

Texas Law Firm to Pay \$3.4 million – Settling Class Action Matter Alleging Unauthorized Practice of Law in California

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<http://www.insidearm.com/daily/debt-collection-news/debt-collection/texas-law-firm-to-pay-3-4-million-settling-class-action-matter-alleging-unauthorized-practice-of-law-in-california/>

On January 8, 2016 a Federal Judge in California **approved a settlement** (<http://www.insidearm.com/wp-content/uploads/Final-Order-Linebarger-Case.pdf?0e9d3e>) in the matter of *4EC Holdings v. Linebarger Goggan Blair & Sampson* (Case No 3-14-cv-01944, N.D. California) whereby the defendant law firm will pay \$3.4 million dollars to resolve claims made in a class action proceeding that the firm violated the California Unfair Competition Law by engaging in the illegal practice of law in California by sending letters into California attempting to collect debts owed to various California governmental agencies. The complaint also alleged that the letters were misleading, constituted false advertising and/or otherwise constituted unfair business practices.

The Texas based law firm of Linebarger Goggan Blair & Sampson (Linebarger) is highly regarded as one of the larger collection law firms in the United States, with a significant specialty practice in collection of government debt. This may include almost any sort of debt owing to a government entity, from unpaid taxes, tolls or fines to fees for services rendered (for example, court costs or fees for services at a public hospital).

The case began in May, 2013 and has been vigorously litigated (there were over 100 separate documents filed with the court). Per the amended complaint, Linebarger had no lawyers in California until September 2013, and that lawyer wasn't properly supervised. Linebarger had denied the allegations in the complaint.

The parties engaged in mediation and had extensive settlement discussions post-mediation.

The settlement class consisted of “every person who, during the period from February 6, 2002 through September 15, 2013, inclusive, paid money in response to one or more demand letters sent by Linebarger to such person on behalf of a client, where the money was paid to extinguish a debt owed by such person to the client and Linebarger received a fee for the collection of that debt.”

Under terms of the **settlement** (<http://www.insidearm.com/wp-content/uploads/Linebarger-Settlement-Document.pdf?0e9d3e>), Linebarger will deposit \$3.4 million into a settlement fund. There will be at least \$2 million in automatic payments to class members. The other \$1.4 million is reserved to pay for court approved attorneys' fees and expenses as well as a possible *cy pres* award.

(Editor's note: When class actions are settled or tried, there are times that it's not possible to distribute all of the money recovered to some or all of the class members. They may be difficult to identify or find or it may not be economically feasible to distribute the funds to them. When that is the case, the cy pres doctrine allows the funds to be distributed to a nonprofit charitable organization to support work that indirectly benefits the class and advances the public interest.)

Class action notices were mailed to 82,906 class members. Every class member will receive a check from the Settlement Fund proportionate to the amount of money they paid to the California government in response to the letters.

Linebarger also agreed going forward not to send written communications on behalf of their clients to California citizens without having one or more members of the State Bar of California as either partners or as regular salaried employees at the time such communications are transmitted.

insideARM Perspective

This is really an unusual case. insideARM contacted Joann Needleman, a frequent insideARM contributor and member of the law firm Clark Hill PC, for her perspective on this case. Ms. Needleman commented, "I find this case fascinating on so many fronts. First is that the law firm was not sued by a consumer but by a commercial entity. Second, the claims involved the unauthorized practice of law which doesn't necessarily rise to a private right of action. Third, in its motion to dismiss, Linebarger, a law firm, said it was not practicing law by sending a letter. I think the legal debt collection industry would take great exception to that position.

Finally, the case is another view into the mind-numbing world of class action litigation. Assuming, for illustrative purposes only, every class member would get an equal share of the minimum \$2.0 million amount, each class member would get approximately \$24.

The court also awarded \$850,000 in attorney fees to Plaintiff's counsel. It is unknown how much money Linebarger paid outside counsel to defend the case.