

## Why CFPB survey on collections is 'disappointing'

By Nick Zulovich, Senior Editor

PHILADELPHIA and WASHINGTON, D.C. — Collections, one of the most crucial segments of any buy-here, pay-here business, was the subject of an extensive research projection orchestrated by the Consumer Financial Protection Bureau.

The CFPB released a report in early January and declared more than one in four consumers contacted by debt collectors felt "threatened."

The bureau explained the report was drawn from the first-ever national survey of consumer experiences with debt collectors. Officials learned that more than 40 percent of consumers who said they were approached about a debt in collection requested that a creditor or collector stop contacting them. Of these consumers, three in four report that debt collectors did not honor their request to cease contact.

"The bureau casts light on troubling problems in the debt collection industry," CFPB director Rich Cordray said. "More than one-in-four consumers report feeling threatened by a debt collector, and a majority of those contacted about debt say the calls persist even after requests to stop.

"The bureau is working to clean up abuses in this industry, and to see that all consumers are treated with fairness, decency and respect," Cordray continued.

When Joann Needleman, a partner at Clark Hill and leader of Clark Hill's consumer financial services regulatory and compliance group, reviewed the CFPB's collections survey, she called it "disappointing," and not because of rampant abuses by BHPH dealers and other finance companies that operate in the deep subprime auto finance space.

Needleman, the immediate past president of the board of directors of the National Creditors Bar Association, has extensive litigation experience in state and federal courts, successfully defending creditors against claims brought under the Fair Debt Collection Practices Act and Fair Credit Reporting Act as well as state statutes. She provides counsel, consultation and litigation services to financial institutions, law firms and debt buyers throughout the country.

"The survey is disappointing in many respects. For one, the sample size is so small relative to the millions of communications that occur

every day between debt collectors and consumers," Needleman said.

"There were many results from survey questions that were not published like what information a consumer would like to have to ensure the debt is their debt, why they paid debts after being contacted by a debt collector and why they do not show up for court. This would be very useful information for the industry," she continued.

"Instead the CFPB is using this survey to paint a very negative and generalistic view of the industry," Needleman went on to say.

Among the assertions the CFPB made through this survey, the bureau declared:

— More than half of consumers report incorrect contact for at least one debt: Officials indicated 53 percent of consumers contacted about a debt in the year prior said at least one collection effort was mistaken in some way. These consumers reported that the creditor or collector sought the incorrect amount, that the debt was not owed, or that the person owing the debt was a family member.



Joann Needleman  
Clark Hill

More than one-third of consumers report being contacted at inconvenient times: Officials said 36 percent of consumers contacted about a debt in collection said that the creditor or collector who most recently contacted them called between 9 p.m. and 8 a.m. Debt collectors generally cannot call at times they know to be inconvenient unless the consumer specifically agrees to it.

■ Nearly 40 percent of consumers report that a debt collector attempted contact four or more times per week: The CFPB found that 37 percent of consumers contacted about a debt in collection report that the most recent creditor or collector to contact them usually did so four or more times in a week. About 20 percent of consumers approached by debt collectors reported contact attempts by debt collectors usually four to seven times per week. Another 17 percent said a creditor or debt collector tried contacting them eight or more times per week.

■ One in seven consumers contacted about a debt report being sued: The bureau added 15 percent of consumers contacted about a debt in collection over the prior year report being sued. The share ranges from 6 percent sued among those contacted about a single debt to 35 percent sued among consumers contacted about five or more debts. About 75 percent of those sued do not go to the court hearing, which generally makes them responsible for the debt.

Needleman acknowledged the difficult challenge collectors such as the ones employed by BHPH dealerships have in contacting and working with customers who are delinquent on their vehicle payments.

"Nobody likes to deal with a debt collector, it can never be a positive experience. It is offensive if someone tells you that you owe money. It's never an easy conversation not to mention it can be embarrassing," Needleman said.

"Part of the problem I see is that our culture over the last several years has focused on the debt collection horror stories and not focused on the financial responsibility," she continued. "Debts that are owed should be paid. Furthermore the CFPB, state regulators and even the courts have created so many barriers to communication that it is virtually impossible to communicate with consumers to discuss debt resolution."

So in light of the new furor the CFPB possesses about collections, Needleman offered a few recommendations about what BHPH operators can do.

"The CFPB made it a point to say that consumers have better experiences with creditors than debt collectors. I do not know if this is in fact true," she said.

"Nevertheless, auto finance companies should use great care in choosing their partners to assist them in collecting debts and ensure that they follow the law and consumers are treated fairly," Needleman continued. "The results make clear that consumers do not want to be repeatedly contacted.

"Debt collectors and creditors should strive for opportunities to create any safe environments where a consumer can feel comfortable communicating about their debt. Correct and accurate information about the debt will assist in this process," she went on to say.