



THE FLORIDA BAR CONSUMER PROTECTION LAW COMMITTEE

COVID-19 AND DEBT COLLECTION

JUNE 9, 2021

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LEGAL DISCLAIMER

This information is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored for specific circumstances of each case. Every effort has been made to ensure that this information is up to date as of the date of publication.

It is not intended to be a complete and exhaustive explanation in the law in any area, nor shall it be used to replace the legal advice of your own legal counsel.

KEY TOPICS FACING CONSUMERS AND DEBT COLLECTION IN 2021

1. FDCPA Related Issues
 2. CFPB New Rules and Compliance Issues
 3. FCRA/TCPA Debt Collection Related Issues
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FDCPA RELATED ISSUES

1. Article III Standing - *Trichell* and the pending *Ramirez v. TransUnion, LLC*, 951 F.3d 1008 (9th Cir. 2020), cert. granted *TransUnion LLC v. Ramirez*, 2020 U.S. LEXIS 6101 (U.S., Dec. 16, 2020)
2. Reflecting accurate account balance
3. Verifying accurate and legitimacy of account debt obligation
4. Sufficiency of Debt Verification materials
5. Electronic Communications (emails, text message collections)
6. Avoiding false, misleading and deceptive statements in debt collection communications
7. Collection of fees, charges and expenses and providing itemization of charges in debt collection communications
8. Collecting accounts that are barred by worker's compensation immunity statutes
9. Handling oral and written disputes in compliance with 1692e(8) claims
10. The status of *Hunstein* and its impact on the letter vendor/debt collector relationship

CFPB NEW RULES COMPLIANCE ISSUES

1. Establishing pre-collection protocols before credit bureau reporting (mail returns or undeliverable mail)
2. Drafting Collection Letters that are compliant with 1692g(a) (first notice) and 1692g(b) (overshadowing/contradiction)
3. CFPB Regulatory Enforcement and Compliance Review (Undetermined New Administration Policies)
4. Adjusting call frequency protocols to fall under CFPB “safe harbor” provisions
5. Adjusting to new “decedent debtor” protocols in locating executor and sending validation statement
6. Reviewing protocols to ensure collection of debt is not beyond statute of limitations or otherwise time-barred debt

FCRA/TCPA DEBT COLLECTION RELATED ISSUES

1. Complying with reasonable investigation standards under FCRA
2. Complying with non-ATDS telephonic or text communications.
3. Providing technical for right party communications and/or prior express consent under the TCPA
4. Constitutionality of the TCPA- *Lindenbaum v. Realgy, LLC*, 2020 U.S. LEXIS 201572 (N.D. Oh. October 29, 2020) (on appeal with the Sixth Circuit Court of Appeals)

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THANK YOU

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