PRAISE FOR NCLC TREATISES

“The Series has the answers for the myriad questions that can arise. The analysis of the law contains an extensive study of state statutes and generous footnotes citing case law in every state.”

—Texas Bar Journal

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—Brian Harkins, Supervisor of Reference Services, Social Law Library (founded in 1803), Boston, MA

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—State Bar of Michigan, Consumer Law Section News

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—Scott D. Owens, Esq., Law Offices of Scott D. Owens, Hallandale, FL
**Table of Contents**

**The Consumer Law Practice Series**

<table>
<thead>
<tr>
<th>Section</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEBTOR RIGHTS</strong></td>
<td></td>
</tr>
<tr>
<td>Consumer Bankruptcy Law and Practice</td>
<td>6</td>
</tr>
<tr>
<td>Fair Debt Collection</td>
<td>7</td>
</tr>
<tr>
<td>Repossessions</td>
<td>8</td>
</tr>
<tr>
<td>Access to Utility Service</td>
<td>8</td>
</tr>
<tr>
<td>Student Loan Law</td>
<td>9</td>
</tr>
<tr>
<td><strong>MORTGAGES &amp; FORECLOSURES</strong></td>
<td></td>
</tr>
<tr>
<td>Home Foreclosures</td>
<td>10</td>
</tr>
<tr>
<td>Mortgage Servicing and Loan Modifications</td>
<td>11</td>
</tr>
<tr>
<td>Mortgage Lending</td>
<td>12</td>
</tr>
<tr>
<td><strong>CREDIT &amp; BANKING</strong></td>
<td></td>
</tr>
<tr>
<td>Fair Credit Reporting</td>
<td>13</td>
</tr>
<tr>
<td>Consumer Credit Regulation</td>
<td>14</td>
</tr>
<tr>
<td>Truth in Lending</td>
<td>15</td>
</tr>
<tr>
<td>Credit Discrimination</td>
<td>16</td>
</tr>
<tr>
<td>Consumer Banking and Payments Law</td>
<td>17</td>
</tr>
<tr>
<td><strong>DECEPTION &amp; WARRANTIES</strong></td>
<td></td>
</tr>
<tr>
<td>Federal Deception Law</td>
<td>18</td>
</tr>
<tr>
<td>Unfair and Deceptive Acts and Practices</td>
<td>19</td>
</tr>
<tr>
<td>Automobile Fraud</td>
<td>20</td>
</tr>
<tr>
<td>Consumer Warranty Law</td>
<td>20</td>
</tr>
<tr>
<td><strong>CONSUMER LITIGATION</strong></td>
<td></td>
</tr>
<tr>
<td>Collection Actions</td>
<td>21</td>
</tr>
<tr>
<td>Consumer Arbitration Agreements</td>
<td>22</td>
</tr>
<tr>
<td>Consumer Law Pleadings</td>
<td>22</td>
</tr>
<tr>
<td>Consumer Class Actions</td>
<td>23</td>
</tr>
<tr>
<td><strong>MORE FROM NCLC PUBLICATIONS</strong></td>
<td></td>
</tr>
<tr>
<td>Surviving Debt</td>
<td>24</td>
</tr>
<tr>
<td>Instant Evidence</td>
<td>24</td>
</tr>
</tbody>
</table>

A Letter to Our Readers 1
About the Digital Library 4
About the Authors 25

View each complete table of contents, browse the indexes, search within the treatises, and read the first chapter of each title for free at www.nclc.org/library.
Dear readers,

Fall 2019 is an exciting time at the National Consumer Law Center. As we celebrate our fiftieth anniversary, the publications team has been working hard to release this fall four new revisions of some of our most popular consumer law practice manuals.

New fall revised titles include *Truth in Lending* (10th ed.) and *Consumer Bankruptcy Law and Practice* (12th ed.), two of NCLC’s most widely used treatises. *Student Loan Law*, now in its sixth edition, covers the latest on collections, intercepts, deferments, discharges, repayment plans, predatory school abuses, and more. *Mortgage Lending*, just published in its fourth edition, covers dramatic changes concerning mortgage lending and federal preemption.

The essential practice tool *Instant Evidence* has also just been revised. Invaluable for federal and even state trials, 29 pages pack everything you need to deal with evidentiary issues at every stage of a trial, including objections by rule number. This stay flat, laminated resource comes with a dry-erase marker, allowing highlighting of key rules and precedent that can be erased for the next day’s trial.

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Sincerely,

Katie Eelman

Marketing & Sales Manager
National Consumer Law Center
keelman@nclc.org
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1.1.1 Overview

The past thirty years have seen an explosive increase in the already easy availability of consumer credit in the United States. The significantly higher debt loads carried by more and more American consumers, particularly those of low and moderate income, render them and their families vulnerable to enormous financial difficulties when they suffer income interruptions. Exorbitant interest rates and fees that quickly accumulate upon a default have left more families than ever vulnerable to a financial death spiral when they experience even a short term drop in income or an emergency expense that disrupts their debt payments. Aggressive creditors regularly threaten to throw debtors’ lives into chaos, through foreclosures, repossessions, levies, garnishees, and debt collection.

In many cases bankruptcy, at least temporary relief to an effective means of leveling the well-being of individuals and families. It should come as no surprise that the number of consumer bankruptcy filings is growing each year. As credit expands, ever larger numbers of consumers have the opportunity to restructure or discharge their debts. Effective, it did not change the fact that for many consumers continue to be involved with financial difficulties.

It has become impossible to get away from financial problems, and Bankruptcy can eliminate many of these problems.
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New 2020 TWELVE\nTH EDITION

Consumer Bankruptcy Law and Practice

Expert Guidance and Incisive Analysis on All Consumer Bankruptcy Topics

The definitive consumer bankruptcy treatise featuring the latest case law, as well as changes to the Bankruptcy Code, forms, fee schedules, and Rules. Written by Henry Sommer, the nation’s leading consumer bankruptcy author, and edited by John Rao, a former member of the federal Judicial Conference Advisory Committee on Bankruptcy Rules.

- Everything you need to know about the all-new official forms effective December 2019—the forms filled in for sample chapter 7 and 13 cases, with extensive annotations and instructions
- The new April 1, 2019 dollar amounts updated in the chapters and the Code
- Analysis and pleadings concerning the requirements for mortgage servicers submitting claims, including payment change and final cure notices under Bankruptcy Rule 3002.1
- Reprints of the Bankruptcy Code, additional bankruptcy statutes, the Bankruptcy Rules, fee schedules, bankruptcy regulations, director’s forms, and more
- Automatic stay, the bankruptcy discharge, and remedies for stay and discharge violations
- Discussion of means testing issues
- Using bankruptcy to deal with a foreclosure
- Analysis of recent Supreme Court decisions on discharge injunction violations and application of FDCPA to bankruptcy claims process
- Exemptions, lien avoidance, and secured claims
- Hidden fees and overcharges in creditor claims
- Attorney fees
- Litigating consumer cases in bankruptcy
- Non-dischargeability actions
- Consumers as creditors of bankrupt merchants, landlords, or lenders

All the Practice Tools You Need

- Client questionnaire (English and Spanish)
- Annotated sample completed initial forms for use in 2020
- 170 sample pleadings in Word format
- A date calculator to compute 24 key look-back dates
- Forms and tips to obtain client tax records for use in 2020
- State-by-state analysis of exemption law
- The Code, other bankruptcy statutes
- Bankruptcy Rules in effect for 2020
- Means test data
- Client handouts
Fair Debt Collection

The Definitive FDCPA Treatise

The latest thinking and authoritative analysis of the federal Fair Debt Collection Practices Act (FDCPA) and the primary reference in the field for over thirty years, cited three times by the U.S. Supreme Court. Plus:

- The FDCPA Case Connector, an interactive database with precise and flexible access to over 14,000 summaries of FDCPA decisions; sort by any combination of court, topic, year, party name, or keyword to start your search
- Preparation of a debt collection harassment case
- Persons and transactions covered and
  FDCPA requirements and remedies
- The debt collector’s defenses and counterclaims
- Analysis of two new Supreme Court cases—the FDCPA’s application to debt buyers and to foreclosure practices

All Other Sources of Debt Collection Law

Detailed treatment of other debt collection laws that are critical where punitive damages are sought or creditors do their own collections, including:

- The TCPA and other federal statutes
- State debt collection statutes
- Infliction of emotional distress, invasion of privacy, unauthorized practice of law

“...the most widely used manual in the field.”

669 F. Supp. 2d 275, 277
Reposessions

The #1 Resource on Consumer Repossessions

Covering every aspect of motor vehicle, manufactured home, and household goods repossessions and deficiency claims, including:

- Invalid security interests and restrictions on default
- Illegal self-help repossessions
- Notice of sale and proper disposition of collateral
- Calculating and limiting deficiencies

The Only Treatise to Go Well Beyond UCC Article 9

UCC treatises miss these critical protections found in federal law and special statutes in all 50 states:

- Rights to cure and default limits
- Bars on deficiencies
- Servicemembers Civil Relief Act
- Federal Rebate Statute
- FTC rules on household goods collateral

Additional resources

- Selected UCC provisions with official comments
- Credit math software

Access to Utility Service

Disconnections, Metering, Payments, Telecommunications, and Assistance Programs

Features the Latest Changes in:

- Rights to prevent disconnections and to reconnect service
- Deposits, late charges, level billing plans, master metering, other metering issues
- Right to utility service
- Discount rates and affordability programs
- Tenant strategies to maintain service despite landlord non-payment
- Telephone and Telecommunications issues
- Using bankruptcy to restore service
Student Loan Law
Collections, Intercepts, Deferments, Discharges, Repayment Plans, and Predatory School Abuses

The Bad News
Millions of Americans in default on their student loans feel the full brunt of federal collection:

- Tax refund intercepts, wage garnishment, and seizure of Social Security benefits
- Shoddy and misleading student loan collection communications
- Shocking collection fees
- Damaged credit
- Limits on bankruptcy discharge and ineligibility for new loans and grants

The Good News
Student Loan Law, updated continuously in its digital format, details all the latest rights of student loan debtors, including:

- Financial hardship and other loan deferments
- Income-driven repayment plans
- Options to get out of default using consolidation or rehabilitation
- Rights to stop tax intercepts, wage garnishments, and seizure of Social Security benefits
- Loan discharges based on school closure, deceptive practices, false certification of student eligibility, failure to make owed refunds, or borrower disability
- Minimizing collection fees
- Claims for predatory school abuses and deception and limits on schools’ use of arbitration
- Challenges to private student loan enforcement
- Litigation tactics and pointers, with a new chapter on litigation against servicers, debt collectors, schools, and private lenders

Coverage of Multiple Types of Student Loans
- Federal Direct Loans, including Consolidation and PLUS loans
- Old Guaranteed Student Loans (FFEL/Stafford)
- Perkins Loans
- Private student loans

Additional resources
- Discharge, deferment, forbearance, and loan consolidation forms
- Sample pleadings
- Financial Aid Guide (English and Spanish)
- Department of Education policy guidance letters

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Home Foreclosures

The Definitive Treatise on All Aspects of Home Foreclosures:

- Who has legal authority to foreclose
- The role of MERS in foreclosures
- Fannie Mae and Freddie Mac foreclosures
- Procedural and substantive foreclosure defenses
- FHA, VA, and RHS foreclosures
- Foreclosure litigation and sample pleadings
- Using bankruptcy to stop foreclosure
- Rights after the foreclosure sale

Vital Information:

- Reverse mortgage, including HECM rights
- Tax Liens and Tax Sales
- Land Installment Contracts
- Manufactured Homes
- Condominiums

Unique State-by-State Summaries of State Foreclosure Laws

- Judicial and non-judicial foreclosures
- Tax abatement rights and tax liens
- Reverse mortgages
- Condominiums

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The most complete and up-to-date treatise on the new loan modification programs and rights to deal with mortgage servicers, kept current through a digital version.

Homeowner Rights and Remedies
Dealing with Mortgage Servicers

- Loan servicer procedures, incentives, and abuses
- Analyzing a servicing case
- Using RESPA discovery and dispute rights
- New RESPA and CFPB rules
- TILA and other federal rights dealing with servicers
- State law protections
- State-by-state analysis of state mortgage servicing laws
- Litigation with mortgage servicers and sample pleadings

Rights to Delay and Modify
Mortgage Payments

- Loss mitigation basics
- Fannie Mae and Freddie Mac programs
- FHA loss mitigation rights
- VA and RHS loss mitigation rights
- Pursuing loss mitigation rights through litigation

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AND LOAN MODIFICATIONS

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Loan Origination, Preemption, and Litigation

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- Changes to uniform residential loan applications
- Reverse mortgages, land installment contracts, HELOCs, home equity sharing, and other non-traditional mortgages
- New RESPA requirements and VA limits on points and other charges
- Restrictions on loan steering, mortgage broker practices and compensation
- Title insurance, private mortgage insurance, attorney fees, new rules for appraisers
- Regulation of interest rates, balloon payments, prepayment penalties, and negative amortization
- New limits on federal preemption of state credit and mortgage laws

Highly Practical; Invaluable Litigation Tips

- Gathering and analyzing key documents
- Survey of all applicable federal and state laws
- Third-party liability and 10 limits on the holder-in-due-course defense, including application to electronic notes
- Standing for RESPA claims after Spokeo
- Restrictions on arbitration in mortgage litigation
- Suing failed banks

“The NCLC manuals really are a godsend to so many of us. Rarely, if ever, have I had a consumer law question that was not addressed in the manuals.”

—Kirsten E. Keefe
Senior Staff Attorney, Empire Justice Center
Albany, NY

Additional resources

- Scores of complaints, discovery requests, and other pleadings
- Summaries of state predatory lending laws and cites to other state mortgage law
- Federal law regulating mortgages: RESPA, TILA, adjustable caps, and more
- Federal banking agency regulations and preemption determinations
- DIDA and Alternative Mortgage Transaction Parity Act (AMTPA) statutes, regulations, and interpretations
- Regulations concerning loans insured by FHA, VA, RHS
- Statutes and regulations on reverse mortgages
Fair Credit Reporting

Dodd-Frank Changes, New CFPB Rules, and FTC Interpretations

Fair Credit Reporting explains the latest changes in credit reporting required by the Dodd-Frank Act, new CFPB rules, FTC staff interpretations, and important new court decisions. Also covered are the Credit Report Organizations Act, the Gramm-Leach-Bliley Act, and state credit reporting statutes.

Guidance from the Experts

- Identity theft, credit card freezes, thaws, fraud alerts, and credit monitoring
- Dramatic new changes to the reporting of public records data and medical debt
- Results from CFPB supervision of “Big Three” credit bureaus for data accuracy and dispute resolution
- Newly added discussion on the reporting of mortgage debt
- Thousands of new federal court FCRA decisions

Vital Information:

- Consumer access to reporting files
- Responsibilities of creditors and other furnishers
- Information that cannot be reported
- Accuracy requirements
- Disputing data in a report
- Credit scores
- Obligations of consumer report users
- Investigative reports
- Privacy issues
- Advising clients about their credit record
- How to respond to Spokeo challenges

“NCLC’s Fair Credit Reporting and other manuals are the best and most comprehensive resources in the marketplace for a consumer lawyer—and comparatively inexpensive to boot. They are held in such high esteem that opposing counsel show up in court with them!”

—Joanne Faulkner
Attorney at Law
New Haven, CT
Consumer Credit Regulation
Credit Cards, Payday Loans, Auto Finance, and Other Non-Mortgage Credit

Innovative Thinking and Precise Authority on Predatory Lending and Other Consumer Credit

- Credit CARD Act and Regulation Z changes dramatically limit credit card practices
- Regulation of payday lending and attempts to evade state regulation
- Motor vehicle installment sales contracts
- Auto title pawns
- Rent-to-own
- Installment loans
- Structured settlements and cash for future income
- Tax-time loans
- Credit insurance
- Rate exportation, most favored lender, and federal banking agency preemption of state law
- Litigating usury cases
- Survey of federal and state credit statutes

Additional resources
- Credit math software
- Detailed summary of state installment sales acts
- One-of-a-kind 50-state survey of credit legislation
- Federal statutes, regulations, and agency letters on rate exportation and federal banking agency preemption
- Special preemption concerning manufactured homes
- Credit card statute, regulations, and commentary
- Military Lending Act and other federal statutes

“The NCLC manual series is the primary authority in their respective subjects. Many of the queries I get from lawyers and lay people on a regular basis can be easily answered by referring to the manuals.”

—Alan M. White
Assistant Professor, Valparaiso University School of Law
Albany, NY
Truth in Lending

The definitive Truth in Lending Act treatise from the nation’s TILA experts, now updated to include dramatic and recent changes.

TILA Is Not Just a Disclosure Statute Anymore

- New TILA/RESPA combined mortgage disclosures
- CFPB rules restrict kickbacks to mortgage originators and ban numerous other mortgage abuses
- Extensive new rules on mortgage servicing
- Special rules regulating higher-cost mortgage loans
- Regulation Z now prohibits mandatory arbitration of mortgage disputes
- The Credit CARD Act and new federal rules establish new restrictions on credit card abuses
- New teeth to regulation of HOEPA loans
- Statutory damages are now increased to $2000 for car loans, $4000 and up for mortgage loans, and $5000 and up for credit cards
- Liability of servicers and holders
- The leading discussion of TILA rescission rights that allow homeowners to cancel mortgages
- Analysis on responding to Spokeo challenges

Additional resources

- Full, searchable text of the CFPB’s new and newly amended Regulation Z and Interpretations
- A searchable compilation of all Reg. Z Federal Register notices since 1969
- Redlined rules and commentary
- TILA legislative history
- An APR Calculator that even works for irregular or variable rate loans
- Sample rescission letter, complaints, discovery, expert reports, and jury instructions for TILA, HOEPA, and FCBA

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Credit Discrimination

Surprising Reach of Discrimination Statutes in Consumer Cases

A number of federal and state discrimination laws having a surprisingly varied applicability in consumer cases, including the Equal Credit Opportunity Act (ECOA), Fair Housing Act, several Civil Rights Acts, state discrimination statutes, the Home Mortgage Disclosure Act (HMDA), and the Community Reinvestment Act (CRA):

- Reverse redlining claims against predatory lending
- Disparate impact claims for discriminatory pricing schemes and hidden finance upcharges
- Limits on requirements for spouse and others to co-sign loans and liability of one spouse for the other’s debts
- Notice requirements related to granting and denial of credit, counter-offers
- Record retention requirements
- Discrimination in application procedures and credit evaluation
- Discrimination based on receipt of public assistance, age, or change in name or marital status
- Discrimination law’s applicability to credit reporting

Powerful Remedies

Credit discrimination laws offer consumers powerful remedies, including:

- Punitive damages
- Injunctive relief
- Consequential damages for pain and suffering
- Other forms of actual damages
- Attorney fees
Consumer Banking and Payments Law

Bank Accounts, Prepaid Cards, Mobile Payments, Electronic Fund Transfers, and Electronic Signatures

Keep Up with Revolutionary Changes in Payments

- Payroll, government benefits, college, and other prepaid cards
- New regulations on remittances and money orders
- New requirements for direct deposit of federal benefits
- What you didn’t know about check payments, lost checks, check deposits, accord and satisfaction, and bank fees
- Wages and benefits loaded onto prepaid cards
- Debit cards, electronic fund transfers, and telechecks
- Banker’s right of setoff and new federal regulation protecting benefits from seizure
- Electronic signatures and records
- The latest regulation of the dramatic changes in how consumers make and receive payments—including smartphone, prepaid cards, EFT, telechecks, international remittances.
- The CFPB’s Prepaid Accounts Rule now in effect as of April 1, 2019

“There are no other resources that we count on to get us to the right answer as often and as quickly as NCLC’s manuals.”

—Robert S. Green
Green Welling, LLP

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Federal Deception Law
FTC and CFPB Rules, RICO, False Claims Act, TCPA, Telemarketing, Debt Relief, and Parallel State Statutes

Essential Private Remedies for Marketplace Deception
- The Telephone Consumer Protection Act (TCPA), including dramatic 2019 law changes
- State UDAP remedies for violations of FTC and CFPB Rules
- FTC Holder Rule makes creditors liable for seller’s deception
- The Federal RICO statute
- State RICO and civil theft statutes
- The Federal False Claims Act

Key Federal Standards Regulate Consumer Transactions
- What you need to know now about the flood of TCPA litigation, statutory damages, and new FCC Rules
- Detailed analysis of the nine most important FTC Trade Regulation Rules affecting everything from credit to cars to mail order sales to funerals
- The latest on Consumer Financial Protection Bureau
- The surprising reach of the FTC Telemarketing Sales Rule (not just telemarketing), with equally surprising tough requirements on a broad array of businesses
- Federal and state remedies for abuses concerning consumer credit counseling, debt settlement and negotiation, and debt elimination schemes
- State requirements concerning plain English and disclosures in languages other than English

Additional resources
- Key FTC Rules, Statements of Basis and Purpose, and staff interpretations
- CFPB rulemaking authority
- Federal statutes and FCC and FTC rules limiting unwanted calls, faxes, and emails
- Summaries of state false claims, debt relief, and telemarketing statutes

“NCLC manuals combine first-rate scholarship with numerous useful practice tips and aids.”
—Richard Gross
former Chairman
Consumer Protection Committee
National Association of Attorneys General
Unfair and Deceptive Acts and Practices

The Most Important Consumer Statute in Your State

An unfair and deceptive acts and practices (UDAP) statute usually provides attorney fees and enhanced damages for a wide array of deceptive or abusive practices.

For over 35 years this has been the definitive UDAP treatise for use in all 50 states. Get information on:

- Predatory lending, loan brokers, and mortgage abuse
- Credit card abuses
- Application to national banks
- Automobile sales, financing, and leasing
- Manufactured homes and parks
- Service contracts and auto repairs
- Landlord-tenant law, insurance, and utilities
- Failure to disclose
- Unfairness standards
- Liability of third parties for UDAP violations
- Scope of each state’s UDAP statute
- Preconditions to litigation under each state’s UDAP statute
- Detailed analysis of UDAP availability of attorney fees

“This is the most thoroughgoing treatise on consumer law. If you only buy one manual (and that would be a mistake), buy this one!”

—Stephen Gardner
Director of Litigation
Center for Science in the Public Interest

“A unique survey of UDAP law with which no other resource can compare.”

—State Bar of New Mexico News and Views
Automobile Fraud
Odometer, Salvage, and Lemon Laundering Fraud
Title Abuses and Yo-Yo Sales

How to obtain punitive damages, rescission, treble damages, $10,000 statutory damages, and attorney fees, plus:

- Federal and state requirements for titles, odometer readings, and “yo-yo” or spot delivery sales
- How to detect and remedy salvage or prior wreck fraud
- New NMVTIS data uncovers prior wreck vehicles
- Lemon laundering
- Analysis of all 50 states’ automobile fraud laws
- Supreme Court punitive damages rulings

Consumer Warranty Law
Lemon Law, Magnuson-Moss, UCC, Manufactured Home, and Other Warranty Statutes

The Definitive Treatise

- New car lemon laws, and other new car warranty rights
- Used car warranties and lemon laws, FTC Used Car Rule
- Automobile repair and home improvement
- Manufactured home warranty laws
- Service contracts and extended warranties

Practical Litigation Advice

- Advantages to using the Magnuson-Moss Warranty Act, and important new FTC interpretation changes
- 14 ways to defeat warranty disclaimers
- Avoiding contractual limitations on remedies, privity requirements
- Revocation of acceptance, withholding payment
Collection Actions
Defending Consumers and Their Assets

The only treatise to detail consumer defenses to debt buyer and creditor collection lawsuits on credit card, medical, and other consumer debts.

How to Defend a Collection Lawsuit

- Covers the recent boom in case law
- All new chapter on criminal justice debt
- Four new chapters reorganize analysis of post-judgment wage garnishments, bank account freezes, and property seizures
- New medical debt developments
- Responding to collector’s requests for admissions
- Required attachments to the collector’s complaint
- A debt buyer’s proof of ownership of the debt
- Defenses to account stated, contract, on account, quantum meruit, and other causes of actions
- Statute of limitations
- Limits on finance charges and attorney fees
- Consumer counterclaims and class counterclaims
- Special protections for active duty military personnel
- Government collections

Steps to Take After Judgment for the Collector or Consumer

- Revolutionary new Treasury rule protecting Social Security funds in bank accounts
- Setting aside default judgments
- Attorney fees for prevailing consumers
- Improving the consumer’s credit report

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