

DEBT BY DEFAULT

Debt Collection Practices in Washington 2012–2016

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Table of Contents

Executive Summary	1
Background	3
Data and Methodology	5
Findings.....	6
Finding 1: Washington Consumers Frequently Raise Concerns about Improper Collection Practices	6
Finding 2: When People Are Sued by Debt Buyers, Most Cases End in Default Judgment	6
Finding 3: People Sued in Debt Buyer Cases Almost Never Have Legal Representation	7
Finding 4: Washington Law Permits “Pocket Service,” a Practice that Can Prevent People from Defending Themselves in Court.....	8
Conclusion	11
Recommendations	12
Appendices	13
Appendix A. Cases by Resolution, Plaintiff Type, and Attorney Representation 2012–2016	13
Appendix B. Debt Buyer Case Outcome by Resolution Time, 2012–2016.....	13
Endnotes.....	14

Executive Summary

Debt collection efforts around the United States rely heavily on litigation to collect past due debt. The ease of obtaining default judgments and garnishment orders has led debt buyers to use the courts as a critical tool for extracting payments from consumers, despite the lack of documentation showing that the consumer actually owes the amount claimed. Debt buyers are skilled at using the court system for collection purposes, but the people they sue typically are generally ill-equipped to fight the claims in court on their own and cannot retain counsel. Previous research has established that debt buyers often abuse these legal channels, thereby denying consumers the opportunity to defend themselves. Once the cases appear in court, the debt buyers often fail to provide proof that they own the debt or that the defendant incurred the debt. In the worst instances, free from the obligation to provide proof of debt to the courts, debt buyers may even sue people for a debt they do not owe. Debt buyers and associated law firms often win their cases, making it possible for them to use the court system to collect on debts via wage garnishments and even liens on consumers' property.



Debt buyers use the courts as a critical tool for extracting payments from consumers, despite the lack of documentation showing that the consumer actually owes the amount claimed.

In this report, CRL explores the extent to which these problems, which are known to be associated with debt collection in other states, occur in the State of Washington. This report analyzes complaint data that Washingtonians filed with the Consumer Financial Protection Bureau (CFPB), as well as more than 20,000 cases one large debt collection law firm filed in the state between 2012–2016.

Key findings:

- **Consumers and servicemembers in Washington have raised significant concerns about improper debt collection practices.** An analysis of complaints to the CFPB shows that debt collection complaints are the second most common type made by Washingtonians, and the most common type filed by Washington's servicemembers.
- **Most debt buyer cases result in default judgments.** Over 80% of all debt buyer cases reviewed resulted in default judgments in favor of the plaintiff. The prevalence of default judgments indicates successful and unchallenged collection efforts for the debt buyers reviewed in this study. For people sued by debt buyers, this means they are subject to a judgment or garnishment order without the debt buyer ever proving their case or the validity of the debt.
- **Consumers almost never have representation.** From 2012–2016, one large law firm frequently representing debt buyers filed 21,354 collection cases in Washington's Superior Courts. Only 1.2% of defendants were represented by an attorney, and in cases where the outcome was a default judgment, defendants were represented in just 45 cases (0.4% of the time). Without being present or represented in court, consumers are not able to demand proof of debt or defend against unwarranted legal actions.

- **“Pocket service” may be occurring in almost 70% of the cases reviewed.** In Washington, a summons can be delivered prior to the case actually being filed in a practice called “pocket service.” Individuals served must respond within 20 days or they are in default—a time frame that applies even if no court case actually exists. Of the cases reviewed, nearly 70% were both filed and resolved with a default judgment within 20 days, indicating that many of these cases were likely subject to pocket service.

This report concludes with recommendations to address these practices that put consumers at a disadvantage:

- **Ensure debt buyers prove that the debt is owed in court.** Debt buyers should not be permitted to bring lawsuits against consumers unless they first meet a “proof of debt” standard. “Proof of debt” must be established through detailed information and original account-level documentation about the consumer and the debt. Examples include: full name, account numbers, original creditor’s name, itemization of the amount owed, the contract or account document indicating the consumer legitimately incurred the debt, and documentation establishing the debt buyer’s ownership of the debt (e.g., purchase and sale agreement).
- **End the practice of “pocket service,” or serving individuals with debt collection lawsuits without actually filing the case in court.** People facing debt collection lawsuits should be able to verify that the purported case summons they receive is not a sham. Debt collectors should not be able to proceed to judgment on any complaint that did not, at the time of service, bear a court-assigned case number.
- **Discourage debt buyers from acting as “lawsuit factories” by holding them accountable for initiating unwarranted legal actions.** Debt buyers should not be able to obtain judgments in cases where they bring unsubstantiated legal actions. Moreover, because of the harms these lawsuit mills inflict on people subject to collection actions, debt buyers should face monetary penalties if they pursue collection actions, including court cases against consumers, without first meeting the “proof of debt” standard.
- **Require that debt buyers substantiate their claims made during collection attempts even before they sue.** Debt buyers should be prohibited from attempting to collect a debt without having detailed information about the consumer and the debt, as well as original account-level documentation establishing the “proof of debt.” Debt buyers should be required to cease collection attempts if they cannot provide consumers with documents supporting the claimed debt upon request.
- **Prohibit the collection of time-barred debts and other “zombie” debts.** Washington law prohibits debt collectors from filing lawsuits on time-barred debt. Current law, however, allows collectors to attempt to collect these debts and to revive the stale debt by persuading the debtor to make a partial payment or otherwise affirm that the debt is owed. Debt buyers should be prohibited from restarting the clock on this type of debt by extracting payments or other affirmations from the consumer. Nor should they be allowed to collect on debts that are past the statute of limitations. Similarly, debt buyers should be banned from filing lawsuits or otherwise collecting on “zombie” debts—debts that have already been paid, settled in full, or discharged in bankruptcy.

Background

In recent decades, an increase in consumer debt has led to substantial growth in the collection industry as Americans struggle to pay down their debts. A subset of the collection industry, debt buying, has emerged in the wake of this growth in consumer debt. Debt buyers purchase debts from lenders and other creditors at a steep discount and then attempt to collect the debt themselves, often using litigation.

The way that outstanding debts are managed is complicated, as a single debt may be transferred among multiple entities, each of which may attempt to collect. After a lender or creditor is unable to collect delinquent debt for a certain period of time (often 120–180 days), the creditor will list the debt as “charged-off,” classifying the debt as uncollectible. Creditors have many options regarding how to handle charged-off debt: they can hold the debts and collect on their own; they can hire third-party debt collectors to attempt to collect the debts; they can hire a law firm to file a lawsuit to collect the debts; or they can sell the debts to debt buyers. Debt buyers purchase charged-off and other delinquent debt from lenders, creditors, and other debt buyers at a steep discount, though they attempt to collect the full amount of the alleged debts from consumers. Typically, the debts that debt buyers purchase are listed on a spreadsheet or other database, and debts can be sold multiple times before collection attempts are successful or a lawsuit is filed to collect the debt.

Previous research has raised concerns about the accuracy and adequacy of the information being shared and maintained in the debt collection and sales process. As a result, debt buyers often collect on debts already paid, pursue the wrong people, or sue to collect time-barred debts—debts that are past the time period during which a lawsuit can be filed to collect a debt.¹ Many of these problems can be traced to the fact that debts can be bought and sold without the underlying documentation of the original debt.² A 2013 Federal Trade Commission analysis estimated that debt buyers did not receive any documentation for approximately 94% of accounts at the time of purchase.³ Ultimately, this process leaves debt buyers with murky and often inaccurate information.⁴

The federal Fair Debt Collection Practices Act (FDCPA) provides the governance structure for the debt collection industry and prohibits deceptive, unfair, and harassing debt collection activity.⁵ Alongside the FDCPA, Washington’s state debt collection laws, namely the Collection Agency Act and the Consumer Protection Act, make up the rest of the legal landscape in Washington.⁶ These laws contain important protections for consumers. They have been used to argue that bringing cases on time-barred debts is an unfair practice and that proof of debt is needed in collections cases.⁷ However, comprehensive reforms are needed to prohibit these practices on a statewide basis.

Nationally, the CFPB and the Federal Trade Commission (FTC), both responsible for the enforcement of the FDCPA, have issued enforcement actions against debt buyers in recent years.⁸ Most notable were the enforcement actions taken against the country’s largest debt buyers, Encore Capital Group and Portfolio Recovery Associates, for attempting to “collect debts they knew, or should have known, were inaccurate or could not legally be enforced.”⁹ The CFPB also found that the companies filed lawsuits against consumers “without having the intent to prove many of the debts, winning the vast majority of the lawsuits by default when consumers failed to defend themselves.”^{10, 11} In December 2018, Attorneys General from 41 states and the District of Columbia, including the State of Washington, announced a settlement with Encore Capital Group and its subsidiaries for “robosigning” thousands of affidavits without verifying the validity of debts or checking whether the information contained in the complaints was accurate.¹²

With the advent and growth of debt buyers has come an increase in the use of litigation to collect debts. Across the country, debt buyers are filing hundreds of thousands of lawsuits against consumers.¹³ An estimated 33% of U.S. adults with credit files have debt in collections reported on their credit files, with a median amount in collections of \$1,450.¹⁴ In Washington, 23% of residents have debt in collections, with a median amount in collections of \$1,426.¹⁵

Law firms in the state of Washington that are active in bringing lawsuits on behalf of debt buyers include Suttell & Hammer P.S.; Machol & Johannes; Gordon, Aylworth, & Tami; Mandarich Law Firm; and Patenaude & Felix.¹⁶ These law firms frequently win cases even in the absence of proof, often through default judgments when defendants do not appear in court to defend themselves. Defendants fail to appear in court for a number of reasons: pocket service and other failures to properly provide notification about cases against them; they feel they cannot win the lawsuit; they cannot afford an attorney; they cannot take time off from work; and language barriers. Defendants may also simply face barriers such as confusion, an inability to pay court and legal fees, and discomfort with the legal system. Nationally, 74% of all people sued by a creditor or debt collector do not even make an appearance.¹⁷ This report suggests that, based on our examination of cases filed by one dominant law firm, this figure is even more dramatic in the State of Washington, at over 80%.

Data and Methodology

This report examines two sources of data: consumer complaints filed with the CFPB and court cases filed by a large debt collection law firm in Washington. The first dataset CRL uses in this report includes complaints consumers filed with the CFPB beginning in 2012 and going into 2018. The second dataset contains filing, process, and outcomes for 21,354 collection cases filed in Washington State Superior Courts between January 2012 and December 2016 by one large law firm active in debt collection. Northwest Justice Project provided this dataset through a public records request to the Washington State Administrative Office of the Courts.

CRL matched case filing information to case judgment information using the unique case key, as well as determining case outcomes for the 21,354 cases filed through use of the earliest case resolution code filed. Case outcomes were also analyzed for the 14,156 cases in which the plaintiffs named in the case matched a list of known debt buyers on file with the authors. Two cases contained no file or resolution date and were removed, and 644 contained only a file date and no resolution date and were classified as "no outcome" as of the final file date in the data of November 26, 2016.

Cases were sorted and counted by the following categories based on resolution date: the same day as the filing date and up to 20 days after the filing date, both determined using the difference between the filing date in the case filing data and the earliest resolution date in the judgment data. This information provides evidence of the extent of "pocket service" in case filings.

A defendant was determined to be represented in the case if the defendant secured counsel at the beginning of the case for the purpose of, for example, answering the lawsuit. A defendant was also determined to be represented if the defendant secured an attorney later in the case. CRL classified a defendant as unrepresented if "pro se" was recorded or if no attorney was explicitly listed.

This analysis only represents the activities of one law firm actively filing debt collection cases, and therefore the specific percentages of cases involving default, pocket service, or persons represented by counsel may differ with other firms. The practices CRL describes, however, are not unique to this law firm; they are common among diverse debt collection law firms and debt buyers. Therefore, these data do provide useful information about how debt buyer cases are filed and the likely case outcomes for people sued by other law firms representing debt buyers. Further, this analysis provides a useful method for analyzing case outcomes for a larger set of market participants as data become available.

Findings

This analysis produced four primary findings: first, Washington consumers, especially servicemembers, raise frequent concerns about debt collection practices; second, a high default rate indicates that many collection cases filed on behalf of debt buyers are going uncontested; third, very few people sued in these cases are represented by an attorney; and fourth, Washington law permits a harmful practice known as “pocket service” that prevents people from defending themselves in court.

Finding 1: Washington consumers frequently raise concerns about improper debt collection practices

Complaints about debt collection are the second most frequent type of complaint among consumers nationwide who filed complaints with the CFPB between 2012 and 2016.¹⁸ Among all Washington consumers, over 20% of complaints were related to debt collection issues (Figure 1). Among servicemembers, debt collection was the primary complaint, representing over 34% of all complaints to the CFPB (Figure 1).

Figure 1. Top consumer complaints to the CFPB by share of total complaints, 2012–2016

	US consumers		WA consumers		WA servicemembers	
	Count	Percent	Count	Percent	Count	Percent
Mortgage	214,292	30.9%	5,033	34.9%	305	30.8%
Debt collection	130,443	18.8%	2,884	20.0%	340	34.4%
Credit reporting	123,846	17.9%	2,316	16.1%	112	11.3%
Credit card	80,798	11.7%	1,597	11.1%	75	7.6%
Bank account or service	79,250	11.4%	1,444	10.0%	64	6.5%
Student loan	22,716	3.3%	475	3.3%	26	2.6%
Consumer loan	28,049	4.0%	378	2.6%	43	4.4%
All other complaints	14,246	2.1%	278	1.9%	24	2.4%
Total	693,640		14,405		989	

Source: Consumer complaints filed with the CFPB between 2012 and 2016, accessed August 13, 2018.¹⁹ Percent columns may not add up to exactly 100% due to rounding.

Finding 2: When people are sued by debt buyers, most cases end in default judgment

A primary way that debt buyers win debt collection cases is through a default judgment, which is a form of resolution “for failure of a defendant to appear and/or answer complaint.”²⁰ In the cases CRL analyzed for this report, almost 80% were resolved in this manner, indicating successful and unchallenged collection efforts for the debt buyers. As a result, the debt buyers not only stand to collect the amount they claim to be owed, but also accrued interest, court fees, and attorney’s fees.²¹ These court judgments give debt buyers extraordinary collection powers over consumers, including the power to garnish wages and attach liens to consumers’ property for a period of up to 20 years post-judgment.

From 2012 to 2016, one large law firm filed 21,354 collection cases in Washington’s Superior Courts, with 79.1% resulting in a default judgment. In the 14,156 cases where the plaintiff was a known debt buyer, 80.8% resulted in default judgment (Figure 2).

Figure 2. Cases by resolution, plaintiff type, and attorney representation 2012–2016

Case outcome	All cases		Debt buyer cases		Defendant represented by an attorney in debt buyer case	
	Count	% of Total	Count	% of Total	Count	% of Debt buyer cases
Default judgment	16,891	79.1%	11,433	80.8%	45	0.4%
All other outcomes	4,463	20.9%	2,723	19.2%	129	4.7%
Total	21,354	100%	14,156	100%	174	1.2%

Source: CRL analysis of Superior Court cases filed by a large debt collection law firm between 2012 and 2016. Northwest Justice Project obtained this data via a public records request from the Washington State Administrative Office of the Courts. Defendant representation numbers are based on the percentage of cases filed by debt buyers, not on all cases filed.

Finding 3: People sued in debt buyer cases almost never have legal representation

In the cases reviewed as part of this analysis, defendants almost never had legal representation. Without representation during the debt collection process, consumers are not able to demand proof of debt or defend against unwarranted legal actions. Of the cases analyzed where the plaintiff was a known debt buyer, only 1.2% of the defendants were represented by an attorney (Figure 2). In cases where the outcome was a default judgment, defendants were represented by an attorney in just 45 cases, or 0.4% of the time. For a complete list of debt buyer case outcomes and attorney representation by case outcome, see the Appendices.



Only 45 out of 11,433 or 0.4% of people sued by one large law firm were represented by an attorney in cases resulting in default judgments.

The low rate of representation for defendants could indicate problems with process service and certainly contributes to a high rate of judgments in favor of plaintiffs. Previous research has extensively documented that the debt buyer business model is largely dependent on consumers' inability to defend themselves in court.²² Debt buyer lawsuits go uncontested for different reasons: failure to properly notify people of the lawsuit, defendants' confusion over the validity of the lawsuit, or defendants' inability to afford a lawyer.²³ When the defendant does not appear in court, the debt buyer stands to collect the entire claim plus fees and costs, without proving in court that they are suing the right person for the right debt.

Finding 4: Washington law permits “pocket service,” a practice that can prevent people from defending themselves in court

The rules governing process service in the State of Washington increase the likelihood that defendants will not attend their own hearing, even if they wish to do so. It is legal in the State of Washington for a summons, or notice, to be delivered prior to the case actually being filed in state court.²⁴ This can result in “pocket service,” where a summons is delivered in reference to a court case that does not exist in the court system. Most states do not permit “pocket service.”²⁵ But, in Washington, the use of “pocket service” exacerbates problems like the widespread lack of representation and the high rate of default judgments.

Unfortunately for the person who is served, state law requires the person to respond to the summons within 20 days—a time frame that applies even if no court case actually exists in the court system. If a person does not respond within 20 days, they are in default and are subject to collection actions including wage garnishment.²⁶ These laws, together, make it possible for many consumers to miss their court dates. And when this occurs, the outcome can be severe. People subject to “pocket service” may also conclude that the summons is fake or that no court case is forthcoming. They may not check back with the court system each day, thereby missing their case entirely. These individuals may only learn that they were subject to a judgment when their wages have been garnished after the case is concluded.

In Washington, “pocket service” seems to be a widely used tactic in debt buyer court cases. In cases filed by one large debt collection law firm where the plaintiff was a debt buyer and the outcome was a default judgment, the judgment was filed within 20 days of case filing 69.8% of the time (Figure 3). Furthermore, the default judgment was filed the same day the case was filed 17.5% of the time. In fact, default judgments are more than twice as likely as other case outcomes to be filed on the same day or within 20 days of case filing (Figure 4). Cases that are resolved in fewer than 20 days are a clear indication of pocket service, as default judgments cannot be obtained until 20 days after service—meaning that the defendants were served before a case was officially opened in almost 70% of cases that resulted in default judgments.

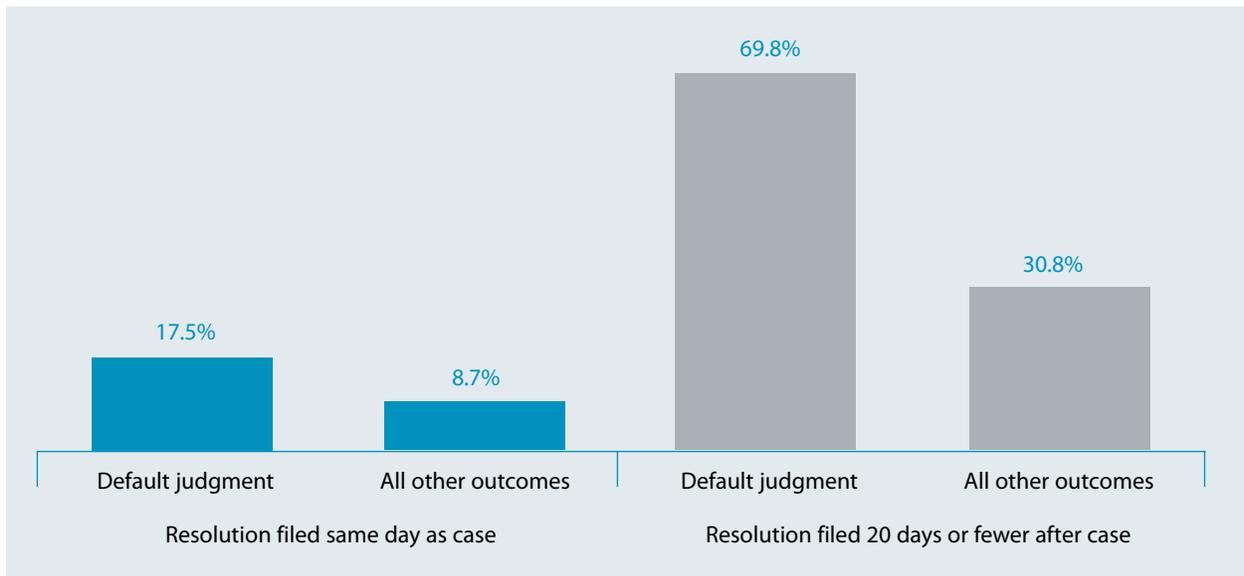
These issues make it difficult for consumers to participate in the legal process due to confusion about the documents they received and the lack of information available from the courts. The speed at which these cases are filed and resolved can also prevent defendants from appearing in court by obscuring basic information about when they should appear or by dramatically condensing the window of time within which a consumer can appear. As a result, Washington is effectively denying people sued in collections cases the ability to access the court system to defend themselves. For a complete list of case resolution times by outcome for all debt buyer cases analyzed, see Appendix B.

Figure 3. Debt buyer case outcome by resolution time, 2012–2016

	Cases	20 Days or fewer		Same day	
		Count	Percent	Count	Percent
Default judgment	11,433	7,981	69.8%	2,004	17.5%
All other outcomes	2,723	838	30.8%	238	8.7%
Total	14,156	8,819	62.3%	2,242	15.8%

Source: CRL analysis of Superior Court cases filed 2012–2016 reflecting length of time from filing to resolution for collection cases involving debt buyers. Northwest Justice Project obtained this data via a public records request from the Washington State Administrative Office of the Courts.

Figure 4. Default judgments are more than twice as likely as other case outcomes to be filed on the same day and within 20 days of case filing



Source: CRL analysis of Superior Court cases filed 2012–2016. Northwest Justice Project obtained this data via a public records request from the Washington State Administrative Office of the Courts.

In complaints filed with the CFPB, consumers voluntarily provided publicly-available narratives about their experiences with “pocket service,” illustrating how the practice can be misleading and can deter people from effectively defending themselves in court if and when a lawsuit is filed. In the example below, a Washington consumer provides a complaint narrative about a court summons that was not, in fact, connected to an existing court case (Figure 5).

Figure 5. Consumer complaint narrative, 2015



“I’ve checked my local courts for this case and nothing has shown up”

Someone came to my home and served me with a "summons" about a debt. When served a summons, the documents are supposed to be handed to the right party from my understanding, but these documents were handed to my roommate (3rd party). Also, according to the FDCPA, sending documents that imitate actual court documents is in direct violation of debt collecting tactics. I've checked my local courts for this case and nothing has shown up with my name and this may cause me to take legal action if necessary. I'm not sure where this debt has come from, I thought it may have been something from college, but for the next year, my payments have been deferred.

Source: Complaint filed against Suttell, Hammer, and White, P.S on July 17, 2015, by a Washington consumer. (Complaint ID: 1477108).

In another narrative, attached to a complaint submitted in late 2017 against a different debt collection law firm, a Washington servicemember provides another example of a court summons being served without being linked to an active case (Figure 6). In this example, however, the case was filed at a later date, and the plaintiff was able to win a default judgment for \$8,000.

Figure 6: Consumer complaint narrative, 2017



“I was not given the proper means to fight these accusations”

they served me what appeared to be court documents, but there was no case file. They were UNFILED court docs, but the letter with them said M & J had filed a lawsuit when, in fact, they had not. They were trying to scare me into signing an agreement. illegal service of fake papers is intimidation and I have a protection against such practices and my right have been violated by such practices. It was taken as a scare tactic by me but I went to Respond to the summons and low and behold there was no case. This was in XX/XX/XXXX. Fast forward to XX/XX/XXXX and I am being made aware of a levy put on my accounts from this company for {\$8000.00}. They apparently filed the lawsuit after It was made clear that I wasnt going to be bullied, with the papers they faked me out with. They filed for an order of default judgment because of the appearance of no response, and then There was a default judgment made against me. I was not given a court date So I was not given the the proper means to fight these accusations being made against me because of the use of dirty tactics with this company.

Source: Complaint filed against Machol & Johannes, LLC on November 20, 2017, by a Washington servicemember. (Complaint ID: 2733555). “XXXX” represents complaint text redacted by the CFPB to protect consumer privacy.

Conclusion

Debt collection litigation in Washington disadvantages consumers. This analysis shows that Washington's consumers complain in large numbers about debt collection, that debt buyers won default judgments in over 80% of all cases filed by one large debt collection law firm, and that these default judgments happen in part because of problems with service and lack of representation for defendants. Furthermore, this analysis shows that almost 70% of cases that end in default judgment may be associated with "pocket service," the practice of serving consumers with a summons prior to the case being filed in court.

Consumer complaints indicate problems with verification of the debt, as many individuals complain about being pursued for debts that do not belong to them or are in the wrong amounts. These consumers also complain they were served when no case had been filed—a practice known informally as "pocket service." In other cases well-documented nationwide, process servers fail to deliver a summons to the defendant and nevertheless enter false affidavits of service with the courts. This process is known as "sewer service."²⁷

This analysis provides clues as to how debt buyers and debt collection law firms secure high default judgment rates. First, they are rarely required to provide proof of debt, because Washington's consumers are rarely represented by attorneys in these cases. Indeed, in almost 99% of all cases, defendants do not have the benefit of legal representation. Furthermore, many cases are filed and resolved quickly, indicating that some defendants have little time to respond to summonses and that others are served before their case is filed.

Recommendations

- **Ensure debt buyers prove that the debt is owed in court.** Debt buyers should not be permitted to bring lawsuits against consumers unless they first meet a “proof of debt” standard. “Proof of debt” must be established by detailed information and original account-level documentation about the consumer and the debt, such as full name, account numbers, original creditor’s name, itemization of the amount owed, the contract or account document indicating the consumer legitimately incurred the debt, and documentation establishing the debt buyer’s ownership of the debt (e.g., a purchase and sale agreement).
- **End the practice of “pocket service,” or serving individuals with debt collection lawsuits without actually filing the case in court.** People facing debt collection lawsuits should be able to verify that the purported case summons they receive is not a sham. Debt collectors should not be able to proceed to judgment on any complaint that did not, at the time of service, bear a court-assigned case number.
- **Discourage debt buyers from acting as “lawsuit factories” by holding them accountable for initiating unwarranted legal actions.** Debt buyers should not be able to obtain judgments in cases where they bring unsubstantiated legal actions. Moreover, because of the harms these lawsuit mills inflict on people subject to collection actions, debt buyers should face monetary penalties if they pursue collection actions, including court cases against consumers, without first meeting the “proof of debt” standard.
- **Require that debt buyers substantiate their claims made during collection attempts even before they sue.** Debt buyers should be prohibited from attempting to collect a debt without having detailed information about the consumer and the debt, as well as original account-level documentation establishing the “proof of debt.” Debt buyers should be required to cease collection attempts if they cannot provide consumers with documents supporting the claimed debt upon request.
- **Prohibit the collection of time-barred debts and other “zombie” debts.** Washington law prohibits debt collectors from filing lawsuits on time-barred debt. Current law, however, allows collectors to attempt to collect these debts and to revive the stale debt by persuading the debtor to make a partial payment or otherwise affirm that the debt is owed. Debt buyers should be prohibited from restarting the clock on this type of debt by extracting payments or other affirmations from the consumer. Nor should they be allowed to collect on debts that are past the statute of limitations. Similarly, debt buyers should be banned from filing lawsuits or otherwise collecting on “zombie” debts—debts that have already been paid, settled in full, or discharged in bankruptcy.

Appendices

Appendix A. Cases by resolution, plaintiff type, and attorney representation, 2012–2016

Case outcome	All cases		Debt buyer cases		Defendant represented by an attorney in debt buyer case	
	Count	% of Total	Count	% of Total	Count	% of Cases
Default judgment	16,891	79.1%	11,433	80.8%	45	0.4%
Dismissal without trial	1,076	5.0%	682	4.8%	34	5.0%
No outcome as of 11/26/2016	986	4.6%	644	4.5%	18	2.8%
Settled by parties/agreed judgment	1,011	4.7%	643	4.5%	25	3.9%
Uncontested resolution	487	2.3%	342	2.4%	5	1.5%
Summary judgment	175	0.8%	99	0.7%	20	20.2%
Dismissal by clerk	168	0.8%	98	0.7%	9	9.2%
Transferred to federal bankruptcy court	169	0.8%	94	0.7%	13	13.8%
Closed by court order after a hearing	108	0.5%	70	0.5%	5	7.1%
Transfer of judgment	268	1.3%	50	0.4%	0	0.0%
Consolidated case	14	0.1%	0	0.0%	0	0.0%
Dismissal after non-jury trial	1	0.0%	1	0.0%	0	0.0%
Total	21,354	100.0%	14,156	100.0%	174	1.2%

Source: CRL analysis of Superior Court cases filed by a large debt collection law firm between 2012 and 2016. Northwest Justice Project obtained this data via a public records request from the Washington State Administrative Office of the Courts.

Appendix B. Debt buyer case outcome by resolution time, 2012–2016

	Count	Same day resolution	% of Cases	20 days or fewer	% of Cases
Default judgment	11,433	2,004	17.5%	7,981	69.8%
Dismissal without trial	682	-	-	25	3.7%
No outcome as of 11/26/2016	644	-	-	-	-
Settled by parties/agreed judgment	643	99	15.4%	468	72.8%
Uncontested resolution	342	84	24.6%	249	72.8%
Summary judgment	99	2	2.0%	3	3.0%
Dismissal by clerk	98	-	-	-	-
Transferred to federal bankruptcy court	94	-	-	7	7.4%
Closed by court order after a hearing	70	5	7.1%	36	51.4%
Transfer of judgment	50	48	96.0%	50	100.0%
Consolidated case	-	-	-	-	-
Dismissal after non-jury trial	1	-	0.0%	-	-
Total	14,156	2,242	15.8%	8,819	62.3%

Source: CRL analysis of Superior Court cases filed 2012–2016. Northwest Justice Project obtained this data via a public records request from the Washington State Administrative Office of the Courts.

Endnotes

- 1 Stifler, Lisa, Tom Feltner, & Safa Sajadi. *Undue Burden: The Impact of Abusive Debt Collection Practices in Oregon* (2018), Center for Responsible Lending. Available at <https://www.responsiblelending.org/research-publication/undue-burden-impact-abusive-debt-collection-practices-oregon>; Federal Trade Commission (2013). *The Structure and Practices of the Debt Buying Industry*. Available at <https://www.ftc.gov/sites/default/files/documents/reports/structure-and-practices-debt-buying-industry/debtbuyingreport.pdf>; *Consumer Experiences with Debt Collection*, Consumer Financial Protection Bureau (2017) available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201701_cfpb_Debt-Collection-Survey-Report.pdf.
- 2 Halpern, Jake. *Bad Paper: Inside the Secret World of Debt Collectors*. New York: Picador, 2014.
- 3 *The Structure and Practices of the Debt Buying Industry*, Federal Trade Commission (2013).
- 4 15 U.S.C. § 1692 et seq.
- 5 Wash. Rev. Code § 19.16.100 et seq and Wash. Rev. Code § 19.86.010 et seq.
- 6 RCW 19.16.100 and RCW 19.86.010.
- 7 Stifler, Lisa & Leslie Parrish. *Debt Collection & Debt Buying: The State of Lending in American & its Impact on U.S. Households* (2014). Center for Responsible Lending. Available at <https://www.responsiblelending.org/state-of-lending/reports/11-Debt-Collection.pdf>.
- 8 *Unfair, Deceptive & Abusive: Debt Collectors Profit from Aggressive Tactics*, Alliance for a Just Society (2016), available at <http://allianceforajustsociety.org/2016/01/debt-collectors-report/>.
- 9 *CFPB Takes Action Against the Two Largest Debt Buyers for Using Deceptive Tactics to Collect Bad Debts*, Consumer Financial Protection Bureau (September 2015), available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-the-two-largest-debt-buyers-for-using-deceptive-tactics-to-collect-bad-debts/>.
- 10 Ibid.
- 11 For more information on enforcement actions see: *Undue Burden*, 2018.
- 12 *Madigan Announces \$6 Million Settlement with Encore Capital to Reform Debt Buyer and Collection Practices*, Office of Illinois Attorney General Lisa Madigan (December 4, 2018), available at http://www.illinoisattorneygeneral.gov/pressroom/2018_12/2018124b.html.
- 13 Stifler, Lisa, Tom Feltner, & Safa Sajadi. *Undue Burden: The Impact of Abusive Debt Collection Practices in Oregon* (2018), Center for Responsible Lending.
- 14 Ratcliff, C., et. al., *Debt in America: An Interactive Map*. Urban Institute (2017), available at https://apps.urban.org/features/debt-interactive-map/?type=auto&variable=autoopen_pct. This calculation underestimates the number of consumers in collection, as 22 million Americans do not have credit files.
- 15 Ibid.
- 16 Discussion with Northwest Justice Project.
- 17 *Consumer Experiences with Debt Collection*, Consumer Financial Protection Bureau (2017).
- 18 Authors' analysis of the Consumer Financial Protection Bureau's Consumer Complaint Database, Available at <https://www.consumerfinance.gov/data-research/consumer-complaints/>. The CFPB does not publish every complaint that is filed, so the numbers in this report likely understate the total number of complaints. For more information on suppressed complaints, see: Wolverton, Brad & Richards, Alex. 2018. "Financial Companies Rack Up Complaints, but Good Luck Finding Them." *NerdWallet*. Available at <https://www.nerdwallet.com/blog/finance/company-complaints-cfpb-scrutiny/>.
- 19 Ibid.
- 20 *Washington Superior Court Glossary*, Washington State Administrative Office of the Courts, (2018), available at: <http://www.courts.wa.gov/caseload/?fa=caseload.showIndex&level=s&freq=a&tab=Glossary>.
- 21 Wash. Rev. Code § 4.84.080.

22 *Consumer Experiences with Debt Collection*, 2017.

23 Stifler, Lisa. 2017. "Debt in the Courts: The Scourge of Abusive Debt Collection Litigation and Possible Policy Solutions." *Harvard Law & Policy Review* 11(1).

24 The State of Washington allows an action to be provisionally commenced by service of the summons or the filing of the complaint and also to toll the statute of limitations for a maximum of 90 days to accomplish the other. In the State of Washington, see RCW 4.16.170, CR 3, and CR 55. CR 3 provides that "a civil action is commenced by service of a copy of a summons together with a copy of a complaint, as provided in rule 4 or by filing a complaint." RCW 4.16.170, which resolves how statutory limitations are to be calculated with provisional commencement, provides that "For the purpose of tolling any statute of limitations an action shall be deemed commenced when the complaint is filed or summons is served whichever occurs first."

25 Joe Muchlinski. "Minnesota's Hip-Pocket Regime." *William Mitchell Law Review* 41, no. 4 (2015): 1556–90, available at <https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=2909&context=wmlr>.

26 Per CR 55(a), entry of default is permitted when a person has failed to "appear, plead or otherwise defend;" CR 4(a)(2) requires a party "served" with a summons and complaint to serve a response within 20 days (or 60 days if out of state, according to RCW 4.28.185).

27 Wilner, C. & Sheftel-Gomes, N. (2010). *Debt Deceptions: How Debt Buyers Abuse the Legal System to Prey on Lower-Income New Yorkers*. Available at: <http://mobilizationforjustice.org/wp-content/uploads/reports/DEBT-DECEPTION.pdf>;
Appleseed & Jones Day. (2010). *Due Process and Consumer Debt: Eliminating Barriers to Justice in Consumer Credit Cases*. Available at <https://www.appleseednetwork.org/wp-content/uploads/2012/05/Due-Process-and-Consumer-Debt.pdf>.



Center for Responsible Lending

www.responsiblelending.org

The Center for Responsible Lending (CRL) is working to ensure a fair, inclusive financial marketplace that creates opportunities for all responsible borrowers, regardless of their income, because too many hard-working people are deceived by dishonest and harmful lending practices.

CRL is a nonprofit, non-partisan organization that works to protect homeownership and family wealth by fighting predatory lending practices. Our focus is on consumer lending: primarily mortgages, payday loans, credit cards, bank overdrafts, and auto loans.

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