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42ND Annual Page Keeton
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UT LAW CLE THE UNIVERSITY OF TEXAS SCHOOL OF LAW

PRESENTED AT
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Civil Litigation Conference

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The Whitehall Hotel
Houston, Texas

**Unfair Debt Collection Cases:
The Cases That Keep Giving**

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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



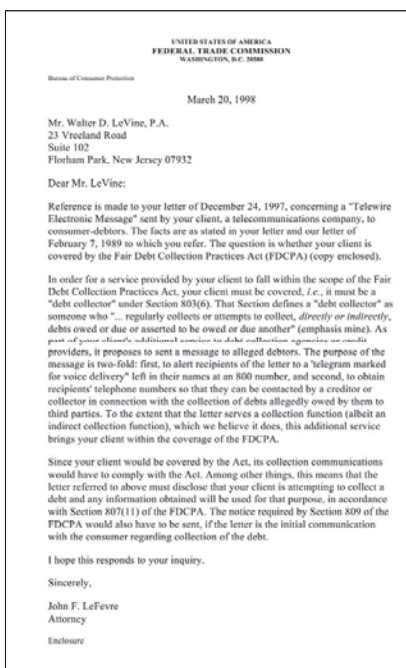
UNFAIR DEBT COLLECTION CASES: THE CASES THAT KEEP GIVING

- 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



- 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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