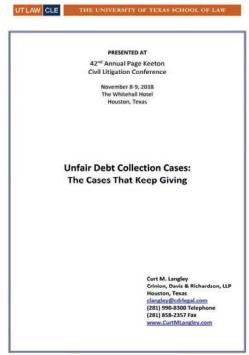
Curt M. Langley



42ND Annual Page Keeton
Civil Litigation Conference
November 8-9, 2018
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UNFAIR DEBT COLLECTION CASES: THE CASES THAT KEEP GIVING

- Overview of Federal Law and Texas State Law.
- FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692-1692p
 - Federal Trade Commission Advisory Options
 - Consumer Financial Protection Bureau Advisory Opinions
 - Federal Case Law
- Texas Debt Collection Act, Tex. Fin. Code § 392.001 et seq.
 - Texas Case Law

UNFAIR DEBT COLLECTION CASES: THE CASES THAT KEEP GIVING

- The Year was 1977
 - I was 13 years old, 8th grade Class President, at St. Cecilia Catholic School on Bunker Hill Rd in Houston.
 - Top song Tonight's the Night (Gonna Be Alright) by Rod Stewart.
 - Top movies "Saturday Night Fever" (John Travolta), "Smokey and the Bandit" (Burt Reynolds), and "Star Wars: Episode I".
 - Telephones looked like this



UNFAIR DEBT COLLECTION CASES: THE CASES THAT KEEP GIVING

■ FDCPA was passed in 1977 when most debt collectors were local or regional and their files were primarily paper files — many were kept on index cards. Demand letters were often typed one at a time and then mailed in the regular mail. All telephone calls were made via land-line telephones and the high cost of long-distance telephone calls was a prohibitive factor for many debt collectors. In fact, very few consumer households even had answering machines in 1977.

UNFAIR DEBT COLLECTION CASES: THE CASES THAT KEEP GIVING

- Over 40 years later in 2018, debt collection is a \$10.9 billion dollar industry which employs nearly 120,000 people in more than 8,000 collection agencies.
- Debt collectors are now regional, national, or even international. Collection files and data are in digital form and on computer media. Demand letters arise from digitized form letters. Communications are now undertaken via telephones, mobile telephones, email, text messaging, and digital voice mail.

Federal Trade Commission Opinions

UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION WASHINGTON, B.C. 1950

Bureau of Consumer Protection

March 20, 1998

23 Vreeland Road Suite 102 Florham Park, New Jersey 079:

ear Mr. LeVine

Reference is made to your letter of December 24, 1997, concerning a "Telewire Electronia (Message" sent by your client, a telecommunications company, to consumer-debtors. The facts are as stated in your letter and our letter of February 7, 1989 to which you refer. The question is whether your client is covered by the Fair Debt Collection Practices Act (FDCPA) (copy enclosed).

In order for a service provided by your client to fall within the scope of the fall belt Collection Practices Act, your client must be correct, I.e., it must be a "debt collection" marker is considered with the provided provided in the provided p

Since your client would be covered by the Act, its collection communications would have to comply with the Act. Among other things, this means that the letter referred to above must disclose that your client is attempting to collect a debt and any information obtained will be used for that purpose, in accordance with Section 807(11) of the FDCPA. The notice required by Section 809 of the FDCPA would also have so be sent, if the letter is the initial communication with the consumer reagarding collection of the debt.

I hope this responds to your inquiry.

Sincerely,

John F. LeFevre Attorney

Enclosure

- From April 1988 to May 2002, FTC issued FTC Staff Opinion Letters upon request.
- From May 2002 to June 2011, FTC only issue Opinions in "unusual circumstances."
- As of July 11, 2011, only the Consumer Financial Protection Bureau ("CFPB") now issues Advisory Opinions under FDCPA.





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