

Past Due Debt Collection

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due to the absence of due process and other procedural guarantees generally offered by judicial enforcement informal debt collection practices idcps can become abusive harming both consumers and the economy by threatening consumers physical psychological and economic wellbeing exposing lawabiding debt collectors to unfair competition undermining the financial system and negatively impacting social peace by resorting to criminal activity the need to control and harmonize idcps surfaced in connection with the european commission s action plan to tackle the high level of non performing loans caused by the financial crisis and the covid 19 pandemic specifically the proposal for a directive on credit servicers credit purchasers and the recovery of collateral csd harmonizing the regulation of abusive idcps is vital for several reasons first idcps have a cross border dimension due to the freedom of movement enabling debt collection operations across the internal market second the internal market s size amounts to over 450 million citizens potentially exposed to abusive idcps the regulatory frameworks addressing idcps in the e u display divergent characteristics that may be difficult to navigate and require creating a level playing field for consumers and debt collectors especially when approaches vary at member state level this book addresses this gap by providing a comprehensive guide to regulating informal debt collection practices in eight member states of the e u and the united kingdom u k it serves as a comparative law instrument for implementing the recently adopted csd it will be important reading for students academics and stakeholders with an interest in debt collection practices and the law

the book shows that self help in commercial law is a fast inexpensive and efficient alternative to court enforcement self help remedies and private debt collection are largely but not exclusively features of common law jurisdictions since remnants of private enforcement can still be found in contract law in civilian systems the book argues that despite their usefulness self help and private debt collection entail significant risks especially for consumer debtors this means that private enforcement needs to be accompanied by the introduction of tailor made consumer debtor protection regulation specific attention is given to factoring which functions in many instances as a form of pseudo private debt collection and which has been exploited to bypass sector specific consumer protection regulations

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flins originally an acronym for fuzzy logic and intelligent technologies in nuclear science is now extended to computational intelligence for applied research the contributions to the 11th of flins conference cover state of the art research development and technology for computational intelligence systems both from the foundations and the applications points of view

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this casebook contains a selection of u s court of appeals decisions that analyze interpret and apply provisions of the fair debt collection practices act the selection of decisions spans from 2014 to the date of publication the fdcpa regulates the conduct of debt collectors defined to include any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts or who regularly collects or attempts to collect directly or indirectly debts owed or due or asserted to be owed or due another id 1692a 6 among other things the fdcpa prohibits debt collectors from using any false deceptive or misleading representation or means in connection with the collection of any debt and from using unfair or unconscionable means to collect or attempt to collect any debt id 1692e 1692f the statute provides a non exhaustive list of conduct that is deceptive or unfair e g falsely implying that the debt collector is affiliated with the united states id 1692e 1 debt collectors who violate the fdcpa are liable for actual damages statutory damages of up to 1 000 and attorney s fees and costs see id 1692k a in re dubois 834 f 3d 522 4th cir 2016 the definition of debt collector which is contained in 1692a 6 is comprised of two parts the first part defines the classes of persons that are included within the term debt collector while the second part defines those classes of

persons that are excluded from the definition of debt collector the first part defining those who are included provides in relevant part the term debt collector means any person 1 who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts or 2 who regularly collects or attempts to collect directly or indirectly debts owed or due or asserted to be owed or due another notwithstanding the exclusion provided by clause f of the last sentence of this paragraph the term includes any creditor 3 who in the process of collecting his own debts uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts 15 u s c 1692a 6 emphasis added stated more simply this provision defines a debt collector as 1 a person whose principal purpose is to collect debts 2 a person who regularly collects debts owed to another or 3 a person who collects its own debts using a name other than its own as if it were a debt collector henson v santander consumer usa inc 817 f 3d 131 4th cir 2016 the second part of 1692a 6 defines the classes of persons that are excluded from the definition of debt collector so that a person who meets one of the definitions of debt collector contained in the first part of 1692a 6 will not qualify as such if it falls within one of the exclusions

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