AFSA Debt Collection Working Group
Bureau Debt Collection Rule Discussion
As of Sept. 24, 2018
-- DRAFT --

Purpose: The purpose of this document is to act as a thought-starter for issues related to debt collection that AFSA members would like to see addressed by the rulemaking process by the Bureau. Congress enacted the Fair Debt Collection Practices Act (FDCPA) in 1977 and we are recommending that the Bureau implement rules ~~proposing changes~~ to clarify and modernize the FDCPA. ~~provisions that have been problematic.~~ The reasons and recommendations presented below draw on a variety of sources including the Bureau debt collection SBREFA outline, debt collection litigation, prior FTC guidance under the FDCPA, and industry practice.

Definitions

Section 803 (15 USC 1692a(2)). "Communication" is defined as "the conveying of information regarding a debt directly or indirectly to any person through any medium."

Reason: Modernize the definition to include new technology.
Recommendation: Clarify that electronic communication is permissible – potentially using language that aligns with similar modernization efforts such as the UCC 9-102(70) definition of records, which means "information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form."

Section 803 (15 USC 1692a(6)). The term "debt collector" means any person who . . . regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another . There are several exceptions to the term, and AFSA recommends revisions to the following exceptions: ~~term does not include~~
(A) any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

Reason: To modernize the definition of "debt collector" to take into account staffing models that include agency, independent contractors, and temporary workers.
Recommendation: Clarify that "employee" includes temporary agency employees onsite or, if the employee is offsite, the employee is under the management of the creditor and follows the creditor's procedures. See prior FTC staff opinions such as DeMayo.

Reason: To modernize the definition of "debt collector" to take into account funding arrangements, such as securitization and whole loan transactions. In auto financing for example, the transaction takes place at a dealership as part of the vehicle sale process. Whether the dealer performs this function as the original creditor and immediately assigns the contract to a finance source or whether the dealer acts as the agent of the finance source should not preclude the applicability of this exception. To the consumer, those transactions are indistinguishable. In fact, even to dealers they are nearly indistinguishable because dealers frequently have an agreement with a finance company to purchase the contract even before the contract is completed.

Commented [CW1]: Should this definition include 1st party creditors who receive debt when it is in default or is that covered by a section below?

FC: We agree and propose addressing this in a clarification to clause (F) described below.

Commented [CW2]: Is there an opportunity to expand on this?

FC: We agree that there is a benefit to clarifying a broad interpretation of this provisions through the proposed recommendations.

Commented [CW3]: The definition of "debt collector" needs more clarification.

FC: We cannot change the definition, but we can ask for additional clarifications. This comment addresses securitization, but additional sections can be added for members who have additional clarification ideas.

Recommendation: Clarify that, for purposes of this section, use of the term "creditor" includes servicers as used under Section 803 (15 USC 1692a(6)(F)(iii)).

(F) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity . . . (ii) concerns a debt which was originated by such person. . . .

Reason: To remove the arbitrary distinction between direct and indirect financing transactions. In auto financing for example, the transaction takes place at a dealership as part of the vehicle sale process. Whether the dealer performs this function as the original creditor and immediately assigns the contract to a finance source or whether the dealer acts as the agent of the finance source should not preclude the applicability of this exception. To the consumer, those transactions are indistinguishable. In fact, even to dealers they are nearly indistinguishable because dealers frequently have an agreement with a finance company to purchase the contract even before the contract is completed.
Recommendation: Clarify that the term "originated by such person" includes 3rd party transactions and indirect financing. This would include parties that acquire contracts shortly after origination and before any possible payment default. ~~The definition may need to be different based on asset class (e.g., use of the UCC's purchase money security interest (PMSI) would be an appropriate standard for retail financing but would not work for lease financing).~~

(F) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity . . . (iii) concerns a debt which was not in default at the time it was obtained by such person. . . .

Reason: To provide a bright line rule for funding arrangements, such as securitization and whole loan sales, that recognizes the timing needs for creating the pools for those transactions. Agreements representing a consumer debt have payment due dates and failure to make a payment by that date is technically a "default" under the agreement but has no significance to the consumer. Using such a narrow and technical approach for application of this exception does not reflect the reality of the relationship and unnecessarily complicates funding transactions and other transfers.
Recommendation: Clarify that the term "in default" means the point in time in which "negative information" ~~was~~ would be reported to the Credit Reporting Agencies as defined under the Fair Credit Reporting Act (FCRA) or ~~if not reported, then~~ as default is defined in the underlying agreement with the consumer. See FCRA Section 623 (15 USC 1681s-2(7)(G)(i)).

Section 803 (15 USC 1692a(7)). "Location information" is defined as "a consumer's place of abode and his telephone number at such place, or his place of employment."

Reason: The definition is ambiguous because there are two interpretations: 1) a debt collector has location information only when it has all three pieces of information -- a consumer's address, phone number, and place of employment; or 2) a debt collector has

Commented [CW4]: Additional language will be provided by AFSA's state government affairs department.

FC: Added language based on Danielle's email 7/19/18.

Commented [CW5]: Members preference would be to use a 1st party model, even when the debt is in default. This definition may need to be improved to capture that.

What about changing it to a debt that was not deemed in default by the creditor? However, that may not be a bright line. Also, we are limited by statutory language.

Needs more clarification

FC: We don't think there is an argument that anything more than 30 days is not in default unless the payment terms are longer, in which case, the terms of default will be captured in the agreement. This gives creditors flexibility. Open to alternative language.

Commented [CW6]: There should be a qualifier. Location information should not be just any address or phone number, but a good address or phone number. In other words, if you have someone's number, but it's not working, that should not count as having the person's location information.

FC: The phone number or address are not good if they are not the customer's, e.g., the phone line is disconnected, the number called is a wrong number, or mail is returned. Thus, if those events happen, you do not have location information. If someone does not purposefully answer the phone, then you may still have location information even though you think that you have a bad number. We could request that, say, after thirty days, if someone does not respond, then we do not have location information. That may go too far in expanding the definition of location information.

location information if it only has one piece of information – an address, a phone number, or place of employment.
Recommendation: A debt collector does not have "location information" if it is missing one of the following pieces of the consumer's information: Consumer's address, phone number, and place of employment. Consider whether the rule should modernize the FDCPA by including electronic means of communication such as email.

Reason: When debt collectors are unable to connect with consumers at the consumer's phone number, address, or place of employment, it can be unclear whether the debt collector has the consumer's location information.
Recommendation: Debt collectors should be permitted to seek location information if the debt collectors have a reason to believe that they have incomplete or incorrect location information.

Commented [CW7]: Amend 15 U.S.C. § 1692a(7) so it reads as follows: (7) The term "location information" means a consumer's usual place of abode, a consumer's current telephone number, or a consumer's place of employment. A debt collector shall not have a consumer's location information until it acquires all of the foregoing.

FC: We do not think the Bureau is planning to amend the law. A clarifying rule is more likely. Added new language with respect to when location information is appropriate.

Acquisition of Location Information

Section 804 (15 USC 1692b(1-3)). Any debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall --

(1) identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his employer;

(2) not state that such consumer owes any debt;

(3) not communicate with any such person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information.

Reason: When a debt collector has contacted a third party for location information, it should be able to leave messages for the consumer with the third party if the third party asks to take a message and the message does not violate the law.
Recommendation: Clarify that debt collectors are permitted to leave messages with people from which a debt collector is seeking location information. When seeking location information, debt collectors should be permitted to leave a voicemail or similar message requesting that third party returns the communication (e.g., employee's name, number, and request for the third party to return the call).

Reason: Third parties ask why is an entity contacting them. When debt collectors tell third parties that the third party is being contacted for location information of a consumer, some third parties become suspicious and/or confused. To alleviate third party concerns with disclosing the information, it would be helpful if the debt collector could disclose to the third party that the third party is a reference if the consumer cited the third party as a reference.
Recommendation: For third parties that the consumer designated as references, allow disclosure that the person is reference.

Communication in Connection with Debt Collection

Section 805 (15 USC 1692c(a)(2)). "[A] debt collector may not communicate with a consumer in connection with the collection of any debt if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer."

Reason: "Reasonable period of time" is undefined. Although some states require thirty days, it is too long when consumers may suffer consequences (e.g., repossession, delinquencies, etc.) when the attorney does not respond.
Recommendation: Clarify that an attorney must respond within 10 business days after the debt collector has left a phone message, sent an e-mail, or sent a letter to the attorney.

Section 805 (15 USC 1692c(b)). Communication with third parties. Except as provided in section 804 [15 USCS § 1692b], without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.

Reason: Clarify that third party communication is *actual* disclosure to a third party rather than potential disclosure. Litigants argue that a message left on an answering machine and the like has *potential* for disclosure and, thus, violates the law. Instead, the Bureau should provide guidance that the FDCPA is violated when there is actual disclosure to third parties.
Recommendation: Provide guidance that *actual* disclosure is the standard for violating the FDCPA.

Section 805 (15 USC 1692c(d)). For the purpose of this section, the term "consumer" includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator.

Reason: The definition of "consumer" for contact purposes should include not only an estate and administrator but also parties responsible for handling the estate ~~"responsible parties."~~. When a consumer dies, sometimes there is no estate and no informal/formal probate. The FTC adopted in its 2011 policy statement that debt collectors can ~~collect from~~contact the person responsible for paying the deceased consumer's bills from the estate's assets to discuss payment by the estate. Being able to contact people responsible for handling the affairs of the estate makes it easier on the friends and family of the deceased consumer so that small estates do not need to go through the probate process.
Recommendation: Clarify that for purposes of this section, contacting "responsible parties" following the FTC guidance. Consider whether there should be a requirement for the debt collector to make it clear to the responsible party that he/she does not

Commented [CW8]: Clarification as to the meaning of "conveying of information regarding a debt" (communication) courts have different interpretations. Is it to collect? Or do you reference it? Should the disclaimers be in texts? For example – please call me – does that count?

FC: We believe that we have addressed it in the definitions and 1692e(11).

personally need to pay the debt and payment should only come from estate assets or individuals obligated under the contract.

Harassment or Abuse

Section 806 (15 USC 1692d(5)). Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

Reason: The Bureau is concerned with debt collection call frequencies. The Bureau proposed in the SBREFA outline the following:

Permissible Consumer Contacts (or Contact Attempts) Per Account Per Week		
Collector Activity	Collector Does Not Have Confirmed Consumer Contact	Collector Has Confirmed Consumer Contact
Attempts per unique address or phone number	3	2
Total contact attempts	6	3
Live communications	N/A	1

Recommendation: The grid has arbitrary limits on the number of contacts, which is not appropriate. Clarify that the appropriate call frequency should be determined based on all the relevant facts and circumstances including risks to the consumer~~. For example~~ such as negative credit reporting, repossession, foreclosure, external collections, lawsuit filing, etc.

Commented [CW9]: The number of calls allowed could affect the depreciation of an asset or whether a vehicle is repossessed.

FC: Depreciation is a creditor rather than a consumer concern. Listed the negative consequences that could affect consumers including repossession.

False or Misleading Representations

Section 807 (15 USC 1692e(2)(A)). A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: The false representation of – the character, amount, or legal status of any debt.

Reason: The Bureau is concerned with time-barred debt, obsolete debt, and state revival statutes. Many consumers do not understand statute of limitations.[1] The Bureau proposed that debt collectors provide consumers with disclosures, stop collecting on the debt, or

[1] For reference, time-barred debt is debt beyond the state statute of limitations. Obsolete debt is debt that cannot be reported to the Credit Reporting Agencies under the Fair Credit Reporting Act. State revival statutes allow a debt collector to revive the state statute of limitations after a customer makes a payment.

not accepting the consumer's payment without a written statement to acknowledge that the debt is time-barred, obsolete, etc.
Recommendation: Clarify that the rule should create a safe-harbor language with regard to time-barred debt, obsolete debt, and revival statutes. When the debt reaches the statute of limitations or becomes obsolete, the next notice sent to the customer would contain the following information depending on whether the debt was time-barred, obsolete, or both. This would be a one-time notification.

Time-barred debt: State law may limit how long you can be sued on a debt. Because of the age of your debt, you cannot be sued for it. If you do not pay the debt, it may be reported to a credit reporting agency. In some states, making a payment or a promise to pay could restart the statute of limitations. Please ask a lawyer if you have any questions.

Obsolete debt: The law limits how long your debt can be reported to the credit reporting agencies. Because of the age of your debt, your account will not be reported to any credit reporting agencies by the holder of your debt. Please ask a lawyer if you have any questions.

Section 807 (15 USC 1692e(5)). The threat to take any action that cannot legally be taken or that is not intended to be taken.

Reason: The Bureau is concerned that consumers do not understand the implications of debt collection lawsuits and default judgments. Many consumers do not defend the litigation because of lack of resources or familiarity with the judicial system. The Bureau is concerned that sometimes debt collectors cannot substantiate the debt and a default judgment is rendered anyway because the consumer did not defend his/her rights in court. The Bureau proposed a "litigation disclosure" in all written and oral communications that would inform the consumer of the consequences of litigation.
Recommendation: Clarify that debt collectors do not always bring a lawsuit so any disclosure should only be used when they intend to sue.

Section 807 (15 USC 1692e(8)). Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

Reason: There is case law that interprets the requirements of 15 USC § 1692e(8) as distinct from FDCPA 15 USC § 1692g(b) and FCRA 15 U.S.C. § 1681s–2. *See e.g.*, Evans v. Portfolio Recovery Associates, LLC, 889 F.3d 337 at 347-48 (7th Cir., April 18, 2018). The courts recognize that the FDCPA does not define "dispute". In *Evans*, the Seventh Circuit looked to Merriam-Webster Dictionary for a definition. *Id.* at 346. The Bureau can define "dispute" to better align from FDCPA 15 USC § 1692g(b) and FCRA 15 U.S.C. § 1681s–2 with 15 USC § 1692e(8) so that debt collectors' obligations are clear and consistent.
Recommendation: The Bureau should define "dispute" in the same way that the FCRA defines dispute so that debt collectors do not need to report that a debt is disputed when they receive frivolous disputes, i.e., disputes that are not defined or are duplicative. 15 U.S.C. § 1681s–2 (a)(8)(F)(i) and 16 C.F.R. § 660.4 provide guidance about what a

Commented [CW10]: Does anyone have ideas for safe harbor language?

Should we ask for preemption from state laws if the financial institution complies with the federal standard?

The disclosure is not necessarily needed with every communication with the debtor. For example, if a consumer and financial institution have entered into a workout, the disclosure should not have to be given. In other words, there should be a distinction between reaching out to a consumer and when a consumer has a payment plan.

FC: Open to safe harbor language. With respect to the safe-harbor language not being on all documents relating to the debt that qualifies for the language, we think it is the Bureau's intention that consumer is educated on the status of the debt. Leaving it off of a workout agreement may be misleading because the consumer may not realize the consumer no longer needs to pay the debt. Also, if it is on some documents and not on other documents, the inconsistent use of the disclosure may lead to more confusion and litigation.

With respect to preemption, the FDCPA states:

This title [15 USCS §§ 1692 et seq.] does not annul, alter, or affect, or exempt any person subject to the provisions of this title [15 USCS §§ 1692 et seq.] from complying with the laws of any State with respect to debt collection practices, except to the extent that those laws are inconsistent with any provision of this title [15 USCS §§ 1692 et seq.], and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this title [15 USCS §§ 1692 et seq.] if the protection such law affords any consumer is greater than the protection provided by this title [15 USCS §§ 1692 et seq.].

"dispute" is and this definition should be adopted when interpreting the FDCPA. 15 U.S.C. § 1681s–2 (a)(8)(D) states:

> Submitting a notice of dispute. A consumer who seeks to dispute the accuracy of information shall provide a dispute notice directly to such person at the address specified by the person for such notices that—
>
> (i) identifies the specific information that is being disputed;
>
> (ii) explains the basis for the dispute; and
>
> (iii) includes all supporting documentation required by the furnisher to substantiate the basis of the dispute.

Section 807 (15 USC 1692e(10)). The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

> Reason: Many companies securitize or turn over the servicing of accounts to servicers. A consumer may only ever know the name of the servicer in connection with the consumer's debt. A servicer that qualifies under Section 803 (15 USC 1692a(6)(F)(iii)) may not be able to use the servicer's name that the consumer knows, but instead may have to use the name of a technical financing entity, like a trust. This may be confusing to a consumer.
> Recommendation: It is not a false statement for the servicer, under the servicer exception under Section 803 (15 USC 1692a(6)(F)(iii)), to be referenced as the creditor when the servicer is the only "creditor" the consumer has ever known.

Section 807 (15 USC 1692e(11)). The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.

> Reason: Given the development of new methods of communications since the FDCPA was enacted in 1977, consideration should be given to how the Section 807 communications should be given in text messages and other short form methods of communication, which are not conducive to conveying large amounts of information to the consumer and giving the "mini-Miranda".
> Recommendation: The Bureau should allow debt collectors to give the appropriate Section 807 "mini-Miranda" communications once in a text message chain, chat chain, or other written short form at the beginning of the conversation. This will allow consumers to understand the communication is with a debt collector but then to communicate with their preferred method of communication without complicating the debt collector's message. The consumer may be given the option to text or indicate "STOP" to the debt collector.

Reason: Debt collectors frequently do not leave messages for consumers in case the message is overheard by a third party. Courts have interpreted the FDCPA to require debt collectors to leave a disclosure that the debt collector is calling to collect a debt (i.e., ~~also known as~~ the "mini-Miranda"). If the disclosure is left and a third party overhears it, then there may be another FDCPA violation where a debt is disclosed to a third party. The Bureau expressed concerns in the July 28, 2016, SBREFA "Outline of Proposals Under Consideration and Alternatives Considered" that consumers feel harassed because they are receiving calls without voice messages. Likewise, leaving messages may obviate the need to call consumers as frequently. In addition, with the widespread use of cell phones and password protected voicemail, a third party is unlikely to overhear a debt collector's voicemail message.

Recommendation: Clarify that debt collectors are permitted to leave messages for consumers on their voicemail without the mini-Miranda to avoid risk of disclosing the debt to third parties. *Foti v. NCO Financial Systems, Inc.*, 424 F. Supp. 2d 643 (S.D.N.Y. 2006 (Debt collector can leave a message on voicemail but must include mini-Miranda).

Recommendation: Clarify that debt collectors are permitted to leave messages with a third party who answers a communication to the consumer. A safe harbor message may include the employee's name, company's name if the name does not indicate it is a debt collector, phone number, and request to have the consumer call. *See Halberstam v. Global Credit and Collection Corp.*, 15-cv-5696, 2016 WL 154090 (E.D. N.Y. 2016) (Can't leave a message with person other than debtor who picks up the phone because can't leave mini-Miranda with third party~~.~~).

Validation of Debts

Section 809 (15 USC 1692g(a)). Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing --

(1) the amount of the debt;

Reason: Litigation related to notifying debtors when the balance will change or that it will not change (e.g., simple interest). The *Miller* safe harbor language may or may not be "safe" after court rulings in Boucher v. Fin. Sys. of Green Bay, 880 F.3d 362 (7th Cir., Jan. 17, 2018) and Taylor v. Fin. Recovery Servs., 886 F.3d 212 (2nd Cir., March 29, 2018).

Recommendation: Provide rules that state debt collectors may use the *Miller* safe harbor language[2] when fees and interest are currently accruing on the account or may accrue on the account in the future (e.g., after a judgment). The rules should also state that the

[2] As of the date of this letter, you owe $ [the exact amount due]. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection. For further information, write the undersigned or call 1-800-[phone number].

Miller language or similar safe harbor language is unnecessary when fees and interest are not accruing on the account.

Reason: The Bureau SBREFA outline expressed concerns regarding the accuracy of the debt owed and proposed that debt collectors validate the creditor's information.
Recommendation: If clarification is required, provide that debt collectors should use the amount of the debt as of the charge-off date to validate the information instead of date of default.

(2) the name of the creditor to whom the debt is owed;

Reason: A servicer that qualifies under Section 803 (15 USC 1692a(6)(F)(iii)) may not be able to use the servicer's name that the consumer knows.
Recommendation: Allow the servicer in the servicer exception under Section 803 (15 USC 1692a(6)(F)(iii)), to be referenced as the creditor.

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

Reason: The Bureau proposed adding Spanish or other non-English languages to the validation notice.
Recommendation: Suggest that the Bureau consider an approach similar to Reg. Z which provides that "Disclosures required by this part may be made in a language other than English, provided that the disclosures are made available in English upon the consumer's request."

(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

Section 809 (15 USC 1692g(b)). If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector. Collection activities and communications that do not otherwise violate this subchapter may continue during the 30-day

period referred to in subsection (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.

Reason: Provide clarification on what constitutes a "dispute" under 15 USC § 1692g(b) for all of the reasons stated in 15 USC § 1692e(8).
Recommendation: See 15 USC § 1692e(8).

Reason: Provide clarification on what "a copy of such verification" means.
Recommendation: Clarify that for general disputes about the debt (e.g., "I don't owe this"), provide the consumer with a copy of the contract. For specific disputes about the amount of the debt (e.g., "Here is proof from my bank that I made a $5,000 payment on July 1, 2017"), provide the consumer with a copy of the contract and statement of account.

Section 813 (15 USC 1692k(c)). Intent. A debt collector may not be held liable in any action brought under this title [15 USCS §§ 1692 et seq.] if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

Reason: This section should allow for greater flexibility when an error on a document or information provided to the consumer is discovered and corrected. Debt collectors are unable to correct mistakes on documents without drawing a suit from the consumer.
Recommendation: Adopt a regulation similar to the California Civil Code (Cal Civ Code § 1788.30):

A debt collector shall have no civil liability under this title if, within 15 days either after discovering a violation which is able to be cured, or after the receipt of a written notice of such violation, the debt collector notifies the debtor of the violation, and makes whatever adjustments or corrections are necessary to cure the violation with respect to the debtor.

Commented [CW11]: Should consumers be required to provide additional detail as to what is disputed? Not new law, just defining what "dispute" means.

Isn't debt validation a 1 time disclosure? After that 30 day requirement, we can impose our own requirements. Maybe not touch this.

Do we want to address multiple debt validation requests? Maybe not.

Have a little more definition. The bureau should provide some additional protection. (not burden on consumer like font size)

Evans v. portfolio recovery associates – getting actual notice of dispute – a lot of similarities.

FC: This section only concerns disputes within the first 30 days after a consumer is sent the letter. 1692(e)(8) concerns debt throughout the entire time the debt is with the debt collector.