

Turning the Tables: How You Can Turn Your Debt Collection Lawsuit into an FDCPA Action Against Junk Debt Buyers

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With increasing regularity I am seeing clients who initially are sued by a junk debt buyer like [Midland Funding](#), [Portfolio Recovery](#), or [CACH, LLC](#) turn the tables on the debt buyer and file a claim for violations of the [Fair Debt Collection Practices Act \(FDCPA\)](#).

Debt buyers have two things working against them: first, they deal in huge volume. It is nearly impossible for them to truly understand what it is they are suing on or to really know any specifics about your case. Second, they pay very little for their accounts (on average about 4 cents on the dollar). Because they pay very little they get very little; they often don't have any real evidence to support their claims – which is a big “no” under the FDCPA.

Debt Buyer Makes a Surprising Revelation

Recently I had a trial against one of the debt buyers and I was cross-examining their custodian of records when he made a pretty astonishing revelation – they couldn't prove what the interest rate was on the account they were suing on. This confession came about because I asked him what should have been a pretty simple question – what is the interest rate on this debt you are suing on?

He didn't know.

I pointed out that just 9 months prior they had sent a demand letter to my client asking for a large lump sum of money along with interest at the rate of 10%. He responded by stating that they were no longer seeking interest because they couldn't prove what the actual rate was (it wasn't 10%).

This acknowledgment by the debt buyer that it couldn't prove a basic element of its case like the interest rate not only helped seal the deal in winning the case, but also gave rise to a claim under the FDCPA.

The FDCPA prohibits debt collectors (including debt buyers) from doing anything that is **unfair, untrue, undignified, or disrespectful**. If a debt collector violates the FDCPA the law requires that the debt collector pay statutory damages up to \$1,000, your legal fees, and any actual damages.

Sending a demand letter to consumer asking them to pay interest at a rate that the debt buyer can't prove strikes me as a little "unfair and untrue". This debt buyer will be hearing from me soon :).

Sued by a Debt Buyer? Check out this video course on "[How to Draft an Answer to a Debt Buyer Lawsuit](#)".



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