would reach out to them if her situation changed. Less than a week later, Ms. Hanson received a call from a bank representative offering to set up a payment plan. The representative claimed she was aware of Ms. Hanson's hardship but insisted on setting up a \$263/month payment plan. At the time, Ms. Hanson had less than \$200 to her name, but agreed to make a one-time \$50 payment in an attempt to stop further calls.*

*Neither the detailed explanation of her hardship, the explicit revocation of consent, nor the partial payment stopped the calls. For the next month, the bank called Ms. Hanson nearly every day. On two more occasions, she explained her hardship to bank representatives to no avail.*

*The constant phone calls put enormous pressure on Ms. Hanson to pay despite barely having enough money to feed herself. Each call heightened her stress and anxiety about her finances and living situation which were precarious to begin with. With no end to the constant harassment in sight, Ms. Hanson brought suit against Discover alleging violations of the RFDPCA and invasion of privacy.*

### ***Illegal threats and attempt to collect on debt not owed\*, Virginia***

*Mrs. W, a Virginia consumer, began receiving threatening calls from a debt collector related to an alleged debt in 2015. During the first of these calls one of the debt collector's employees claimed to work for the state government and that there were felony charges pending against Mrs. W. She further claimed that Mrs. W owed \$929 on a six-year-old payday loan and that she would be arrested if she did not pay later that day.*

*Mrs. W informed the employee that the loan was not hers but the employee continued to threaten her with jail time. At this point, Mrs. W was in tears and attempted to end the call but the employee refused to hang up. Instead, she handed the phone over to another employee who also claimed that Mrs. W must pay off the debt later that day. The second employee additionally*

*demanded Mrs. W give him the names of two references who could vouch for her in court. The first employee then threatened Mrs. W with felony charges again and accused Mrs. W of being a thief.*

*Mrs. W was distraught after the call ended and believed the police would be coming to arrest her at any moment. According to her grandson, Mrs. W seemed like she was on the verge of a heart attack. The extreme stress caused her to lose sleep and feel physical symptoms like increased blood pressure, heavy breathing, and pain.*

*A few weeks later, another employee called Mrs. W about the alleged debt. Mrs. W informed him about the previous call but the employee began insisting that Mrs. W pay immediately. Eventually, Mrs. W called the debt collector directly to ask about where she was supposed to send payments to. The debt collector could not locate Mrs. W's file and told her to ignore whatever she had been told previously. Following this exchange, the debt collector finally stopped contacting Mrs. W.*

#### ***Excessive, harassing phone calls; attempt to collect debt not owed, West Virginia***

*An anonymous West Virginia veteran with PTSD has been receiving constant debt collection phone calls day and night for the past five years. The veteran has asked the debt collectors numerous times to stop calling. Each time, the calls stop for a few months before resuming again all day and night. In addition to the phone calls about their debt, the veteran has also been contacted about a student loan that is not theirs. The veteran has told the collector multiple times that the debt is not theirs but the calls still continue.*

#### ***Excessive harassing phone calls, West Virginia***

*Debra Grimes receives multiple calls from debt collectors daily. She receives so many calls that she has stopped answering phone calls from unknown numbers. Ms. Grimes has become concerned that debt collectors will start going after her electronically as well. As a result, she has stopped giving out her email address to companies and agencies in order to avoid online harassment.*

#### ***Harassing calls, West Virginia***

*Velma Armstead is an elderly woman living in West Virginia. Ms. Armstead has no computer or cell phone. At one point, she was receiving two calls per day on debts that she and her husband accrued before he passed away. Receiving electronic messages about a debt would be impossible for her.*

#### ***Excessive, harassing calls; Attempt to collect on old debt that is not owed, West Virginia***

*Daniel Abram is a disabled Veteran with severe PTSD living in West Virginia who has been the victim of various forms of debt collection harassment. For six years, Mr. Abram received two to three debt collection calls per day, sometimes while he was at work. Even after retaining counsel, Mr. Abram still received calls every day. As a result, Mr. Abram feared he would lose his home and his relationship with his family suffered.*

*Mr. Abram has also received calls on an old debt that does not belong to him. The debt was taken out by his now ex-wife and her ex-husband. Mr. Abram's has attempted to explain that the debt is not his but the debt collector continues to attempt to call him.*

*Debt collectors have also contacted Mr. Abram by email. The email Mr. Abram received did not contain a privacy statement anywhere, causing Mr. Abram to believe it may be a scam or attempt to steal his identity.*

Overwhelmingly, the responding attorneys in our survey represent consumers with multiple student loan and medical debt accounts. The attorney survey results are consistent with the CFPB's own findings that show a majority of consumers were contacted by collectors about multiple debts. In a 2017 survey on consumer experiences, the CFPB reported that 57% of consumers who were contacted over the past year by a creditor or debt collector said they were contacted about between two and four debts. The bureau also reported that 16% of consumers were contacted about five or more debts.

The bureau proposes to limit calls to seven per week per debt. Our survey data and narratives show that consumers need more protections. Consumers with multiple debts could receive up to seven attempted contacts from debt collectors for each debt every week. The CFPB has acknowledged in its proposal its willingness to consider aggregating certain kinds of debt for communications purposes, such as medical debt and student loan debt. Given the survey responses on contacts, the bureau ought to consider further limits on collectors' attempted contacts with consumers. We urge the CFPB to limit debt collectors to one conversation per week per consumer and no more than three attempted calls per consumer.

**The rule should not allow collectors to text, email and direct message consumers without their prior express consent.**

The proposal would allow collector texts, emails, and direct communications without any apparent limitation. We urge the CFPB to only allow text, email, and direct message communications if a consumer gives consent. Phishing and scams are pervasive in electronic messages. Consumers are instinctively concerned about the privacy and security of messages they receive over the Internet. The risk of disclosure of consumers' private information to third parties from electronic communications should be a top consideration.

For these reasons, a consumer's consent should not transfer to any collectors from original creditors or prior collectors. The consumer should be empowered to make individual decisions on whether to accept and trust electronic communications from each collector.

Moreover, the CFPB's bid to formally allow emails and text messages to replace requirements for written notices of critical information would be deficient if it does not include assurances that

consumers actually receive these important notices. Collectors must comply with the E-Sign Act if they send validation notices by email. The CFPB should also clarify that E-Sign consent does not transfer from the prior creditors, debt collectors, or debt buyers. The CFPB should also refuse to exempt validation notices from the E-Sign consent requirement.

Our survey shows that some consumer attorneys are aware of consumer clients who have received emails and text messages from debt collectors while other lawyers are not, indicating that these communications are not yet widespread. It is an opportunity for the bureau to anticipate abuses by ensuring that consumers, in order to protect their privacy and security, are active in the decision-making on whether to receive and open these communications.

The survey also indicates that some consumers, particularly low-income consumers, do not have reliable access to electronic communications. Under CFPB's proposal, collectors may contact consumers through text or email without their specific consent. As reported, only 27% of attorneys said that in their experience "almost all" of their clients have reliable access to electronic communications. Other consumer clients may only have limited or unpredictable access to text and email. Some consumers may not receive important collection notices because they are unable to reliably access electronic communications. Others may mistake notices for spam or receive messages too late. If the CFPB is interested in ensuring that all consumers receive important information about debt that collectors claim consumers owe, allowing electronic communications without consent would be impractical where significant numbers of people do not have reliable access.

### ***Harassing calls and text messages about debt not owed, New Jersey***

*Stacey Salcedo, a New Jersey consumer, received incessant phone calls and text messages from a debt collector about an alleged debt she did not owe.*

*In early 2017, Ms. Salcedo called a telecommunications provider to ask about a new service. Soon after, she informed the provider that she was not interested in purchasing the service. Despite Ms. Salcedo's express wishes, the telecom provider sent her a large package of equipment. The provider refused to acknowledge the mistake and pick up the package. Instead, it demanded that Ms. Salcedo take it somewhere to be shipped back. Ms. Salcedo, who did not have a car and did not order the package, refused to do so.*

*Several months later a debt collector sent a letter to Ms. Salcedo attempting to collect on the alleged debt she incurred when she refused to return the equipment. The letter was followed by phone calls and text messages, all attempting to collect the alleged debt. At no point had Ms. Salcedo given the debt collector permission to contact her on her cell phone. Additionally, Ms. Salcedo informed the collector multiple times that she had disputed the validity of the alleged debt and repeatedly demanded it stop contacting her. However, the calls and texts continued.*

*The constant communications caused Ms. Salcedo physical and emotional harm as she no longer felt comfortable in her own home. She did not find relief until she retained counsel and settled with the collector.*

***Attempt to collect debt not owed (already paid); Threats to sue over time-barred debt that may have belonged to someone other than the consumer, West Virginia***

*Debt collectors have been harassing West Virginia consumer Connie Perrine for years. One collector repeatedly contacted Ms. Perrine about a debt that she had already paid in full. Eventually, the collector marked the account as “debt settled” instead of “paid in full” on Ms. Perrine’s credit, making it appear as if Ms. Perrine had not paid off the debt.*

*A debt collector has additionally threatened to sue Ms. Perrine over a 15-year old credit card debt that likely did not belong to her. Ms. Perrine informed the collector that she would pay the debt if the collector could prove it was hers. She was never contacted again about the debt.*

*Thanks to her bad experiences with debt collectors, Ms. Perrine is afraid that collectors are going to invade her privacy through the internet. She never clicks on any links that she receives via email, text, or social media for fear of exposing her private information. She does not respond to voicemails or missed calls either for fear of scams.*

**The CFPB should stop collection of old, zombie debt.**

The responses to the attorney survey on the collection of time-barred debt indicate that the CFPB can do more to manage attempted collection of old and expired consumer debt. Multiple courts have said that suits and threats of suit on time-barred debt violate the FDCPA. Yet, our survey indicates that collectors are aggressive in their attempted collection of time-barred debt. The vast majority of responding consumer attorneys has worked on cases involving attempts to collect on time-barred debt, threats to sue to collect on time-barred debt, and lawsuits against consumers to collect on time-barred debt.

The CFPB’s proposal on time-barred debt would bar legal actions against a consumer to collect on time-barred debt only if the collector “knows or should know” that the debts are expired. The CFPB is retreating from judicial determinations that suits against consumers to collect on time-barred debt are prohibited by the FDCPA. Courts have held that collectors must be responsible for knowing that a debt is time barred. Based on the survey responses, the bureau’s retreat with the proposed policy will intensify collection activity – attempts to collect and lawsuits – around zombie debt. The CFPB should simply prohibit outright the collection of time-barred debt and hold the collectors responsible for knowing the relevant statute of limitations.

Consumer attorneys were also certain about the effectiveness of written disclosures on time-barred debt. According to the survey participants, written disclosures do not help consumers understand their rights on time-barred debt. Only seven attorneys of 134 respondents said that their clients “usually” or “always” understand disclosures about time-barred debt. Meanwhile, 85% of legal aid attorneys said that their clients “rarely” or “never” understood the disclosures. The CFPB, which said that it plans to test consumer disclosures, must be mindful of how ineffective written disclosures can be, especially for the least sophisticated consumer. Written disclosures may not be enough to protect consumers’ rights related to time-barred debt, and consumers may need an additional more transparent action to ensure that their rights are not violated.

### ***Deceptive letters to collect on time-barred debt, and attempted revival of debt, Florida***

*Liznelia Baez and thousands of other consumers in Florida received deceptive letters attempting to collect on time-barred debts. A debt collector purchased tens of thousands of debts, including Ms. Baez's, for pennies on the dollar. In 2015, the collector sent a letter to Ms. Baez.*

*By 2015, the statute of limitations had run on Ms. Baez's debt. Florida law allows time-barred debts like Ms. Baez's debt to be revived if the consumer makes a partial payment. Nowhere in the letters did the collector tell Ms. Baez that making a payment could revive her debt and allow the collector to file suit for the entire balance.*

*The collector was aware that the debt was time-barred, as indicated by language in the letter referencing the age of the debt. Therefore, the collector should have disclosed the consequences of making even a small payment. Because the disclosure was missing, the collector's letters misled Ms. Baez and thousands of other consumers about the consequences of making a payment on a time-barred debt.*

### ***Suit to collect on time-barred debt and attempted revival of debt, South Carolina***

*Anthony Cochran was almost forced into a desperate situation by a debt collector. The collector sued him to recover a time-barred debt and attempted to use falsified documents to claim that he had revived the debt.*

*Mr. Cochran defaulted on a loan and after making his last payment in 2009. The statute of limitations for all debts in South Carolina, where Mr. Cochran lived, is three years. In 2018, the collector filed suit against Mr. Cochran even though the statute of limitations had already expired six years earlier. The collector attempted to claim that Mr. Cochran had actually revived the debt. They had a document showing that a payment had been made on the account in 2014.*

*Mr. Cochran was understandably confused by this as he had not made the payment. However, the document clearly showed a payment in 2014. The lawsuit against Mr. Cochran proceeded into the discovery phase. Only then did it come to light that the collector had falsified the document showing the 2014 payment. The lawsuit was promptly dropped once the collector's fraud was exposed. If it had never been discovered, Mr. Cochran would have ended up unnecessarily paying thousands of dollars to the collector to avoid the lawsuit.*

### ***Attempt to collect on time-barred debt discharged in bankruptcy, Arizona***

*Floriberto Gutierrez received multiple letters from a debt collector attempting to collect on debt that was discharged in bankruptcy nine years earlier. Mr. Gutierrez filed for Chapter 7 bankruptcy and had a \$6,500 debt to Wells Fargo discharged in 2009. This should have been the last that Mr. Gutierrez would hear about the alleged debt.*

*A debt buyer somehow purchased the debt in 2013 and shortly after became aware that the debt had been discharged in bankruptcy and that Mr. Gutierrez's last payment had been in 2008, meaning it would have been time-barred even if it had not been discharged. In 2018, the debt buyer even sent a letter to Mr. Gutierrez's bankruptcy attorney to ask if he still represented Mr. Gutierrez on the debt. When the attorney did not respond, the debt buyer began contacting Mr. Gutierrez directly.*

*In March, 2018, the debt buyer sent Mr. Gutierrez a letter attempting to collect on the alleged debt. The letter offered three different payment plans to Mr. Gutierrez, which the debt buyer claimed would help him save money. At no point did the letter disclose that the alleged debt was time-barred or that a payment could revive the statute of limitations thereby allowing the debt buyer to sue Mr. Gutierrez. The debt buyer sent another similar letter to Mr. Gutierrez several months later.*

*In addition to the letters, the debt buyer also called Mr. Gutierrez several times about the debt and made two hard inquiries on Mr. Gutierrez's credit without permission. Mr. Gutierrez's credit suffered and the constant communications from the debt buyer caused him immense stress because he believed he could be arrested over the debt.*

#### ***Attempted collection of time-barred debt, third-party communications, Florida***

*In 2012, a Broward County, Fla. Sheriff's Deputy, was seriously injured in an auto accident. He incurred medical debt specifically for the treatment of his injuries. One of his medical bills, remained unintentionally unpaid, and the legal right to collect the debt ultimately expired under Florida's statute of limitations. Thereafter however, a third-party debt collector began calling in an effort to collect on the medical bill, now in the status of being a "zombie debt."*

*The collector initially made numerous telephone calls directly to the Deputy Sheriff's father, and though limited by law to seeking only information on how to reach the deputy sheriff, called the deputy sheriff's father a "liar," and made aggressive statements, as a means to procure payment of the debt. At all times the collector was aware that the legal time period to collect the debt had passed. According to the deputy, the debt collector made threats with epithets in the numerous calls to him, and the collector sometimes continued to reach his father. Additionally, the debt collector undertook the same behavior with the deputy's attorney for the auto accident, who has signed a letter of protection on the bill which was inadvertently not paid but was also time barred.*

*The debt collector did not tell the deputy sheriff that the collector could not legally sue to collect on this or any other old, time-barred debt. The debt collector also failed to tell the deputy sheriff that if he provided even a nominal partial payment, this action would revive the collector's ability to sue to collect the balance on the old debt.*

*The deputy sheriff sued the collector alleging that its alleged actions violated the Fair Debt Collections Practices Act (FDCPA) because (1) by communicating with the deputy sheriff's father at least five times, even though a debt collector is generally restricted from communicating with others when trying to collect a debt; (2) by going on "obscene, profanity-laced tirades," against the deputy sheriff and his father; (3) and by misleading an unsophisticated consumer by failing to disclose that the debt was time-barred, and collection of the debt was not legally enforceable in a collection lawsuit.*

***Threats, collection and garnishment of debt not owed (it was paid 10 years earlier), Maryland***

*Renee Spencer, a Maryland consumer and two-time cancer survivor was threatened by a debt collector and had her wages garnished for a debt that had been paid off a decade earlier. Despite being presented with evidence that the debt had been settled, the collector ended up garnishing over double the amount of the original debt owed.*

*In 2005, Ms. Spencer's wages were garnished for close to \$3000 to settle an alleged breach of a lease. Ten years later, the collector began contacting Ms. Spencer, claiming the original judgement had never been paid. Even after Ms. Spencer informed the debt collector's representative that the debt had been settled years ago, the collector continued to contact her. In 2016, Ms. Spencer received a letter from the collector threatening to pay people for her personal information, seize her assets, and publish information about her debt on social media.*

*A few months later, Ms. Spencer's employer informed her that the collector would begin garnishing her wages. At this point, Ms. Spencer had just returned to work after receiving extensive cancer treatment including two major surgeries. Without her full wages, Ms. Spencer would have great difficulty paying her medical expenses and other bills that had built up during her treatment period.*

*Ms. Spencer attempted to challenge the garnishment in court and provided evidence that the debt had been paid off in 2005. The collector claimed Ms. Spencer still owed around \$1750 and provided a record of garnishments from 2016 and 2017 as proof. The court sided with the collector and they continued to garnish Ms. Spencer's wages.*

*Several months later, Ms. Spencer filed a motion in court and attached all statements from her employer that showed the debt had been paid in 2005. The collector filed a notice of satisfaction that the judgment had been paid in full a few weeks later. As a result, the matter was considered closed and the court never heard Ms. Spencer's motion.*

*In total, the collector garnished over \$6000 from Ms. Spencer, over double the amount of the original judgment. Even after it became clear that the collector had made a mistake, at no point did the collector end the garnishment or offer to return Ms. Spencer's wages.*

*Because she lost part of her wages, Ms. Spencer fell behind on bills and could not afford necessary home repairs.*

### **Limited-content messages. The CFPB should not exempt any forms of communication from the FDCPA**

Debt collectors are generally prohibited from communicating with third parties about a consumer's debt, excluding requests for a consumer's location. Even with the law clear on the limitations, lawbreaking debt collectors violate consumers' privacy with impunity by sharing their personal information with third parties.

The bureau's proposal to offer limited-content messages, including a proposal that may reference "accounts," would invite more abuse and intrusions on consumers' privacy. The bureau would exempt limited content messages from the definition of "communication" under the FDCPA. It would invite limited content voicemail, text, and direct messages for consumers without basic disclosures. The CFPB should not exempt any forms of communication from the FDCPA and must require collectors to respect privacy in all communications. We urge the bureau to abandon its proposal regarding limited-content messages.

#### ***Contact with third party and disclosure of attempted debt collection, California***

*Trever Declue, a California service member, had his military career jeopardized by abusive debt collection tactics. Corporal Declue was a member of the United States Marine Corps stationed at Camp Pendleton when a credit union began an aggressive phone campaign to collect an alleged debt.*

*Not only did the credit union contact Corporal Declue repeatedly about the debt, it went very high up his chain of command. Among those that Navy Federal called were a staff sergeant, a first sergeant, a captain, and a lieutenant colonel. On more than one occasion, Corporal Declue demanded Navy Federal stop contacting his chain of command. However, the credit union continued to contact Corporal Declue's chain of command many times.*

*Because of the credit union's numerous phone calls, Corporal Declue was reprimanded at work. His chain of command looks at him negatively and his chances of ever being promoted have plummeted. As a result of the credit union's illegal conduct, Corporal Declue's entire military career has been jeopardized.*

#### ***Third-party contact revealing attempt to collect debt, California***

*An anonymous California consumer had an eviction entered against her along with a judgment for past-due rent. The landlords quickly sold the judgment to a debt collector who began harassing the client to pay. As a condition for working out a payment plan, the debt collector had the consumer sign a "settlement agreement" which included "late fees" and an agreement to pay attorneys' fees in the event of a "breach."*

*When the consumer later fell behind, the debt collector made an unsolicited offer to come to the consumer's workplace - which the consumer had never disclosed - to "help" work out some kind of agreement. When the consumer expressed alarm at this suggestion and told the debt collector not to bother them at work, the collector feigned confusion. Later, the collector called the consumer's workplace, spoke with one of their consumers, and stated that the call was about an unpaid debt.*

***Excessive, harassing phone calls; third-party contact and disclosure of debt collection, West Virginia***

*Karen Payne, a West Virginia consumer, is harassed by debt collection calls multiple times a day. She has requested that the calls stop, but the collectors continue to call. She no longer answers phone calls from unknown numbers to avoid having her daily life disrupted.*

*On top of the constant phone calls about her debt, Ms. Payne is also stuck dealing with her son's debt. Collectors have been sending letters about her son's debt to Ms. Payne even though her son does not live with her. Even worse, a collector has withdrawn money from Ms. Payne's bank accounts to pay for her son's debt. Ms. Payne has informed the collector that her son does not live with her and that she is not responsible for paying his debt. Despite this, the collector has refused to stop sending letters or return the money.*

**Debt collection attorneys should remain fully accountable under the law.**

Debt collection attorneys send mountains of letters each year to consumers to collect on debt. The FDCPA prohibits false, deceptive or misleading representations by debt collection attorneys. The law has been interpreted to regulate collection communications sent under an attorney's name based on whether the attorney was "meaningfully involved" in the communications to the consumers.

Lack of meaningful attorney involvement under FDCPA would mean that the collectors made false or misleading statements in collection letters from attorneys to consumers about the level of attorney involvement, including misrepresentations that they reviewed a consumer's account information, when they had not. As a result, lawsuits may be filed against the wrong person or for the wrong amount.

The proposed rule offers to protect attorneys from claims that they violated rules against false, deceptive, or misleading representations as long as they review unspecified "information," without requiring the attorney to do an adequate review of admissible evidence before filing a lawsuit.

The CFPB should require collection attorneys to review original account-level documentation of alleged indebtedness and make independent determinations that they are filing a lawsuit against the right person, for the right amount, and that their client has the legal authority to do so. The bureau should not grant debt collection attorneys a "safe harbor" from liability when they make false or misleading statements about their involvement in cases.

Finally, we thank the bureau for certain improvements that will assist consumers, including prohibiting collectors from parking consumers' debts on their credit reports and prohibiting the sale of certain debts, such as those that are paid or discharged in bankruptcy.

Thank you for this opportunity to comment in response to the proposed rule, Debt Collection Practices (Regulation F). If you have any questions or concerns, please contact Christine Hines, Christine @ consumeradvocates.org.