

The Consumer Finance Podcast x Payments Pros – Point-of-Sale Finance Series:
Evolving Collection Rules Impacting Creditors

Host: Taylor Gess

Guest: Stefanie Jackman

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Taylor Gess (00:05):

Welcome to this special edition of [The Consumer Finance Podcast](#) and [Payments Pros](#). I'm Taylor Gess, an associate in Troutman Pepper Locke's Consumer Financial Services Regulatory Practice, and I'll be your guest host for today's episode. Today we're going to be giving you another installment of our special highlight series on point-of-sale finance, where we will discuss issues related to servicing and collections. But before we jump into that topic, let me remind you to visit and subscribe to our blogs, [TroutmanFinancialServices.com](#) and [ConsumerFinancialServicesLawMonitor.com](#).

Taylor Gess (00:37):

And don't forget about all of our other podcasts. We have the *FCRA Focus*, all about credit reporting; the *Crypto Exchange*, about crypto and digital assets. We also have *Moving the Metal*, our auto finance podcast. All of those are available on all popular podcast platforms. Speaking of those platforms, if you like this podcast, please let us know. Leave us a review on your podcast platform of choice and tell us how we're doing. Now, as I said, today's episode is another in our special highlight series on point-of-sale finance. Here I'm joined by my colleague, Stefanie Jackman, to give us some insights into servicing and collection issues. Welcome to the podcast, Stefanie.

Stefanie Jackman (01:11):

Thanks for having me, Taylor. It's great to be here.

Taylor Gess (01:14):

So I know there's been a lot of discussion recently about the New York City Department of Consumer and Worker Protection publishing a final set of amended collection regulations with an effective date of September 1st, 2026. How might those rules impact retailers and other creditors?

Stefanie Jackman (01:29):

Yeah, this has been a really hot topic. They make clear that creditors are covered. Just to give a little history, New York City originally enacted debt collection regulations many, many years ago. I cannot remember the exact year, but at least 2010, 2012. And they apply, at least in part, to even creditors collecting their own debt and people that are able to service accounts and sometimes collect them in the name of creditors, kind of what is often called first-party

collections. Many of the restrictions were only effective as to a creditor after institution of debt collection procedures.

Stefanie Jackman (02:09):

And the term debt collection procedures is defined, and it was defined in the prior regs as when, if you are required by law to send monthly statements, you stop sending them. So usually for an open-end account, that's gonna be at charge-off. If you were sending, even if you weren't required to send monthly statements by law, you stopped sending them anyway voluntarily was a second potential institution of debt collection procedures. If you accelerated the total balance due on the account, or if you instituted or threatened to institute litigation to collect the account.

Stefanie Jackman (02:46):

Fast-forward. The New York City Department of Consumer and Worker Protection has been trying to update their regs for the past couple of years. Last, actually, I would say it was two years ago now, 2024, they put out some proposed final regs. My read of those was that they did not apply to creditors. I was like, "Oh, great." And then in November of 2024, that I guess got back to the department and they said, "No, no, it does apply to creditors." And they rushed out a quick, "By the way, we're gonna change the definition of the rules that we put out last August that are gonna be in effect next year to make sure you all aren't confused." And I didn't think there was confusion. I thought that the final regs were pretty clear that they did not define a creditor as a debt collector.

Stefanie Jackman (03:30):

So bringing that forward, these rules that were published and are set to take effect on September 1st of this year make clear that they apply to creditors in all instances after institution of debt collection procedures. Not in part, in full, which is actually kind of helpful because before there were some pieces that could apply earlier. And it's still defining debt collection procedures in the same way as the prior law that I just went through. So that puts creditors in the position of being able to make choices about when activities on accounts that they take may be something they would rather outsource to a third-party debt collector. Or if they do any debt sales, it might make sense to sell the debt and avoid the rules entirely since all of the requirements only apply after institution of debt collection procedures.

Taylor Gess (04:25):

Well, we all know September is gonna be here before we know it. Stefanie, what should creditors be doing to prepare for these rules?

Stefanie Jackman (04:32):

Well, they should read them. That'd be the first step. They're a little hard to read as they're published online. I'm getting a cleaner redline. So if anybody is needing that, they can figure out how to email us, and I'm sure I can manage to get them an easier version to read from a change perspective. They should read them. They should think about how their current

collection activities may or may not trigger parts of the rule because after institution of debt collection procedures, which is after you stop sending monthly statements, or accelerate the total balance due, or threaten or initiate litigation to collect the account, after that point, you're now engaged in debt collection procedures.

Stefanie Jackman (05:13):

There are some really significant requirements. There are restrictions on the number of communications, inclusive of all types of communication channels that you can have in a seven-day period. There's a seven-day waiting period as well after one of those channels results in an actual kind of live connection. Those are more onerous than what Reg F would do. The limit is three communication attempts in a seven-day period, and then a seven-day waiting period after one of those attempts is successful in connecting you with the consumer. I would imagine that means, or is at least intended to mean, in some sort of interactive way, not leaving a message on an answering machine. There are significant debt validation requirements and substantiation requirements and timing to provide any requested substantiation. There are disclosures that are required.

Stefanie Jackman (06:07):

So just a lot of things. These are manageable if you know about them, but as I said earlier, there also are ways you can avoid them if you're not engaging in collections after the point that they'd be triggered because your strategy is one where perhaps that's outsourced. So be thinking about that. And then to the extent that you do sell any accounts or use third-party agencies to collect or sue accounts, be mindful of their obligations so that you at least know what they'll be facing on those accounts and can provide the support they may need as far as documentation, information. They have some very onerous reporting requirements and things like that that could be triggered. So it's really important to take a look at them and just think about how they may apply to your organization directly, as well as anybody you partner with when accounts are aging in the delinquency process.

Taylor Gess (07:03):

So Stefanie, do you anticipate any future legal challenges to these rules?

Stefanie Jackman (07:08):

It's hard to say, Taylor. Previously, with what came out in August of 2024, ACA did file a lawsuit challenging those rules on the basis of a variety of things, but including that because they only applied to debt collectors and not creditors, there were sort of equal protection, due process type violations if you will. That litigation was then stopped and I believe dismissed after the rule was withdrawn. I don't remember if it was dismissed or stayed, but either way, these new rules have addressed a lot of those arguments, so it would have to be re-thought through.

Stefanie Jackman (07:43):

There are concerns about the extent to which a municipality is going even further than what New York State would apply to creditors and debt collectors, and there's at least chatter about whether there may be some sort of preemption-esque type argument between a state and a municipality. But I don't know that we'll have any answers to whether anyone is going to proceed with litigation at any point for a few months at a minimum, because the rules just came out and people need time to think about what a challenge might be and if a challenge makes sense. That's a lot of words to say if I had to bet, it wouldn't surprise me to see a new lawsuit of some type filed in the future before the effective date of September 1. But we'll have to see.

Taylor Gess (08:31):

Thank you, Stefanie. That was really helpful groundwork about the New York City debt collection rules. So shifting gears a little bit, I know that the coerced debt statutes have also been a recent hot topic. What are these laws about?

Stefanie Jackman (08:43):

So those are laws that are trying to talk about when somebody is the victim of coercion that they allege caused them to have to use their own credit to enter into some sort of credit transaction. So often what we see in the seven states that have these laws right now on the books, at least, we see it's where you have instances of human trafficking or domestic violence or elder abuse or some sort of – a few use just the word general economic duress or coercion.

Stefanie Jackman (09:14):

So some can be very broad, but they're trying to capture those instances of fraud that the current laws around identity theft may not be sufficient to cover in all instances because, for instance, under the FCRA, you can't know the person or be connected to the person that you're then alleging misused your identity in this way. So they're trying to fill a hole in the current legal paradigm for these types of circumstances where it isn't a stranger to you who took your identity, and in fact, they may not have taken your identity at all. You may have been the one that actually applied, but it wasn't of your own free will.

Taylor Gess (09:54):

Thanks, Stefanie. So I think you said seven states currently have enacted coerced debt statutes. Do you anticipate more states enacting these types of laws in the future?

Stefanie Jackman (10:03):

Yeah, it wouldn't surprise me, Taylor. So of the seven, I believe six have laws that apply to everyone. The seventh state is to licensed debt collectors. That doesn't mean that a state regulator might not take a broader position, but it at least is in, and I believe that's Illinois. It's in the laws that apply only to licensed debt collectors. But you still should be mindful of it even if you're not a licensed debt collector in Illinois because it's something that you could see forming

the basis for a position to be asserted through maybe a UDAP or some fair business practices act against even a creditor.

Stefanie Jackman (10:40):

We see other laws. I think New Jersey recently introduced a bill to enact a coerced debt statute. And another thing we're starting to see is some commonalities emerging between the later laws that have at least been either enacted or proposed, and maybe they didn't get through in the last legislative session. They're starting to align around similar language and requirements and approach. Some of the earlier states were perhaps a little bit different on that. So it also is mindful because I anticipate the more recent laws are providing essentially a template to a state AG or a state legislator that might want to try to push forward some initiative on that basis in their own state. So it wouldn't surprise me.

Taylor Gess (11:21):

So with all that in mind, what steps should companies take to ensure compliance? Are these the types of claims that can be handled like those involving identity theft more generally?

Stefanie Jackman (11:31):

Maybe. It depends. What I've been generally advising as clients are becoming aware of these laws and trying to understand what they require, a lot of companies just aren't aware of them yet, but they're in big states: Illinois, Texas, California. I don't have the list in front of me, but there's a few more. First, I think it's important that a specialized team handle these. All right? Because it's not a good look to get a headline that says so-and-so continues to pursue debt and tell people that are victims of violence in some way that they're responsible for these debts. That's just, that's not a good PR strategy, and nobody wants to do that anyway. So I think that starts with some training and just helping the people who are seeing these claims come in, whether in a written form or they can come in verbally in many states.

Stefanie Jackman (12:21):

So just sensitizing your first-line customer service reps. Anything alleging identity theft or misuse of my credit needs to go to these teams. And then within that team, giving some training around these types of victims and their unique situation. Some sort of sensitizing to how somebody could end up being coerced in these ways. Because for those of us who are not hopefully experiencing any of these things, sometimes that may seem a little difficult to grasp. Right? Why wouldn't you get away? Why wouldn't you say no? And so just helping people have a little education around that as they then investigate and correspond with these consumers in investigating and resolving the claim, I think is a really important thing. Secondly is the fact that you need to realize these could come up at any time, especially with a longer-term debt.

Stefanie Jackman (13:19):

There's no real way to screen for this, at least that I've come up with in the originations process, that wouldn't risk bias and discrimination. It could take somebody a long time to be willing to say

and do what they need to do to try to escape from whatever situation they may be in. So this is something that throughout the lifetime of an account is important to remain aware of. And lastly, just being mindful of and thinking through how are you going to report back to these victims?

Stefanie Jackman (13:48):

Some of the laws require a response. So if you have somebody who perhaps is in an abusive marriage, are you mailing this to their home address? Is that safe? Could their spouse see it? And there are state laws, I think they're called like safe at home laws, that actually come into play here and might prevent you from doing that. So building into your process, establishing a safe channel to report any results or to follow up with any other information that may be needed for you to complete your investigation. Those are three really key things that I think we need to think about through a slightly different lens in the coerced debt world.

Taylor Gess (14:27):

Thank you, Stefanie. That sounds like an area that people really need to be paying attention to. And, as we move into our last topic here, we're gonna talk about medical debt.

Stefanie Jackman (14:35):

Medical debt.

Taylor Gess (14:37):

We are all aware over the past few years a number of states have enacted laws prohibiting furnishers from reporting medical debt. Last fall, a lawsuit was filed in Colorado claiming Colorado's medical debt reporting law is preempted by the FCRA. Last month, another lawsuit was filed in Minnesota alleging the same. So what is the impact of these lawsuits on the ability to furnish on medical debt in these states?

Stefanie Jackman (15:02):

Before I answer your question, there's one more we should watch. You're correct, there's Colorado, which was filed by the ACA and one of their members for standing purposes. The Minnesota one, filed February of 2026, was by CDIA and a member. Those are both in federal district courts in those states. And then there is now an evolution of the *Frey*, F-R-E-Y, case that has been pending in the First Circuit since about 2022. I thought it had been resolved, Taylor. Maine had changed its law several years ago to require a 180-day waiting period before you could furnish adverse information on medical debt. And ultimately, that went to the First Circuit, which held it was not preempted by the FCRA. Okay, but then the Maine legislature amended the statute to be just an outright prohibition.

Stefanie Jackman (15:53):

So that has re-engaged in that litigation on whether it's preempted because it's a different issue. Right now, I think that's still in the district court in Maine, but that's another one to watch up in

the First Circuit. The impact right now, it's hard to say. I know that there's no injunction in place against enforcement in Colorado or Minnesota yet. I don't know if there is in the *Frey* case. I'd suspect not because they're all just kind of in early stages. Any injunction's only gonna apply, you would think, to members of the organizations that brought the lawsuits from a standing purpose. So it's been tricky. But I've been trying to advise clients that while I understand we're hopeful that we'll be able to furnish this information in the future, right now in the 20 or so states, maybe it's a little bit less than that, maybe it's around 15 that outlaw this, I would advise caution. I'm aware of the New York AG also investigating compliance with New York's medical debt furnishing ban, although there's no public actions there.

Taylor Gess (16:53):

Do you expect to see any other lawsuits being filed challenging these laws? And where do you ultimately see this issue ending up?

Stefanie Jackman (17:01):

I don't know if we'll see more lawsuits or not, at least right out of the gate. In an ideal world, when I put on my litigator hat, if I were one of the entities bringing these, I'd like to try to get a win or two on preemption before I start expanding, because courts could come out differently and it's easier to build momentum behind consistent outcomes. So if you file in two or three courts, and that's hedging your bets versus in all the states that have these laws.

Stefanie Jackman (17:28):

But litigation takes time. Courts can move slowly. You could see other filings needing to happen if a state becomes aggressive in enforcing, like I mentioned New York earlier. So maybe, I don't have any reason to believe there's anything going there, but I think it'll depend on state by state, how aggressive are these statutes being enforced, whether it's through regulatory activities or private litigation. That could necessitate another challenge, if for no other reason to try to get an injunction until the issue is resolved on preemption. You could also see behind the scenes things happen that result in changes. You never know, right? Legislation can always be amended and there's lots of lobbying and lots of interests here.

Stefanie Jackman (18:10):

And so maybe they reach some sort of agreement on something everyone can live with, because medical debt just continues to be a hot topic and it really goes across political lines. Healthcare is expensive in this country. So it's hard to say, but what I can say is where I see this ending up is we're still a ways away from getting the decisions on preemption. I mean, if I had to guess, it wouldn't surprise me to see it take up to a year to get a decision, and then that'll probably be appealed. So there's still a lot of runway, as I see it, Taylor, until we reach whatever resolution we're gonna have here: preempted, not preempted, some other alternative. And that makes it challenging in the interim on knowing what to do.

Taylor Gess (18:51):

Yeah, definitely. Well, Stefanie, thank you so much for being here with us today.

Stefanie Jackman (18:55):

Thank you so much for having me.

Taylor Gess (18:56):

We've done a great job highlighting some key servicing and collections topics for people in the point of sale Finance space to consider. So let's leave this special series here for now and we'll pick back up with another very special and interesting topic on our next joint episode for [The Consumer Finance Podcast](#) and [Payments Pros](#). In the meantime, thanks to our audience for listening today and don't forget to visit and subscribe to our blogs, [TroutmanFinancialServices.com](#) and [ConsumerFinancialServicesLawMonitor.com](#). While you're at it, why not visit us on the web at [Troutman.com](#) and add yourself to our Consumer Financial Services email list? That way we can send you copies of the alerts and advisories that we send out, as well as invitations to our industry-only webinars that we put on from time to time. And of course, stay tuned for a great new episode of this podcast every Thursday afternoon and look forward to the remainder of our series on Point-of-Sale Finance coming soon to your podcast feed. Thank you all for listening.

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