

Lawyers Take Aim At Debt Collectors

By MICHAEL SASSO, The Tampa Tribune

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TAMPA - Fair or not, few professionals are the butt of more jokes than lawyers. But increasingly some lawyers are targeting an even less sympathetic profession - debt collectors.

Consumers who are fed up with harassing or misleading collection agents have filed record numbers of complaints against them with the Federal Trade Commission in recent years. Now, more consumers appear to be taking their allegations to court and filing lawsuits, alleging illegal harassment.

That's causing consumer lawyers and debt collectors, who weren't friends to begin with, to become even testier with each other.

Several local consumer lawyers say debt collectors are using more aggressive tactics. Meanwhile, debt collectors charge that the lawyers are opportunists who file lawsuits without making sure their clients' stories are true.

'When you get these types of charlatans and manufacture claims then you undermine the whole system,' said Terrance McKelvey, a Buffalo, N.Y.-based debt collector who is being sued by a Riverview woman over his firm's collection practices.

When a person sues a debt collector, he normally claims the collection agent violated the federal Fair Debt Collection Practices Act or Florida's similar state law. The laws protect consumers from being harassed by debt collectors or having their reputations hurt by collection agents, who have been known to call a debtor's neighbors or bosses and reveal that someone is deeply in debt.

No one keeps track of how many fair debt collection lawsuits are filed, but anecdotal evidence suggests they are on the rise and that more lawyers are getting into the field. Of course, debt collectors often file their own suits against debtors to get judgments.

Two industry groups, the National Consumer Law Center and the National Association of Consumer Advocates, started holding seminars on fair debt collection law in 2004. At the time, about 96 people attended the seminars, said Robert Hobbs, a deputy director of the NCLC and the author of the book 'Fair Debt Collection.' At its last meeting the seminars drew 190, Hobbs said.

Hobbs said he knew of only two attorneys who brought lawsuits against collection agents in 1990, but today there are at least several hundred nationwide.

Consumers Take Complaints To FTC

Fed-up consumers also are complaining more often to the government. In 2001, the FTC received about 15,800 complaints about third-party debt collectors (collection agents other than the original creditors). By 2006, that number hit 69,000, FTC data show.

Thomas Kane, an attorney in FTC's division of financial practices, said he isn't sure what's behind the big increase. But for the first time the FTC is holding a special workshop in October on how debt collectors can comply with the law.

The growth in complaints slowed a bit in 2006, but '69,000 complaints is still a whole lot of complaints,' Kane said.

Some local bankruptcy and consumer lawyers say calls are pouring in from angry consumers.

G. Donald Golden, a Brandon bankruptcy lawyer, watched his bankruptcy cases plummet after Congress changed the federal bankruptcy law two years ago. Recently, bankruptcy cases have started coming back.

However, during the bankruptcy slowdown Golden started doing more fair debt collection cases. Today, suing on behalf of debtors makes up a quarter of his business and he wants to build it to 50 percent. Where a run-of-the-mill personal bankruptcy case can generate attorney fees of \$1,200, a typical fair debt collection suit can yield \$2,000 to \$5,000, he said.

One such lawsuit: a Dade City woman, Mayuree Gibbs, claims she was harassed repeatedly by a collection agency in Salt Lake City called Paul & Associates Law Offices. The collection agent kept telling Gibbs that she owed money on an old Texaco credit card, though Gibbs claimed she had never owned a Texaco card, said her lawsuit, which was filed in federal court in January.

At one point, the collection agent allegedly threatened to sue Gibbs and put a lien on her house if Gibbs didn't pay off her bill, the lawsuit says. The debt collector never had a leg to stand on because the credit card debt was so old it had expired under Florida's statute of limitations, the lawsuit says.

Gibbs' husband, James Gibbs, referred a reporter's call to their attorney, Golden. The lawsuit was settled out of court in March.

Ryan Barker, Paul & Associates' vice president of operations, couldn't comment about the case, but said, 'You get into a situation where it's cheaper to settle than it is to fight.'

Lawyers Have Many Opportunities

Dan Clark, a Tampa consumer lawyer, doesn't do many fair debt collection lawsuits, but said there's plenty of opportunity to do them. He estimates that the number of people calling his firm saying they are being illegally harassed by creditors has risen 20 percent to 40 percent during the past year.

Behind the rash of complaints may be the growth of the debt-buying industry, consumer lawyers say.

Years ago, creditors such as credit card companies wrote off much consumer debt after it reached a certain age. But in recent years, investors began buying up old debts in record amounts, sometimes for pennies on the dollar, and tried to collect on it.

In 2005 investors snapped up old debt with a face value of \$110 billion, much of it from credit card companies, according to ACA International, a trade group for debt collectors and debt buyers. In the early 1990s, when the industry was still new, investors bought up no more than \$2 billion in old debt, an ACA International spokesman said.

Mark Tischhauser, a Tampa lawyer, may have several hundred fair debt collection cases in the pipeline in federal or state courts. He can't say whether the number of cases is up, but the nature of his cases has changed, he said.

Today, people often can still file for bankruptcy protection, but discharging debt in bankruptcy court isn't as easy. Tischhauser thinks that has emboldened debt collectors and debt buyers to be more aggressive, and people are turning to lawyers for help.

Not surprisingly, debt collectors don't see it that way.

Rozanne Andersen is general counsel for ACA International. She said the number of fair debt collection lawsuits has grown so much in the past decade that it has spawned a 'cottage industry' of lawyers who sue collection agents.

The lawsuits are so prevalent, taking issue with anything a debt collector says, that agents today aren't sure what they can say and what they can't to a debtor.

'From the plaintiffs bar's side, it is - some would say - a 'cash cow,'" Andersen said of fair debt collection cases. 'And that is in no reflection a sign of debt collectors' practices.'

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