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Contact: Elisa Della-Piana
(510) 847 – 3001
edellapiana@ebclc.org

East Bay Community Law Center Submits Comprehensive Report to CFPB

Drawing upon its experience helping thousands of consumers, East Bay Community Law Center participates in rulemaking process at the Consumer Financial Protection Bureau to change the future of debt collection

Last week, the East Bay Community Law Center (EBCLC) submitted [extensive comments](#) to the federal Consumer Financial Protection Bureau detailing abusive practices in the debt collection industry and proposing ways to rein in those practices and make life better for low-income consumers. In response to the Bureau's Advance Notice of Proposed Rulemaking, EBCLC's Consumer Justice Clinic—which has seen over 3,000 debt collection clients in the past 6 years—offered remedies for the extensive ills plaguing the debt collection industry.

The comments draw upon EBCLC's co-sponsorship of California's landmark debt collection bill, the Fair Debt Buying Practices Act (Senate Bill 233), which was co-sponsored by Attorney General Kamala Harris's office and authored by Senator Mark Leno, and took effect for debt sold after January 1, 2014. The new law seeks to put an end to many of the abusive practices that debt collectors have routinely engaged in, from suits on time-barred debt, to sales of settled accounts, to lawsuits built on no more evidence than a line on a spreadsheet.

In its comments, EBCLC calls for changes that would help put a stop to consumers receiving – often mistakenly – incessant and aggressive calls by debt collectors. EBCLC is calling for a limit on the total number of communications that a debt collector can make to a consumer in a single week. It is advocating rules that would let consumers know about their right to tell debt collectors to stop contacting them entirely. And it is calling on the Consumer Financial Protection Bureau (CFPB) to require that debt collectors have documents and information that prove that they have the right debt, the right person, and the right amount before they begin communicating with consumers. This last requirement is the focus of California's newly enacted Fair Debt Buying Practices Act.

Reform of the debt collection industry is long overdue. Debt collectors have bullied consumers with unscrupulous tactics for decades, and the recession only made things worse. Consumers and regulators have lacked the tools to fight back because the primary federal law that governs debt collection practices, the Fair Debt Collection Practices Act, has not been updated for 35 years.

With the passage of the Dodd-Frank Act in 2010, however, federal regulators finally have the ability to update the law and fill in the loopholes. The CFPB launched into the process energetically, seeking data about ongoing problems and proposed fixes through 162 separate questions that together sketch out a far-reaching program of reform. The CFPB called on consumers, debt collectors, advocates and others for comments and answers to its questions.

That call represents a once-in-a-generation opportunity to reform an industry that every year causes more consumer complaints than any other.

“Our Comments are aimed at a simple goal,” said Ted Mermin, the report’s principal author and EBCLC Senior Advisor. “To ensure that consumers are respected and protected. As a society, we’ve let debt collectors play by different rules: Harassing consumers by calling them 5 times a day, collecting money from consumers who never owed it, improperly seizing social security benefits from consumers’ bank accounts. The lawless behavior needs to stop. And these new Rules, done right, could go a long way to making that happen.”

EBCLC works on the front lines battling collectors’ abusive practices as part of its broad consumer protection and debt defense practice, including its new Immigrant Consumer Justice project. The 230-page Comments—including 94 pages of text woven with stories from individual clients, 10 pages of student-authored analysis of specific issues, and more than a hundred pages of attachments—draws on EBCLC’s deep experience and expertise, the strength and resilience of its clients, and the energy and skill of the students who allow the Center’s clinics to thrive.

“I have seen countless clients sued by debt collectors on debts they never owed or have already paid,” said Megan Ryan, Director of EBCLC’s Consumer Justice Clinic. “Debt collectors get away with behavior we wouldn’t tolerate from any other industry. We welcome the CFPB’s efforts and we wanted to make sure that the voices of low-income consumers were heard.”

Debt collectors routinely buy debts for pennies on the dollar, sue the wrong person for the wrong amount—often without proper notice—and win up to 95% of cases in default judgments, without any argument by the person being sued. With a default judgment in hand, the collectors can then garnish a person’s wages and levy their bank accounts.

Ryan added, “And those clients who have fallen on tough economic times, as a result of a foreclosure, medical emergency, divorce, or a lost job, also deserve to be treated fairly and with dignity by debt collectors.”

With SB233 and input on the the upcoming federal Rules, EBCLC is working to make life a little easier for those who fall on economic hard times, and to make sure that all consumers are treated with fairness and with dignity.

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The East Bay Community Law Center provides free legal services to eligible East Bay clients. Since its founding in 1988 by law students at UC Berkeley's Boalt Hall School of Law, EBCLC has become the largest provider of free legal services in the East Bay. To learn more about EBCLC, go to www.ebclc.org. EBCLC's Consumer Justice Clinic offers legal assistance to low-income residents of Alameda County on a wide range of consumer issues, including debt collection defense, lawsuits relating to credit cards and consumer debt, consumer protection, identity theft, car fraud, and DMV issues, among many others.