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# Validation and Verification Vignettes: More Results from an Empirical Study of Consumer Understanding of Debt Collection Validation Notices

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**VALIDATION AND VERIFICATION VIGNETTES:  
MORE RESULTS FROM AN EMPIRICAL STUDY OF  
CONSUMER UNDERSTANDING OF DEBT COLLECTION  
VALIDATION NOTICES**

© *Jeff Sovern*,\* *Kate E. Walton*† & *Nathan Frishberg*‡

ABSTRACT

*The Federal Fair Debt Collection Practices Act obliges debt collectors to provide certain notices to consumers from whom they are attempting to collect debts. This Article is our second to report findings from the first academic study of consumer understanding of one of those notices, commonly called the validation notice. We showed consumers different versions of collection letters and then asked questions to measure their understanding of the notices.*

*This Article explores some issues not discussed in our first Article. For example, in this Article, we examine what consumers thought collectors would have to do in response to a request for validation. We found a gulf between what many of our respondents expect when requesting verification of a debt and what some courts say collectors must provide.*

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*We also attempted to determine whether consumers found the validation notice salient. Most respondents did not find the notice salient enough to mention when asked an open-ended question about the contents of the two-page collection letter they saw.*

*Because some collectors sell disputed debts to other collectors after consumers dispute a debt, we also wondered whether consumers would repeatedly dispute debts. We found that significantly fewer respondents said they would dispute a debt with a second collector when they had already disputed it once, though most said they would dispute the debt a second time. That finding suggests that some consumers will surrender some rights simply because they grow tired of asserting them.*

*We also report here findings building upon our earlier Article, which raised serious questions about consumer understanding of a commonly-used form of validation notice. This Article reports that a fifth of the respondents who said they would write a letter if told they needed to do so to dispute a debt they did not owe failed to realize that the letter they saw said that the collector would have to verify the debt if they wrote twenty-five days after receipt of the collector's demand for payment—even though the demand letter had been approved by the Seventh Circuit. On the positive side, we found that seeing a validation notice made a difference on some questions, though not on others. After discussing these and other findings, the Article offers some recommendations to lawmakers for addressing the problems revealed in our study.*

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## I. INTRODUCTION

The Federal Fair Debt Collection Practices Act (“FDCPA”) protects consumers being dunned by debt collectors.<sup>1</sup> Collectors—far too often—seek payment of debts that are not actually owed, or are owed in different amounts than the collector seeks.<sup>2</sup> Accordingly, Congress included in the FDCPA a provision captioned “Validation of Debts,” that obliges collectors to notify consumers of their right to seek verification of the putative debt, among other things.<sup>3</sup> Congress saw the validation notice as a “significant feature” of the FDCPA,<sup>4</sup> while the Consumer Financial Protection Bureau (“CFPB”) reportedly sees the consumer’s ability to dispute debts “as critical to its proposed regulatory framework.”<sup>5</sup> Nevertheless, the problem remains. Both the Federal Trade Commission (“FTC”) and the CFPB receive more complaints about debt

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1. The FDCPA is codified as Title VII of the Consumer Credit Protection Act, 15 U.S.C. §§ 1692–1692p (2012).

2. See FED. TRADE COMM’N, THE STRUCTURE AND PRACTICES OF THE DEBT BUYING INDUSTRY 39 (2013) [hereinafter FTC, DEBT BUYING INDUSTRY], <https://www.ftc.gov/sites/default/files/documents/reports/structure-and-practices-debt-buying-industry/debt-buyingreport.pdf>; CONSUMER FIN. PROT. BUREAU, SMALL BUSINESS REVIEW PANEL FOR DEBT COLLECTOR AND DEBT BUYER RULEMAKING: OUTLINE OF PROPOSALS UNDER CONSIDERATION AND ALTERNATIVES CONSIDERED 5–6 (2016) [hereinafter CFPB, SBREFA OUTLINE], [http://files.consumerfinance.gov/f/documents/20160727\\_cfpb\\_Outline\\_of\\_proposals.pdf](http://files.consumerfinance.gov/f/documents/20160727_cfpb_Outline_of_proposals.pdf) (“[T]he most common debt collection complaint received by the Bureau concerns collectors seeking to recover from the wrong consumer or in the wrong amount.”).

3. 15 U.S.C. § 1692g(a) (2012) provides:

(a) Notice of debt; contents

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—

....

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector . . . .

4. See S. REP. NO. 95-382, at 4 (1977) (describing the validation provision’s purpose as to “eliminate the recurring problem of debt collectors dunning the wrong person or attempting to collect debts which the consumer has already paid”).

5. See Christopher K. Odinet & Roederick C. White, Sr., *Regulating Debt Collection*, 36 REV. BANKING & FIN. L. 869, 885–86 (2016–2017), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2851487](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2851487).

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collection than anything else,<sup>6</sup> and the most common claim among debt collection complaints to the CFPB is that consumers have been dunned for debts they do not owe.<sup>7</sup> Being dunned for un-owed debts can cause considerable distress and other harms to consumers.<sup>8</sup>

The explanation for the errors stems at least in part from the fact that debt collectors and debt buyers collect debts originally owed to others and thus depend on those others for information about the debts.<sup>9</sup>

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6. See FED. TRADE COMM'N, CONSUMER SENTINEL NETWORK 1, 6 (2018), [https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2017/consumer\\_sentinel\\_data\\_book\\_2017.pdf](https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2017/consumer_sentinel_data_book_2017.pdf) (FTC received more complaints about debt collection than any other item); CFPB, SBREFA OUTLINE, *supra* note 2, at 2; Chris Johnson, *Top Five Consumer Financial Complaints Reported Across the U.S.*, CFPB (July 6, 2017), <https://www.consumerfinance.gov/about-us/blog/top-five-consumer-financial-complaints-reported-across-us/> (“Twenty-seven percent of complaints we received were about debt collection.”); Consumer Fin. Prot. Bureau, *Fair Debt Collection Practices Act*, 2018 CFPB ANN. REP. 1, 1 [hereinafter CFPB, *Fair Debt Collection Practices Act*], [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb\\_fdcpa\\_annual-report-congress\\_03-2018.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_fdcpa_annual-report-congress_03-2018.pdf) (“In 2017, the Bureau handled approximately 84,500 debt collection complaints, making it one of the most prevalent topics of complaints . . . received by the Bureau.”). From July 21, 2011 until December 31, 2017, the CFPB received 377,300 complaints about debt collection. See Consumer Fin. Prot. Bureau, *Consumer Response Annual Report*, 2017 CFPB ANN. REP. 2, 8 fig.2 [hereinafter CFPB, *Consumer Response*], [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb\\_consumer-response-annual-report\\_2017.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_consumer-response-annual-report_2017.pdf).

7. See CFPB, SBREFA OUTLINE, *supra* note 2, at 2; CFPB, *Consumer Response*, *supra* note 6, at 19 (describing how the CFPB received more debt collection complaints about attempts to collect debts not owed than any other debt collection matter); Johnson, *supra* note 6 (“Many of [the complaints] are specifically about repeated attempts to collect a debt the consumer did not owe.”); CFPB, *Fair Debt Collections Practices Act*, *supra* note 6, at 15 tbl.1 (reporting that 39% of the debt collection complaints to the Bureau were about attempts to collect debts not owed, and that was the “most common debt collection complaint”); CONSUMER FIN. PROT. BUREAU, CONSUMER EXPERIENCES WITH DEBT COLLECTION 5, 24 (2017) (finding that “[m]ore than half of consumers (53 percent) who were contacted about a debt in collection in the past year indicated that the debt was not theirs, was owed by a family member, or was for the wrong amount. . . . 28 percent of consumers who said they had been contacted about one or more debts in collection reported that the contacts included attempts to collect at least one debt the consumer believed he or she did not owe”).

8. See CFPB, SBREFA OUTLINE, *supra* note 2, at 7 (“Consumers may pay debts they do not owe, pay the wrong amount, or pay collectors that lack the legal right to collect. . . . [and] may incur financial costs, loss of time, or other burdens in disputing the debt, providing information to the collector, retaining counsel, or complaining to government agencies.”).

9. A review of eighty-four consumer debt purchase contracts found that: Instead of warranties, most contracts contain “reliance waivers,” a declaration from the buyer that it has not relied on any statements or representations the seller may have made at any point. Instead of affirmative representations, the contracts specifically disclaim material aspects of the transaction and provide little to no evidence of the underlying accounts. For example, sellers (1) do not warrant that

Sometimes the chain from creditor to debt buyer includes many intermediaries.<sup>10</sup> The problem is worsened by something the CFPB has described as happening often: the existence of “substantial deficiencies in the quality and quantity of information collectors receive.”<sup>11</sup>

Though verification notices attempt to address this problem, they may not be up to that task. A burgeoning body of literature demonstrates that consumers often fail to take in information contained in disclosures.<sup>12</sup> The FDCPA forbids collection activities or communications

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they have title to the accounts they sell, (2) disclaim that the amounts listed as owed by account holders are correct . . .

Dalié Jiménez, *Dirty Debts Sold Dirt Cheap*, 52 HARV. J. ON LEGIS. 41, 47 (2015) (footnote omitted); see also Odinet & White, *supra* note 5, at 882; Jeff Sovern & Kate E. Walton, *Are Validation Notices Valid? An Empirical Evaluation of Consumer Understanding of Debt Collection Validation Notices*, 70 SMU L. REV. 63, 66–68 (2017).

10. See Jiménez, *supra* note 9, at 48–55 (describing lifecycle of a debt and the transactions that can occur).

11. CFPB, SBREFA OUTLINE, *supra* note 2, at 6. The Bureau also offered an explanation for the problem:

Creditors . . . may not convey their full files to a third-party debt collector or debt buyer because transferring so much information between systems can be technically complicated and expensive.

In addition . . . the quality and accuracy of the information may degrade as debts are worked and transferred among creditors and debt collectors downstream.

*Id.* at 6–7. The FTC reported:

[D]ebt collectors often have inadequate information when they contact consumers, thereby increasing the likelihood that they will reach the wrong consumer, try to collect the wrong amount, or both.

. . . When accounts are transferred to debt collectors, the accompanying information often is so deficient that the collectors seek payment from the wrong consumer or demand the wrong amount from the correct consumer.

See FED. TRADE COMM’N, COLLECTING CONSUMER DEBTS: THE CHALLENGES OF CHANGE 21–22 (2009), <https://www.ftc.gov/sites/default/files/documents/reports/collecting-consumer-debts-challenges-change-federal-trade-commission-workshop-report/dccwr.pdf>; see also Mary Spector & Ann Baddour, *Collection Texas-Style: An Analysis of Consumer Collection Practices in and Out of the Courts*, 67 HASTINGS L.J. 1427, 1441–42 (2016) (reporting that 29% of a sample of Texas collection complaints were about attempts to collect debts that were not the consumers’).

12. See OMRI BEN-SHAHAR & CARL E. SCHNEIDER, MORE THAN YOU WANTED TO KNOW: THE FAILURE OF MANDATED DISCLOSURE 86–87, 100–01 (2014); Yannis Bakos et al., *Does Anyone Read the Fine Print? Consumer Attention to Standard-Form Contracts*, 43 J. LEGAL STUD. 1, 32 (2014); Jonathan A. Obar & Anne Oeldorf-Hirsch, *The Biggest Lie on the Internet: Ignoring the Privacy Policies and Terms of Service Policies of Social Networking Services*, J. INFO. COMM. & SOC’Y, July 3, 2018, at 10, 13–14; Jonathan A. Obar & Anne Oeldorf-Hirsch, Presentation of The Biggest Lie on the Internet: Ignoring the Privacy Policies and Terms of Service Policies of Social Networking Services at TPRC: 44th Research Conference on Communications, Information and Internet Policy (Sept. 30, 2016); Debra Pogrud Stark & Jessica M. Choplin, *A License to Deceive: Enforcing Contractual Myths Despite Consumer Psychological Realities*, 5 N.Y.U. J.L. & BUS. 617, 679–82 (2009); Jeff Sovern, Elayne E. Greenberg, Paul F. Kirgis & Yuxiang Liu, “Whimsy Little Contracts”

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that “overshadow” or are inconsistent with the validation disclosure,<sup>13</sup> but courts have largely undermined this stricture by unrealistically interpreting the statute without regard to whether or how consumers actually understand the validation notice.<sup>14</sup> Consequently, in an effort to determine the effectiveness of validation notices, we conducted the first academic study of consumer awareness and understanding of them. We reported some of our findings in an earlier Article,<sup>15</sup> and this Article reports the balance of our findings.

Our first Article focused mostly on how respondents interpreted a validation notice when they had an unlimited amount of time to study it and could return to it as many times as they wanted.<sup>16</sup> This Article explores other findings. Because consumers may not request verification unless they think doing so would be of value, which in turn depends on their understanding of the word verification, this Article reports on what our respondents believe verification means.<sup>17</sup> In addition, because collectors sometimes respond to consumer disputes by selling the debt to another debt buyer, who might then start the collection cycle anew by sending a fresh validation notice, the Article also reports findings on how consumers might respond to a letter from a second debt collector after they disputed the debt.<sup>18</sup>

We also sought to discover respondents’ first impressions of the validation notice because consumers may never return to the notice if on first reading they conclude it offers little aid. Alternatively, they may believe they know how to take advantage of the protections it offers and so not bother rereading it. Accordingly, this Article reports on consumers’ initial impression of the validation notice.<sup>19</sup>

Our earlier Article reviewed the background of the FDCPA validation provision<sup>20</sup> and the literature on the effectiveness of consumer

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*with Unexpected Consequences: An Empirical Analysis of Consumer Understanding of Arbitration Agreements*, 75 MD. L. REV. 1 *passim* (2015); FED. TRADE COMM’N, BUREAU OF ECON., IMPROVING CONSUMER MORTGAGE DISCLOSURES: AN EMPIRICAL ASSESSMENT OF CURRENT AND PROTOTYPE DISCLOSURE FORMS 122–24 (2007), <http://www.ftc.gov/os/2007/06/P025505MortgageDisclosurereport.pdf>.

13. See 15 U.S.C. § 1692g(b) (2012) (“Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer’s right to dispute the debt or request the name and address of the original creditor.”).

14. See Sovern & Walton, *supra* note 9, at 113–22.

15. *Id.* at 83–113.

16. *Id.* at 77.

17. See *infra* Part III.F.

18. See *infra* Part III.G.

19. See *infra* Parts III.A, III.B.

20. See Sovern & Walton, *supra* note 9, at 65–71.



disclosures.<sup>21</sup> In the interest of brevity, we will not recount those items here, except as necessary to discuss our findings. The next section summarizes our methodology, Part III reports our results, and Part IV discusses our findings and offers recommendations. Our hope is that our two Articles expand understanding of what consumers take away from validation notices in particular and disclosures in general, and that law-makers adopt our recommendations for improving validation notices.

## II. METHODOLOGY

We conducted an online survey using the Qualtrics platform. Qualtrics also supplied us with respondents who resembled the adult American population as to gender, age, education level, income level, and ethnicity.

We sought to test consumer awareness and understanding of a commonly-used validation notice by testing four different collection letters. The Condition A letter consisted of a slightly-altered collection letter that was found by the Seventh Circuit in *Zemeckis v. Global Credit & Collection Corp.*<sup>22</sup> not to have violated the FDCPA.<sup>23</sup> The validation notice was printed on the second page of the two-page letter. The first page of the letter advised consumers “SEE NEXT PAGE FOR IMPORTANT INFORMATION,” while directly over the validation notice appeared: “IMPORTANT NOTICE OF YOUR RIGHTS UNDER FEDERAL LAW.”<sup>24</sup> Condition A’s validation notice, printed in bold, read as follows:

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21. See *id.* at 71–76. Since that Article appeared, another incident has demonstrated the failure of consumers to read contracts: a company inserted in the terms and conditions of its Wi-Fi contract a provision obliging consumers to perform one thousand hours of community service, including cleaning toilets at public events and manually clearing sewer blockages. Some twenty-two thousand people agreed to the contract. Alex Hern, *Thousands Sign Up to Clean Sewage Because They Didn’t Read the Small Print*, GUARDIAN (July 14, 2017), <https://www.theguardian.com/technology/2017/jul/14/wifi-terms-and-conditions-thousands-sign-up-clean-sewage-did-not-read-small-print> (stating that only one person claimed the prize provided in the terms and conditions for those who called attention to the “community service clause”).

22. 679 F.3d 632, 634 (7th Cir. 2012); see letter *infra* Appendix A.

23. The alterations from the *Zemeckis* letter consisted of eliminating identifying information and substituting names such as ABC Credit & Collection Corp. and XYZ Credit Card Company; and substituting “SEE NEXT PAGE FOR IMPORTANT INFORMATION,” for an instruction to see the reverse for “IMPORTANT INFORMATION,” as our version was provided electronically rather than in the form of a letter sent through the mail.

24. *Zemeckis*, 679 F.3d at 636.

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Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment, if any, and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.<sup>25</sup>

Condition B showed the same letter, but with a simpler validation notice proposed by the National Consumer Law Center (“NCLC”).<sup>26</sup> That validation notice states:

You can dispute this debt at any time, either orally or in writing.

If you write to us within thirty days of when you get this letter, regarding:

- (1) A question or a dispute about all or any part of the debt, or
- (2) A request for the name and address of the original creditor we will stop collecting until we mail you our response.

Also, we will stop calling and writing you if you tell us (in writing) that you refuse to pay or want us to stop calling and writing.<sup>27</sup>

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25. See letter *infra* Appendix A. Many other cases report the use of similar validation notices. See *Caprio v. Healthcare Revenue Recovery Grp.*, 709 F.3d 142, 146 (3d Cir. 2013); *Leshner v. Law Offices of Mitchell N. Kay, PC*, 650 F.3d 993, 995 (3d Cir. 2011); *Muha v. Encore Receivable Mgmt., Inc.*, 558 F.3d 623, 625 (7th Cir. 2009); *Jacobson v. Healthcare Fin. Servs., Inc.*, 516 F.3d 85, 88 (2d Cir. 2008); *McStay v. I.C. Sys., Inc.*, 308 F.3d 188, 189 (2d Cir. 2002); *Wilson v. Quadramed Corp.*, 225 F.3d 350, 352 (3d Cir. 2000); *Walker v. Nat'l Recovery, Inc.*, 200 F.3d 500, 502 (7th Cir. 1999); *Jang v. A.M. Miller Assocs.*, 122 F.3d 480, 482 (7th Cir. 1997).

26. See letter *infra* Appendix B.

27. See letter *infra* Appendix B. The NCLC notice appeared in a document as part of its comments to the Bureau of Consumer Financial Protection. See National Consumer Law Center, Comment Letter on Advanced Notice of Proposed Rulemaking Regarding Debt Collection, at 64 (Feb. 28, 2014), [https://www.nclc.org/images/pdf/debt\\_collection/comments-cfpb-debt-collection-anprm-2-28-14.pdf](https://www.nclc.org/images/pdf/debt_collection/comments-cfpb-debt-collection-anprm-2-28-14.pdf).

By comparing responses in Conditions A and B, we can determine whether a simpler notice would affect understanding. This seemed desirable because the *Zemeckis* validation notice, according to one widely used test of reading difficulty, the Flesch-Kincaid Reading Level Test, would require three years of graduate school to understand.<sup>28</sup> According to the same test, the simpler notice in Condition B requires only a sixth-grade reading level.<sup>29</sup> To the extent that we find differences in understanding between Condition A and B respondents, the explanation is likely to lie in B's simpler text. To the extent that we do not find differences, it suggests that a simpler text will not help—though as we tested only one such text, we cannot rule out the possibility that other versions of the validation notice would not provide greater aid.

Condition C showed the same letter, but with no validation notice. By comparing responses in Conditions A and C, we can determine the impact of the *Zemeckis* validation notice.<sup>30</sup>

Finally, the Condition D letter differed from the Condition A letter in two significant respects.<sup>31</sup> First, we moved the validation notice from the second page of the collection letter to the first. Second, we eliminated much of the collection verbiage—some of which was threatening—from the letter. As a result, the body of the letter shrunk from 229 words to 48 words, or by 79%.<sup>32</sup> By comparing responses in Conditions A and D, we

28. See generally J. PETER KINCAID ET AL., DERIVATION OF NEW READABILITY FORMULAS (AUTOMATED READABILITY INDEX, FOG COUNT AND FLESCH READING EASE FORMULA) FOR NAVY ENLISTED PERSONNEL (1975), <http://www.dtic.mil/dtic/tr/fulltext/u2/a006655.pdf>; Rudolf Flesch, *A New Readability Yardstick*, 32 J. APPLIED PSYCHOL. 221 (1948); Norman E. Plate, *Do as I Say, Not as I Do: A Report Card on Plain Language in the United States Supreme Court*, 13 T.M. COOLEY J. PRAC. & CLINICAL L. 80, 93–94 (2010).

29. See National Consumer Law Center, *supra* note 27, at 64, 69.

30. Compare letter *infra* Appendix C, with letter *infra* Appendix A.

31. See *infra* Appendix D.

32. The body of the letter in Condition D read: “Your account with XYZ Credit Card Company has been placed with ABC Credit & Collection Corp., a collection agency. Call our office at 1-XXX XXX-XXXX to make arrangements to resolve this matter, if you cannot make your minimum payment, we can go over the options available to you.” See *infra* Appendix D. The omitted language was as follows:

XYZ Credit Card Company has not yet made a decision to file a lawsuit, there is still time for you to work with us in resolving this matter.

If we cannot get this matter resolved soon and your account charges off, XYZ Credit Card Company may be forced to take legal action. This could result in a judgment against you. If XYZ Credit Card Company obtains a judgment against you, they can take whatever actions they deem advisable to enforce it. In addition, judgments are a matter of public record, and employers, landlords, and other creditors can check your credit and see that the judgment has been taken against you.

It is not too late to fix this situation: We urge you to act now.

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can tell the extent to which a more prominent notice in a simpler letter increases awareness and understanding of the validation notice. However, because we made two changes in Condition D, we cannot tell whether any improvements in responses are the product of one change, the other change, or both changes in combination.

One concern in any study of this nature is that it is a simulation.<sup>33</sup> Because respondents knew that they had not actually received the debt collection letter, we cannot be certain that they reacted as they would have if the letters had in fact been sent to them. Though we instructed respondents to read the letter with “the exact same amount of attention you would if it had just been mailed to you,” it is impossible to know if they complied with that request.<sup>34</sup> Indeed, respondents who had never received a collection letter may not even have known how they themselves would respond to such a letter. Because we wanted to ensure that our respondents gave the survey the needed thought, we also included two attention-check questions, at different points in the survey. The first resulted in the exclusion of seventy-eight respondents and the second, five more, for a total of 10% of our respondents.<sup>35</sup> Attention-check questions are not a perfect solution to the problem of respondent inattention,<sup>36</sup> but we were also heartened by the fact that virtually all of the respondents gave seemingly complete answers to the open-ended questions.<sup>37</sup> One risk in the use of attention-check questions is that they exclude respondents who in their day-to-day lives do not read collection

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33. See National Consumer Law Center, Comment Letter on Debt Collection Quantitative Disclosure Testing (Aug. 4, 2017), [https://www.nclc.org/images/pdf/debt\\_collection/comments-to-cfpb-re-disclosure-testing.pdf](https://www.nclc.org/images/pdf/debt_collection/comments-to-cfpb-re-disclosure-testing.pdf) (“In an online survey, respondents are asked to set aside a time to concentrate on an artificial task at the behest of the researchers, in exchange for payment. Under these conditions, survey respondents are likely to show exceptional focus and motivation. In contrast, consumers who receive debt collection notices in the real world are likely to have any number of time-constraints or distractions that prevent them from carefully reading any materials . . . . As a result, survey respondents are likely to perform better on a comprehension quiz than real-world consumers.”).

34. See *infra* Appendix A.

35. The first question we asked was “[w]hat kind of document did you just see?” The incorrect answers were a cell phone contract, a letter summoning you to serve on a jury, and an offer of a rebate for buying a television. We excluded respondents who clicked anything other than “[a] letter requesting payment of a credit card bill.” See *infra* Appendix A. The second question directed respondents to click “no” from among three choices, the others of which were “yes” and “I don’t know.” See *infra* Appendix A.

36. See Leonard J. Paas & Meike Morren, *Please Do Not Answer if You Are Reading This: Respondent Attention in Online Panels*, 29 *MARKETING LETTERS* 13, 20 (Feb. 1, 2018), <https://link.springer.com/article/10.1007%2Fs11002-018-9448-7> (“[W]e find that the attention-enhancing instruments do not fully mitigate respondent inattention.”).

37. See *infra* notes 39–41 and accompanying text.

letters,<sup>38</sup> with the consequence that our results might overstate consumer awareness of validation notices. But that risk seemed worth taking to make certain that our respondents gave the survey appropriate attention.

We obtained more responses to Condition A—193—because we saw it as the most important condition to test, and 182 responses to each of Conditions B, C, and D, for a total of 739 responses.

Our earlier Article covered our methodology in greater detail and should be consulted by anyone seeking additional information about how our survey proceeded.<sup>39</sup>

### III. RESULTS

#### A. *How Would Respondents Respond Initially to Such a Letter?*

After respondents were shown the letter and examined it for as long as they wanted, we asked an open-ended question about what respondents would do if they had received the letter and did not in fact owe the claimed debt. Later we posed a closed-ended question about whether they would send a letter disputing the debt.<sup>40</sup> While answering those questions, respondents could not return to the letter because we wanted to learn what their initial reactions were (they were given

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38. Consumers might not read collection letters for multiple reasons. Some of our respondents reported that they would ignore the letter, see *infra* Figure 1 and accompanying text, and some of these opined that it was a scam. Other consumers suffer impairments which prevent them from reading such letters. See E-mail from David F. Addleton, Attorney at Law, to Jeff Sovern, Professor of Law, St. John's Univ. Sch. of Law (June 19, 2015, 9:31 AM) (on file with authors).

You see, many of my clients, although still living independently, are too tired to read these letters, let alone understand them and react to them. . . . They receive a letter with print too small for them to read and they throw it away. I very rarely see any of these G-notice letters from my elderly and disabled clients. They don't even remember throwing them away.

. . . These people are identified and selected for special attention by debt collectors because the debt collector expects to win a default judgment from them.

39. See Sovern & Walton, *supra* note 9, at 77–83.

40. At the time respondents first read the letter, they were not told to assume that they did not owe the debt, though they were also not told to assume that the claim was valid. It is possible that respondents read the validation notice less carefully than they would have if they had been told from the outset to assume that they did not owe the debt. Consequently, our findings about initial responses might differ from those that we would have received had we instructed respondents to assume *before* reading the letter that they did not owe the debt.

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multiple opportunities to reread the letter when answering later questions).<sup>41</sup>

### 1. Open-ended Question

The open-ended question, question 15, read:

The letter referred to a credit card debt. Suppose you had never had a credit card with this company and you did not owe that debt. What, if anything, would you do? If you would do more than one thing, please list all the things you would do, in the order in which you would do them.

We were particularly interested in how many respondents indicated that they would not take any action—perhaps because they thought the letter was a scam—and how many stated that they would *call* the collector but did not report that they would *write* to dispute the debt. Whether the respondent would write is significant because, unlike a letter, a call would not oblige the collector to verify the debt or suspend collection activities.<sup>42</sup> In other words, consumers who call the collector, but do not communicate in writing, are not asserting the full panoply of legal rights available to them under the statute.

Coding the responses required exercising some discretion, given that respondents could write whatever they wished. For example, when a respondent wrote that he or she would call the collector and then call a lawyer or the Federal Trade Commission, we assumed (or perhaps hoped) that the lawyer or FTC staff would advise the consumer that a call was insufficient to protect all the consumer's rights, and that thereafter the consumer would write to the collector.<sup>43</sup>

Figure 1 shows the number of respondents across the various conditions who indicated explicitly that they would call, explicitly that they would write, that they would communicate with the collector without specifying the form of the communication, that they would get in touch with their lawyer or consumer protection agency (who would presumably write the collector directly or advise the use of a letter), that they would ignore the letter, or that they would pay the debt.<sup>44</sup>

41. See Sovern & Walton, *supra* note 9, at 83.

42. See 15 U.S.C. § 1692g(a)–(b) (2012).

43. We did not make the same assumption about respondents who indicated they would call the police or the FBI on the theory that those agencies would be less aware of consumer rights than consumer protection organizations.

44. Some respondents indicated that they would do other things that did not enable us to determine whether they would assert their verification rights or not. For example, one

Remarkably, 21 respondents of our 739 total, or about 3%, stated that they would pay the debt of \$1708.40 that they did not owe.

**Figure 1**

Q15: The letter referred to a credit card debt. Suppose you had never had a credit card with this company and you did not owe that debt. What, if anything, would you do? If you would do more than one thing, please list all the things you would do, in the order in which you would do them.

	A	B	C	D
Call <sup>45</sup>	74 (38%)	70 (38%)	81 (45%)	77 (42%)
Write <sup>46</sup>	25 (13%)	20 (11%)	11 (6%)	25 (14%)
Non-specified communication <sup>47</sup>	44 (23%)	43 (24%)	27(15%)	26 (14%)

respondent stated that she would call her husband to see what course he recommended. Another explained that he or she would try to find out more information. Some wrote that they would sue, but as consumers can sue without hiring an attorney, we did not code that as calling an attorney.

45. We did not distinguish between calls to the creditor and calls to the collector on the theory that consumers calling the creditor would be directed to the collector. In addition, some respondents were not specific about whom they would call, writing such statements as “call them” or simply “call.”

46. We did not distinguish between letters to the creditor and letters to the collector on the theory that consumers writing the creditor would be directed to the collector.

47. By non-specified communication, we mean that the respondent indicated that he or she would communicate with the collector without specifying whether it would be by phone call or letter. Examples include: “Contact the company immediately,” and “I would call them *or* write them. . . .” However, we did not include “[C]ontact them via phone *and* letter,” (emphasis added) or “[C]all them, write them,” on the theory that in such cases the consumer would write and so assert her verification rights.

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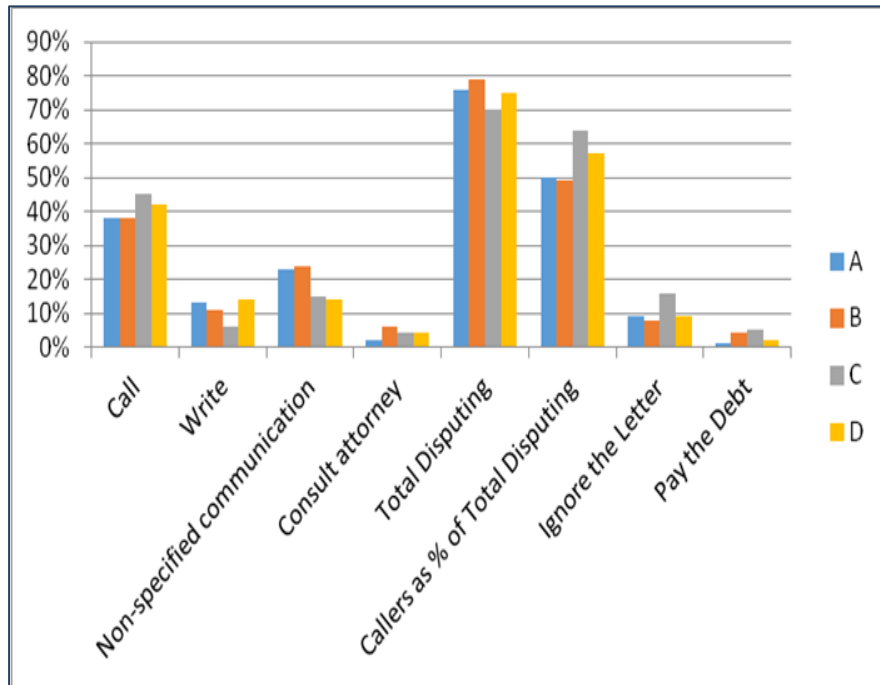
Consult attorney <sup>48</sup>	4 (2%)	11 (6%)	8 (4%)	7 (4%)
Total Disputing <sup>49</sup>	147 (76%)	144 (79%)	127 (70%)	135 (75%)
Callers as % of Total Disputing	50%	49%	64%	57%
Ignore the letter	18 (9%)	15 (8%)	30 (16%)	16 (9%)
Pay the debt	2 (1%)	7 (4%)	9 (5%)	3 (2%)

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48. This category also includes calling consumer protection agencies, such as the FTC, on the assumption that they will advise consumers to write to the creditor or collector in order to protect their rights.

49. This row represents the total number of those calling, writing, communicating without specifying the method, or consulting an attorney.





About 38% of the respondents in Condition A indicated that they would call as opposed to writing or calling a lawyer, or 50% of those who said they would communicate either with the collector or their attorney about the letter—that includes all respondents who said they would communicate without identifying how (e.g., “contact them”). Another 9% wrote that they would ignore the letter, while two, or 1%, reported that they would pay the debt they did not owe.

Only 15%—those who said they would write or call a lawyer—would have clearly preserved their right to obtain verification, unless they failed to follow through on their intention. Even if we assume that all those who said they would communicate without identifying the form of the communication would have written the collector, only 38% would have been able to obtain verification had they stayed true to their initial reaction. But a more realistic assessment would assume that some of those who said they would convey their views to the collector without specifying how would in fact call the collector on the phone, especially as the first page of the letter urged the consumer to call to resolve the matter. If we assume that those who said they would communicate would use calls or letters in the same proportion as those who specified which they would use, we have an additional eleven who would write, bringing

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our total number of writers to thirty-six (19%), or, with those who would call a lawyer added in, forty, or still only 21% of the total number of Condition A respondents. That is less than the 38% of the Condition A respondents who said that they would call—thereby attempting to assert their rights, but not asserting all of them. And if we add a proportional number of those who stated that they would communicate but did not identify how, we have 55%, or a majority, calling and so failing to protect themselves fully.<sup>50</sup>

The differences between the responses to Condition A and either those of Conditions B or D were not statistically significant. In Condition D, in which the validation notice was more prominent, 42% said they would call, or 57% of those who claimed they would communicate either with the collector or their attorney about the letter. Only 14% (1% more than for Condition A) said they would write, emphasizing that the admonition to write, even when displayed more obviously, made little difference. In Condition B, which used the NCLC notice and also indicated that respondents had to use a writing in certain circumstances,<sup>51</sup> 38% reported that they would call, or 49% of those who would communicate either with the collector or their attorney about the letter. In other words, a substantial number of respondents in all three conditions would forfeit their verification rights by failing to assert them in writing.<sup>52</sup>

Because Condition C's letter did not include a validation notice, and so did not indicate that writing offered any advantages over calling (other than those respondents might intuit, such as using a writing to create a written record), comparison of the numbers in Condition C with the Condition A numbers offers an opportunity to determine the impact of the validation notice's admonition to write. Here we did see a statistically significant difference between the responses in some categories, though

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50. Conceivably, those who said they would call and did not state they would write fully understood that by doing so they would waive their right to verification and did not find that right worth the bother of writing a letter. But given the amount at issue—the letter claimed a debt of \$1708.40—it seems unlikely that many would knowingly choose to forego the right.

51. Specifically, the NCLC notice stated:

If you write to us within thirty days of when you get this letter, regarding:

(1) A question or a dispute about all or any part of the debt, or (2) A request for the name and address of the original creditor we will stop collecting until we mail you our response.

Also, we will stop calling and writing you if you tell us (in writing) that you refuse to pay or want us to stop calling and writing.

See *infra* Appendix B.

52. See *supra* Figure 1.

not in the numbers who would call the collector or speak to their attorney. In other words, a validation notice instructing people to write did not produce a significant drop in the number of people who would call the collector. About 45% of the respondents to Condition C stated that they would call, or 64% of those who said they would communicate either with the collector or their attorney about the letter.<sup>53</sup>

But we did see a significant difference between those who said they would *write* in Condition A versus Condition C.<sup>54</sup> The percentage of A respondents who said they would write was 13%, compared with 6% for Condition C. Put another way, it appears the validation notice's instruction to write caused about 7% more respondents to say they would write. In addition, significantly fewer C respondents than A respondents said they would contact the collector without specifying how. It may be that the direction to write had an impact on how many A respondents expressed an intention to communicate with the collector without identifying how. C respondents were also significantly more likely to say that they would ignore the letter or pay the bill.<sup>55</sup>

In short, the responses to the open-ended question indicate that a more prominent notice or a simpler letter did not affect how people said they would respond to the demand for payment, but respondents who saw a letter lacking a validation notice were more likely to ignore the letter and more likely to say they would pay the debt, even though they did not owe it. Respondents who saw a letter saying they had to write to obtain verification were more likely to say they would write than those who did not see such a statement.

We also compared the responses in a different way: we combined the respondents to Conditions A, B, and D (who each saw a letter with some form of a validation notice) and grouped together those who said they would dispute the debt in some way (call, write, non-specified communication, and consult attorney). We also combined those who said they would ignore the letter or pay the debt. When we compared those groups with the comparable groups for Condition C, we found that C

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53. See *supra* Figure 1.

54. See *supra* Figure 1.

Condition itself is not a significant predictor of responses. While there are some statistically significant specific group comparisons, the frequencies of responses across conditions are in fact highly similar and these significant differences are only observed when other independent variables are entered into the model. Therefore, we caution against interpreting these differences as being practically significant unless they are replicated in other studies.

Sovern & Walton, *supra* note 9, at 86 n.116.

55. See *supra* Figure 1.

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respondents were significantly less likely to dispute the debt and significantly more likely to ignore or pay the debt than respondents to the other conditions. Again, it appears that not seeing a validation notice made a difference.<sup>56</sup>

Some caveats: first, because we asked this question without giving respondents a second look at the letter, it is possible that some respondents, if they had had the opportunity to re-read the letter would have answered differently. Nor can we say, based solely on this question, whether respondents' decisions to call rather than write was because they overlooked the instruction to write or whether they believed that the inconvenience of writing outweighed its advantages. Finally, because the respondents were not told at the time they *first* looked at the letter that it was seeking payment of a debt they did not owe, they might not have focused on what the letter told them about their rights in such a scenario. Nevertheless, respondents' responses to later questions, posed when they could review the letter specifically to determine how to respond when they did not owe the debt, show similar responses.<sup>57</sup>

## 2. Closed-ended Question

The closed-ended question, question 18, asked specifically about whether the respondent would seek verification of the debt. That question read:

Now we want to ask a question about what you would do if you received a letter from a collector trying to collect a debt. Suppose the letter says that if you mailed a letter to the collector saying you didn't owe the debt and wanted them to send you verification of the debt, they would. Suppose also you believe you didn't owe the debt. Would you mail a letter to the collector saying you didn't owe the debt and requesting verification of the debt?<sup>58</sup>

Figure 2 shows the results for the various conditions.<sup>59</sup> Respondents overwhelmingly indicated that if told they could obtain verification by

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56. This contrasts with many of our other findings, as to which we did not find that seeing a validation notice made a difference. *See, e.g., infra* Part III.B; Sovern & Walton, *supra* note 9, at 111.

57. *See* Sovern & Walton, *supra* note 9, at 94–98

58. *See infra* Appendix A.

59. *See infra* Figure 2.

For this and other results reported herein, we carried out logistic regressions to determine whether condition was a statistically significant predictor of participants' responses. Included in these regression models were education,

sending a letter about a debt they did not owe but for which they were being dunned, they would do so. Overall, 79% of the respondents claimed they would send a letter in such an instance, including 83% of the Condition A respondents, who saw the *Zemeckis* letter. We tested whether respondents described their intentions consistently by comparing the responses to question 18 with the answers to question 15, the open-ended question just discussed. The odds that a respondent who stated that he or she would dispute the debt in one way or another in question 15—write, call, non-specified, or consult an attorney—would also answer question 18 by saying that he or she would mail the letter were 6.67 times that of respondents who did not so state.<sup>60</sup> In other words, respondents generally gave consistent answers to the two questions.

**Figure 2**

Q18: Now we want to ask a question about what you would do if you received a letter from a collector trying to collect a debt. Suppose the letter says that if you mailed a letter to the collector saying you didn't owe the debt and wanted them to send you verification of the debt, they would. Suppose also you believe you didn't owe the debt. Would you mail a letter to the collector saying you didn't owe the debt and requesting verification of the debt?

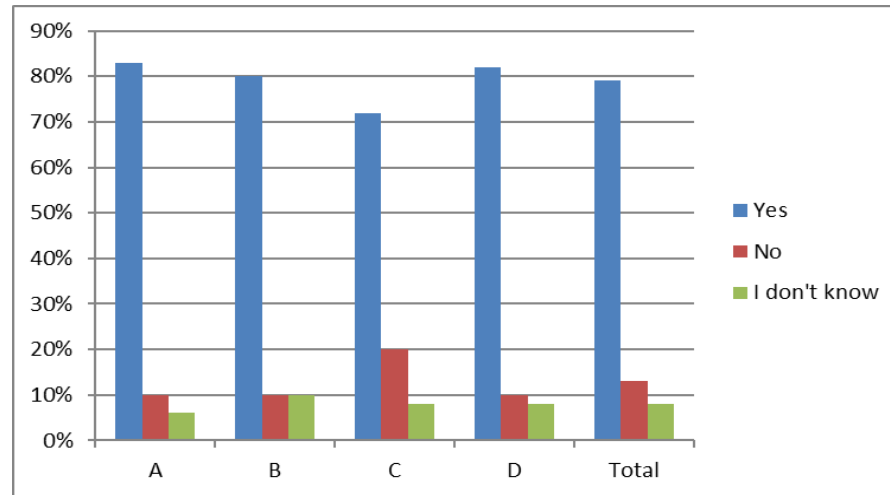
Condition	Yes	%Yes	No	%No	I don't know	I don't know %	Total
A	161	83	20	10	12	6	193
B	145	80	19	10	18	10	182
C	131	72	36	20	15	8	182
D	149	82	18	10	15	8	182
Total	586	79	93	13	60	8	739

income, self-reported percentage of the letter understood, experience with debt collection, and all interactions between condition and these covariates. We note any observed statistically significant relationships at the  $p < .05$  level.

Sovern & Walton, *supra* note 9, at 86 n.116.

60. The difference was statistically significant at the  $p < .001$  level (*Chi-square*=77.53).

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We note, however, that describing their intentions consistently does not mean that our respondents would have *acted* consistently with their intentions. One survey found that half the consumers who reported having an issue with a debt about which they had been contacted actually had disputed a debt.<sup>61</sup> That contrasts with the 79% of our respondents who said they would have disputed the debt. Given the limits of a survey about what consumers would do if presented with a situation, we cannot determine what our respondents would have done if they had in fact faced the situation we described.

Respondents in Condition C—in which the collection letter lacked a validation notice—were less likely to answer “yes” than respondents in the other conditions. Though the effect was weak, it was statistically significant at the .05 level.<sup>62</sup> Because the question asked how respondents would respond to an *opportunity* to seek verification without regard to whether the letter asked if they could seek verification, we would not have expected the answers to vary across conditions. It may be that the respondents who saw letters referring to verification (Conditions

61. See CONSUMER FIN. PROT. BUREAU, *supra* note 7, at 25.

62. See *supra* Figure 2. Cramer's  $V = .11$ . The percentage of participants who said “yes” in Conditions A, B, C, and D was 83.4%, 79.7%, 72.0%, and 81.9%, respectively. We also carried out a logistic regression. The overall model was statistically significant ( $\chi^2_{(11)} = 30.26, p < .05$ ), though the effect was small (Nagelkerke's  $R^2 = .06$ ). Condition was the only significant predictor (Wald  $\chi^2_{(3)} = 8.73, p < .05$ ). No other independent variables or interactions were statistically significant.

A and D) or referring to the possibility of sending a letter to dispute the debt (Conditions A, B, and D) were somehow “primed” to say they would send such a letter.

*B. How Salient was the Validation Notice to Respondents on Initial Reading?*

Consumers who do not realize that the collection letter sets out their rights may never return to the letter. Consequently, awareness of the validation notice upon initial inspection may determine whether a consumer ever asserts her rights. To test whether consumers realize that the letter includes a statement of their rights upon originally reading it, we asked several questions about the validation notice after respondents received an initial look at the letter—for as long as they wished—but before giving them additional opportunities to see the letter. In this section, we report on the results for these questions.

1. Open-ended Question

The survey asked respondents an open-ended question, question 14:

The letter you just saw said many things. We would like to know what you remember. Please put down a word or phrase for as many things as you recall. You do not need to repeat the actual words. For example, if you remember seeing the amount of the debt, you can put that down.<sup>63</sup>

Our goal in asking this question was to determine if the validation notice was salient to respondents. For some of the 193 Condition A respondents—who saw the *Zemeckis* letter—it was. Nine wrote about disputing the claim, while five respondents mentioned “validate,” “validity,” or “valid”; another mentioned “verify debt.” Twenty-three mentioned the thirty-day limit. For example, one respondent stated that the letter gave thirty days to respond to the notice, while another wrote, “You have 30 days to dispute.” Because the only reference to a thirty-day deadline in the collection letter came in the validation notice, we can infer that respondents noting a thirty-day limit had at least some recollection of the validation notice. But more respondents conflated the thirty-day deadline with other aspects of the collection letter than those who identified it in connection with the validation notice. For example, two reported that the letter stated they had thirty days before a legal action

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63. See *infra* Appendix A.

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or lawsuit even though the letter had not stated when or even if the collector would bring such an action. Another claimed incorrectly that the letter gave consumers thirty days to make payments and another stated that the letter gave respondents thirty days to respond to the notice. If we cast the broadest possible net and count all of these responses, as well as other possible references to the validation notice as people who found the validation notice salient, thirty Condition A respondents, or 15.5%, appeared to have mentioned the validation notice one way or another.<sup>64</sup> If we eliminate those who referred to thirty days, but without connecting it to anything else in the validation notice, we have fourteen respondents or 7.3% to whom the validation notice was salient. In contrast, the letter's references to a lawsuit were on the minds of thirty-three, or 17%, of the Condition A respondents.<sup>65</sup> Twenty listed legal action; six typed lawsuit; twelve wrote the word judgment in one context or another; three wrote about court.<sup>66</sup> In other words, the possibility of a law suit was memorable to more than twice as many as recalled the validation right, or if we include references to thirty days, slightly more respondents than remembered some aspect of the validation notice—even though the letter stated that the collector had not yet decided whether to bring a lawsuit.

At most, fifteen Condition B respondents, or 8%, referred to the validation notice. Ten wrote about disputing the debt and one wrote “there is time to refute.” Another mentioned a “right to contest the charges,”<sup>67</sup> while another inserted “can deny in writing.” Two mentioned the thirty-day limit.<sup>68</sup> If we eliminate these last two, which did not identify the significance of that deadline, we have thirteen Condition B references, or 7%, to the validation notice. That compares with thirty-five respondents—19%—who mentioned at least one of legal action, lawsuit,

64. Because some respondents referred to more than one aspect of the validation notice, the total number of respondents who referred to the validation notice is only thirty.

65. Cf. Elwin Griffith, *Identifying Some Trouble Spots in the Fair Debt Collection Practices Act: A Framework for Improvement*, 83 NEB. L. REV. 762, 787 (2005) [hereinafter Griffith, *Framework for Improvement*] (“[T]he natural tendency is for the debt collector to state its claim with sufficient enthusiasm that the validation notice loses its appeal.”); Elwin Griffith, *The Role of Validation and Communication in the Debt Collection Process*, 43 CREIGHTON L. REV. 429, 468 (2010) [hereinafter Griffith, *Role of Validation*] (“[T]he collector will do its utmost to ensure that its demand for payment will have a greater impact on the consumer than the statutory right to dispute its debt.”).

66. Because some respondents mentioned more than one of these items, the total who referred to at least one is only thirty-three.

67. The sentence read, “[t]he debtor was informed that they had the right to contest the charges and that a failure to contest the charges would not be held as an admission of the validity of the charges.”

68. Another respondent typed, “where to write if need to ask questions,” but this does not appear to have been inspired by the validation notice.



judgment, or court. In other words, between two and three times as many respondents found the references to litigation on the first page more memorable than the simple validation notice on the second.

Condition C respondents did not see a validation notice, and so it is hardly surprising that no Condition C respondent mentioned a thirty-day deadline or referred to the validation notice in any other way. Thirty-two, or 18%, of the 182 C respondents entered the words legal action, sue, sued, judgment, court, or lawsuit.

As for Condition D respondents, twenty-nine, or 16%, mentioned the thirty-day deadline. An additional D respondent typed “you have 36 days tp [sic] contact valid debt,” which, though obviously including typos, appears to have been a reference to the validation notice. Fourteen D respondents used the word “dispute” (another wrote “contest”), compared with nine A respondents. Similarly, seven D respondents used the words “valid” or “validate,” as did five A respondents. However, one A respondent mentioned “verify,” while no D respondents did. Unlike the A respondents, thirty-three of whom referred to a law suit in one way or another, no D respondents did (though one wrote “action, legal”)—which makes sense, as the D letter did not discuss the possibility of enforcing the claim in court.

In short, it appears that the validation notice was salient to relatively few respondents upon initial inspection of the letter. At most, one in six of the respondents who saw the *Zemeckis* letter thought it worth mentioning, or fewer than thought memorable the law suit that might never be filed.

## 2. Closed-ended Question

The survey also tested respondent awareness of the validation notice by asking respondents the following closed-end question, question 16, at a point at which they could not return to the letter:

Which of the following did the letter say? Please click as many as you think correct.

You have a right to know how much of the amount you owe is interest.

ABC will send you verification of the debt if you ask for it.

You may dispute the validity of the debt.

You have a right to be told the date you last charged something on the credit card.

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If you don't dispute the debt within 30 days, ABC will assume the debt is valid.

All of the above.

None of the above.<sup>69</sup>

Because the validation notices in Conditions A and D stated that consumers could obtain verification of the debt; could dispute the validity of the debt; and that the collector would assume the debt to be valid if the consumer did not dispute it within thirty days, only the second, third, and fifth items were correct answers for those conditions. As can be seen in Figure 3, more than 40% of the respondents in Condition A did not realize the letter stated that they could obtain verification of the letter, subject to what we report in the next paragraph. More than a quarter of the Condition A respondents failed to notice that the letter said they could dispute the debt; and almost a quarter overlooked the statement that failure to dispute the debt within thirty days would cause the collector to assume the debt to be valid.

**Figure 3**

Q16: Which of the following did the letter say? Please click as many as you think correct.

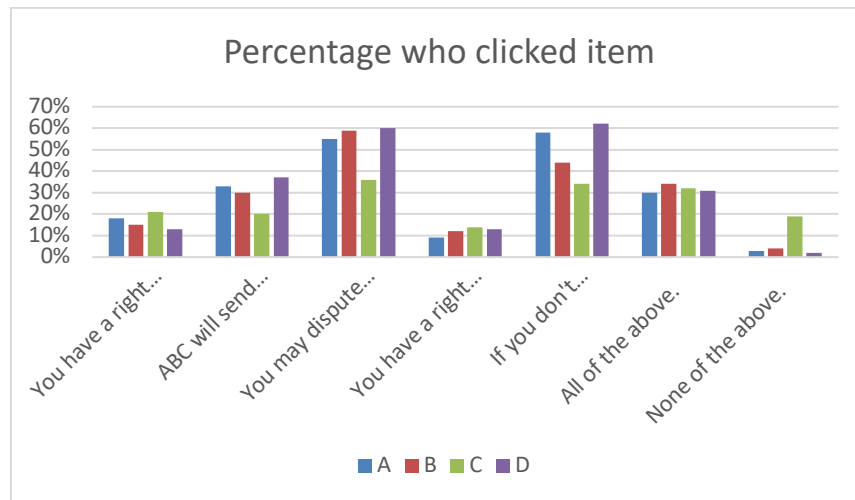
Number who clicked item (with all of the above added in parentheses)

Percentage who clicked item (with all of the above added in parentheses)

	A	B	C	D
You have a right to know how much of the amount you owe is interest.	34 (75) 18% (39%)	28 (67) 15% (37%)	39 (65) 21% (36%)	24 (60) 13% (33%)
ABC will send you verification of the debt if you ask for it.	63 (102) 33% (53%)	54 (85) 30% (47%)	37 (65) 20% (36%)	68 (100) 37% (55%)

69. See *infra* Appendix A.

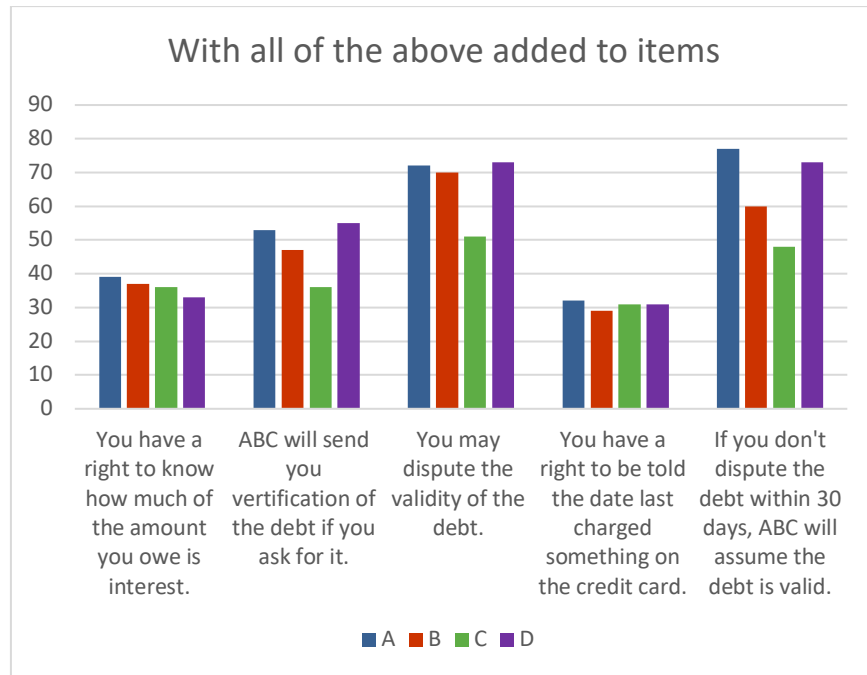
You may dispute validity of the debt.	106 (139) 55% (72%)	107 (128) 59% (70%)	66 (92) 36% (51%)	110 (136) 60% (75%)
You have a right to be told the date you last charged something on the credit card.	18 (61) 9% (32%)	22 (53) 12% (29%)	26 (56) 14% (31%)	23 (57) 13% (31%)
If you don't dispute the debt within 30 days, ABC will assume the debt is valid.	112 (149) 58% (77%)	80 (109) 44% (60%)	61 (87) 34% (48%)	112 (132) 62% (73%)
All of the above.	57 30%	61 34%	58 32%	56 31%
None of the above.	5 3%	8 4%	34 19%	3 2%



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One problem with calculating how many respondents correctly understood that the letter said they could obtain verification, dispute the debt, or when the collector would assume the debt is valid, stems from the choice “all of the above.” Nearly a third of the Condition A respondents selected “all of the above,” and respondents in the other conditions chose that item in percentages ranging from 31% to 34%. Respondents who clicked “all of the above” correctly indicated that the letter told them about verification, disputing the debt, and when the collector would assume the debt was valid. On the other hand, they also reported that the letter said that they had a right to know how much of the amount they owed was interest and that they had a right to be told the date they last charged something to the card, both things the letter did not say. Consequently, to the extent we include “all of the above” respondents in our report of the results, we include respondents who claimed the letter said things it did and that it said things it did not. For this reason, we think it helpful to report both the totals for individual items with “all of the above” included, and with it excluded, as in Figure 3. We now discuss each item separately.

*a. Verification*



As for the second item in question 16—ABC will send you verification of the debt if you ask for it—the responses to Condition A were not significantly different from those for B or C, which did not include such a disclosure. In other words, a second-page disclosure that the collector would verify the debt did no better than letters which omitted such a disclosure, upon initial examination, when the disclosure was included with the *Zemeckis* dunning language. The percentages of respondents selecting that item were 33% (A), 30% (B), 20% (C), and 37% (D).<sup>70</sup> Question 16 also permitted respondents to select “all of the above.” When we include those who chose that item with those who said that the collector would provide verification upon request, the percentages increase to 53% (A), 47% (B), 36% (C), and 55% (D). Though Condition A stated that ABC would verify the debt upon request, neither B nor C included such a disclosure.<sup>71</sup>

In contrast, the responses to D were significantly different from B and C. Condition B respondents and Condition C respondents were .18 times and .14 times as likely to select this option as D respondents, respectively. Put another way, providing the notice on the first page, with fewer words demanding payment, made a difference when compared with a simpler notice on the second page, or no validation notice at all. Oddly, Conditions A and D did not elicit significantly different results, meaning that making the notice more prominent did not generate significantly different answers.

*b. Disputing the Debt*

The third item in question 16 enabled respondents to report that the letter said they could dispute the validity of the debt. If we exclude respondents who selected “all of the above,” 55% of the Condition A respondents chose that item, but adding in “all of the above,” brings the percentage up to 72%. The responses to this question for Conditions A and C were not significantly different, but we did see significant differences between B and D respondents, on the one hand, and C respondents. Respondents to Condition B were 2.28 times as likely to select “disputing the debt” as C respondents, while D respondents were

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70. See *supra* Figure 3.

71. Condition B included the simpler NCLC validation notice, but that notice did not explicitly promise that ABC would verify the debt if the consumer asked for verification. In contrast, both Conditions A and D stated “If you notify this office in writing in 30 days from receiving this notice, this office will obtain verification of the debt or obtain a copy of the judgment, if any, and mail you a copy of the verification.” The responses to Conditions B and C were not significantly different from each other on this question.

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3.19 times as likely to click on that answer as C respondents. It will be recalled that Condition C, lacking a validation notice, said nothing about disputing the debt. In contrast, Condition B used the simpler NCLC notice, which stated “[y]ou can dispute this debt,” while the text of the *ZemECKis* notice, used in Conditions A and D, twice used the phrase “you dispute the validity of this debt.” Responses to Condition B were not significantly different from those to either A or D. Putting this all together, we found evidence that, based on initial reading, respondents shown a letter mentioning a right to dispute the debt on the second page were not significantly more or less likely to report that the letter stated a right to dispute than respondents shown either a letter with a more prominent validation notice, or a letter lacking a validation notice. On the other hand, respondents who saw a letter that never mentioned the right to dispute the debt were significantly less likely to say the letter in fact said they could dispute the debt than if the letter either (1) said they could in simple language on the second page, or (2) while using less verbiage in the demand for payment, said they could on the first page.

*c. Assumption of Validity*

Question 16 also asked whether the notice stated, “[i]f you don’t dispute the debt within 30 days, ABC will assume the debt is valid.” Conditions A and D did so state, but Conditions B or C did not.<sup>72</sup> The percentage of participants who indicated that the letter so stated for Conditions A, B, C, and D were 58%, 44%, 34%, and 62%, respectively, though if we include the respondents who selected “all of the above,” the percentages increase to 77%, 60%, 48%, and 73%, respectively.<sup>73</sup>

In other words, more than a third of the respondents shown the *ZemECKis* notice either did not understand that failure to dispute the debt would cause the collector to assume the debt was valid, even when the

72. Conditions A and D stated: “Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid.”

73. See *supra* Figure 3. Condition D was not significantly different from B, but it was significantly different from C. Respondents to C were .36 times as likely to select that response as D respondents. We carried out a logistic regression to see if participants’ likelihood to select that option could be predicted by condition. The overall model was statistically significant ( $\chi^2_{(1)} = 57.19, p < .05$ ), with a small effect size (Nagelkerke’s  $R^2 = .10$ ). Condition was the only significant predictor (Wald  $\chi^2_{(3)} = 38.38, p < .05$ ). No other independent variables or interactions were statistically significant. Condition A was significantly different from B and C, but not from D. B was .46 times, and C was .24 times as likely as A to select this option. Condition B responses were not significantly different from C responses.

notice was stated more prominently and with a briefer demand for payment, or thought that the letter which mentioned the assumption of validity also gave them other rights it did not give them.

*C. Did the Respondents Who Said They Would Write to Seek Verification Recognize that the Debt Collection Letter Said the Collector Would Verify the Debt upon Written Request?*

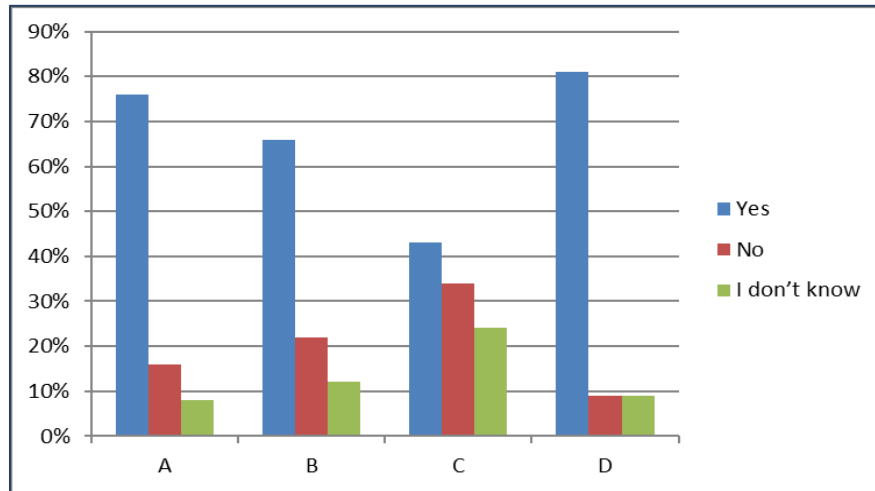
Next we sought to determine whether those who said they would write to obtain verification realized that the letter they saw stated that the collector would verify the debt if the consumer so requested in writing. Questions 35 (a writing the day after) and 36 (a writing twenty-five days after) asked if the collector would verify the debt if told in a writing that the consumer did not owe the debt. By comparing the answers to questions 35 and 36, displayed in Figures 4 and 5, respectively, to the responses to question 18, discussed above, we can see how many respondents who said they would write actually realized that the notice said they could do just that.

**Figure 4**

Q35: Instead of calling, suppose the day after you got this letter, you mailed your own letter to ABC Debt Collectors to tell them that you had never had that credit card. You also said you didn't owe the money the letter said you did. . . . According to the letter from ABC, would ABC send you verification of the debt?

Condition	Yes			No		I don't know	
	#	%/total	%answering <sup>74</sup>	#	%	#	%
A	147	76%	83%	31	16%	15	8%
B	120	66%	75%	40	22%	22	12%
C	78	43%	56%	61	34%	43	24%
D	148	81%	90%	17	9%	17	9%

74. The %answering column represents the percentage of those who selected yes out of those who selected either yes or no as their answer.

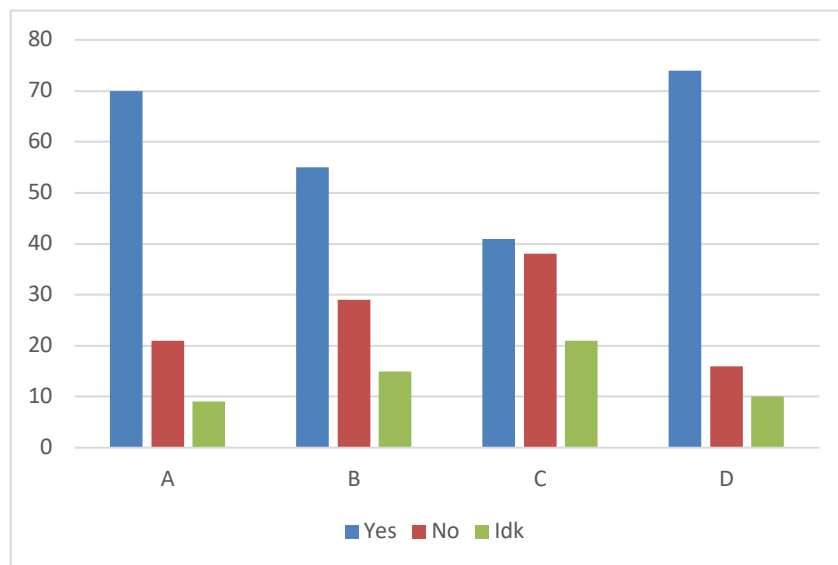
2018] *VALIDATION AND VERIFICATION VIGNETTES* 219**Figure 5**

Q36: Suppose that instead of writing the day after you got ABC's letter, you mailed your own letter to ABC Debt Collectors 25 days after you got ABC's letter. You told them that you had never had that credit card. You also said you didn't owe the money the letter said you did. . . . According to the letter from ABC, would ABC send you verification of the debt?

Condition	Yes			No		I don't know	
	#	%/total	%answering <sup>75</sup>	#	%	#	%
A	135	70	77	40	21	18	9
B	101	55	65	53	29	28	15
C	74	41	52	69	38	39	21
D	134	74	82	29	16	19	10

75. The %answering column represents the percentage of those who selected yes out of those who selected either yes or no as their answer.





Of the 161 Condition A respondents who said that they would send a letter requesting verification of the debt in question 18, 127, or 79%, said that the letter they saw stated that the collector would verify the debt in response to a letter sent the day after the consumer received the dunning letter; 116, or 72%, said the same as to a letter sent twenty-five days later. At the time the respondents answered questions 35 and 36, they were able to return to the dunning letter as much as they wanted and so they did not have to depend on their memories to know what the letter said. A significant number of respondents who said they would write to obtain verification if told they could do so did not realize that the letter told them they could do so twenty-five days after receipt of the collection letter. More than a fifth of those who said they would write to request verification of the debt did not realize that the *Zemeckis* letter said they could take twenty-five days to do so. On the other hand, we did not see significant differences in the percentages of those who said they would request verification in a letter and those who recognized that the letter said they could dispute the debt in a writing the day after.

In Condition D, in which respondents saw the more prominent validation notice, 149 respondents said they would write to seek verification if they received a letter saying they could do so. Of the 149 who said they would write, 118, or 79%, said the letter they saw said that the collector would verify the debt if they sent a letter the day after they

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got the dunning letter, and 106, or 71%, reported that the letter said that the collector would verify the debt in response to a letter mailed twenty-five days after receipt of the collection demand. In other words, despite the greater visibility of the validation notice in the D letter, the percentages of respondents who said they would write who also realized the letter said they could do so were quite similar to the comparable numbers for Condition A.<sup>76</sup> In partial contrast to the responses for Condition A, the responses for Condition D as compared to the number of respondents who said they would write were not significantly different for either the letter written the day after receipt or a letter written twenty-five days later, indicating that the more prominent validation notice was more effective in telling people who said they would write that they could still do so twenty-five days after receipt of the dunning letter.

In Condition C, which presented a letter without a validation notice, 131 respondents claimed that they would write to request verification. Of those, sixty-three, or 48%, reported that the letter they saw stated that they could do so the day after the collection letter arrived, while sixty, or 46%, believed the letter stated that they could do so twenty-five days after the dunning letter came. By comparing the C responses to the A responses, we can see how much the actual validation notice increased awareness of the right to request verification among those who said they would seek verification. Condition A and D respondents who said they would write to obtain verification were about twice as likely as Condition C respondents to say the letter they saw gave them such a right to verification, whether writing the day after receiving the collection letter or twenty-five days after. The differences were statistically significant. In other words, those who said they would write to secure verification—to whom the right to obtain verification presumably matters most—were likely to notice whether the letter included a validation notice.

We also compared the percentage of respondents who said they would write to seek verification for Conditions B and C to the percentage of respondents who reported that if they wrote to the collector either the day after they received the letter or twenty-five days after receipt, the collection letter stated that the collector would verify the debt. Significantly more respondents would want to write the collector to seek

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76. The Condition B letter did not use the term “verification,” but did tell respondents that they could write to request certain information. In that condition, 145 respondents stated that they would write to obtain verification. Of those, 101 or 70%, said that the letter said they could obtain verification if they requested it in writing the day after receipt of the collection letter, and eighty-eight, or 61%, said the same as to a request made twenty-five days later.

verification than thought that the letter said that they could do so.<sup>77</sup> This is not surprising as to Condition C—which did not include a validation notice. The Condition B letter, which included the NCLC notice, did not use the word “verification” though it did refer to writing to dispute the letter.

*D. Did Respondents Think the Letter Said Things It Did Not?*

While most of our questions asked about disclosures that appeared in the validation statement, another way to test understanding is to see how many respondents thought the letter said something it did not. Accordingly, we asked several such questions. By comparing the answers to these questions to the responses to the questions about items that actually appeared, we can draw inferences about how confused respondents were.

The survey asked respondents under four different circumstances in questions 33, 35, 36, and 37: “Suppose you also told ABC you couldn’t afford an attorney. Did the letter from ABC say that if you can’t afford an attorney, one would be appointed to represent you for free?”<sup>78</sup> The survey also asked respondents to indicate whether the letter said either or both of the following in question 16: “You have a right to know how much of the amount you owe is interest” and “You have a right to be told the date you last charged something on the credit card.”<sup>79</sup> Because the letter did not say any of these things in any condition, the correct answers were in the negative.

1. Attorney Assistance

We asked respondents the following in questions 33, 35, 36, and 37 in various contexts: “Suppose you also told ABC you couldn’t afford an attorney. Did the letter from ABC say that if you can’t afford an attorney, one would be appointed to represent you for free?”<sup>80</sup> On each occasion when respondents were asked this question, they were permitted to return to the letter for further examination if they wished. Percentages of respondents who wrongly answered this question affirmatively ranged from 12.8% (consumer mailed letter disputing debt thirty-five days after

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77. We used a McNemar’s test for this, which excluded answers of “I don’t know.” We compared the answers to this question to the answers for questions 35 (writing the day after receipt of the letter) and 36 (writing twenty-five days after receipt of the letter).

78. See *infra* Appendix A.

79. See *infra* Appendix A.

80. See *infra* Appendix A.

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receipt of collection letter) to 21.1% (mailed letter the day after). Responses among the different conditions were not significantly different, indicating that no version of the letter confused respondents into thinking the letter made such a statement more than any other version. Respondents claiming a greater understanding of the letter were more likely to answer this question correctly than those who said they understood the letter less well.

## 2. Interest

Respondents were also asked twice whether the letter said “[y]ou have a right to know how much of the amount you owe is interest.”<sup>81</sup> The first time, in question 16, came after respondents had been shown the letter, but at a point when they could not revisit it; the second time came when respondents were permitted unlimited access to the letter. No letter reported that consumers have such a right. As for the initial look at the letter, affirmative answers ranged from a low of 13% in Condition D, in which the validation notice was most prominent, to a high of 21% in Condition C, which did not have a validation notice. For Conditions A and B, 18% and 15% thought the letter said this, respectively. Respondents also had the option of selecting “all of the above.” When we add in those selecting “all of the above,” the percentage of positive responses rises to 39% (A), 37% (B), 36% (C), 33% (D).<sup>82</sup> The differences among conditions were not statistically significant, nor did level of education or income affect the results.

When respondents had unlimited access to the letter, the percentages saying the letter made such a statement about interest in response to question 38 were 24% (A), 20% (B), 22% (C), and 19% (D), and again, the differences were not statistically significant. Adding in those who selected all of the above increases the percentages to 41% (A), 40% (B), 40% (C), and 42% (D).<sup>83</sup> Figure 6 presents the results for question 38. When we compared the responses to questions 16 and 38 *within* each condition, to see whether the opportunity to revisit the collection letter affected the results, we found that the differences were not statistically significant, meaning the chance to view the letter again did not affect the likelihood that respondents got this question correct. While responses did not differ significantly based on level of education or income, those who claimed a greater understanding of the letter were less likely to say that

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81. See *infra* Appendix A.

82. See *supra* Figure 3.

83. See *infra* Figure 6.

the letter stated that they have a right to know how much of the debt is interest.

**Figure 6**

Q38: Which of the following did the letter say? Please click as many as you think correct.

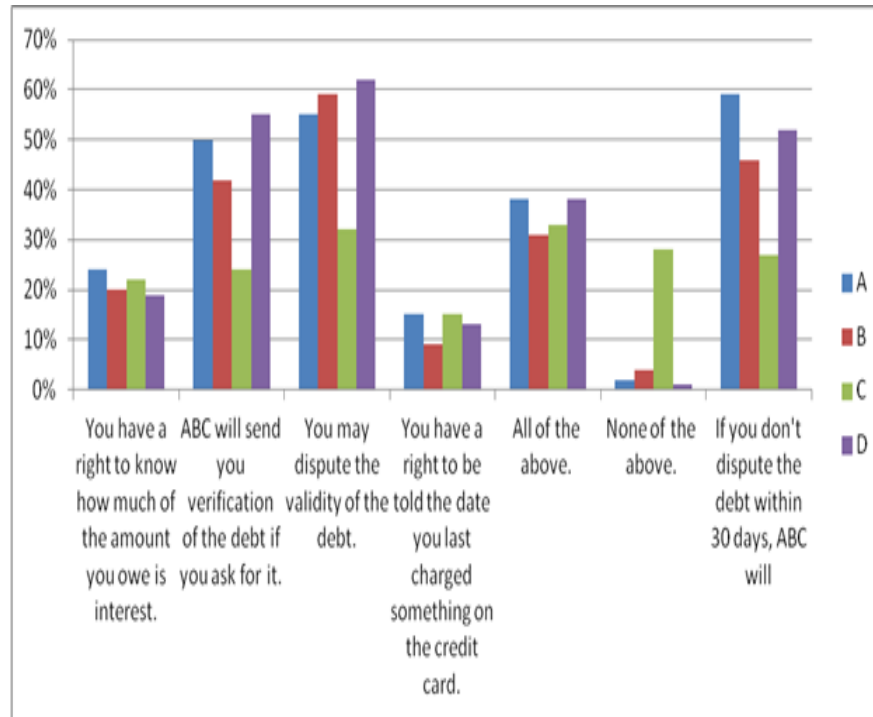
Number who clicked item (with all of the above added in parentheses)

Percentage who clicked item (with all of the above added in parentheses)

	A	B	C	D
You have a right to know how much of the amount you owe is interest.	47 (79) 24% (41%)	36 (73) 20% (40%)	40 (72) 22% (40%)	35 (76) 19% (42%)
ABC will send you verification of the debt if you ask for it.	96 (132) 50% (68%)	76 (115) 42% (63%)	43 (73) 24% (40%)	101 (138) 55% (76%)
You may dispute the validity of the debt.	106 (142) 55% (74%)	107 (150) 59% (82%)	58 (90) 32% (49%)	113 (144) 62% (79%)
You have a right to be told the date you last charged something on the credit card.	28 (66) 15% (34%)	17 (64) 9% (35%)	27 (63) 15% (35%)	24 (73) 13% (40%)

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All of the above.	74 38%	57 31	60 33%	69 38%
None of the above.	3 2%	8 4%	51 28%	1 1%
If you don't dispute the debt within 30 days, ABC will assume the debt is valid.	113 59%	83 46%	49 27%	94 52%



### 3. Date of Last Charge

Similarly, respondents were asked twice whether the letter said “[y]ou have a right to be told the date you last charged something on the credit card,”<sup>84</sup> something the letter did not in fact say. Again, the question was posed first before respondents got a second look at the letter, and a second time when they could review the letter as many times as they wished. As to the first look at the letter, in question 16, on the four conditions, positive responses were 9% (A), 12% (B), 14% (C), and 13% (D). That question also permitted respondents to select “all of the above.” When we add in those selecting “all of the above,” the percentage of positive responses rises to 32% (A), 29% (B), 31% (C), 31% (D).<sup>85</sup> The differences among the conditions were not statistically significant.<sup>86</sup> We also compared the responses on this item *within* conditions to the responses on question 16 about interest, discussed in the preceding paragraph, to see if they differed. While the responses for Conditions B and D were not significantly different, on Conditions A and C, respondents were significantly more likely to say on a first look that the letter stated that they had a right to know the amount of interest than the date they last charged something on the card.

We also asked respondents at a point in the survey when they could revisit the letter, in question 38, whether it said they had a right to know the date they last charged something on the card. The percentage of respondents giving affirmative responses were 15% (A), 9% (B), 15% (C), and 13% (D). These differences were not significantly different.<sup>87</sup> Adding in those who chose “all of the above” increases the percentages to 34% (A), 35% (B), 35% (C), and 40% (D).<sup>88</sup> The results were also not significantly different *within* conditions to the answers respondents gave to the same question at the point when they could not return to the letter in question 16 discussed above.

### 4. Comparison of Items

These questions asked about items the letter mentioned, and also about items it did not—specifically, about how much of the amount owed consists of interest and the date of the last charge. We compared the responses to these two types of items to see if respondents could

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84. See *infra* Appendix A.

85. See *supra* Figure 3.

86. The responses also did not vary significantly by level of education or income.

87. The responses also did not vary significantly by level of education or income.

88. See *supra* Figure 6.

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distinguish between the items the letter included and those that did not appear in the letter. Respondents typically gave significantly different answers to items stated in the *Zemeckis* validation notice than they did to the interest item and date of last charge item, in some cases even when they had not seen a validation notice. For example, respondents in all conditions, including Condition C, were significantly more likely to say that the letter indicated that they could dispute the validity of the debt than say they had a right to know how much of the debt consisted of interest or the date they last charged something to the card. Similarly, respondents across the board were more likely to say that the letter mentioned the collector would assume the debt to be valid if the consumer did not dispute it within thirty days than state that the letter included either the statement about a right to learn about the interest or date of last charge. That includes the Condition B and C respondents who did not see a statement about the assumption of validity.<sup>89</sup> But while respondents to Conditions A and D were significantly more likely to say that the letter reported that the collector would send verification of the debt upon request than that it said that they could learn about the interest or the date of the last charge, Condition B and C respondents—who did not see a letter that referred to verification—were not.

*E. Did Experience with Debt Collectors Improve Understanding of the Validation Notice?*

We asked respondents whether they had ever received a request for payment from a debt collector. The responses, collected in Figure 7, indicate that just over half of our respondents in each condition replied that they had.<sup>90</sup> One of our standard tests when we examined results to a question was to determine if those who answered “yes” to having received such a request gave significantly different answers from those who selected “no.” The responses were not significantly different on any of the questions we checked. In other words, we found no evidence that having received a demand for payment from a debt collector improves consumer understanding of validation notices, which might indicate that

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89. It is impossible to determine from our survey why the Condition B and C respondents were more likely to say that the letter said things that the letter they viewed did not, but that actual debt collection letters do say. Respondents also said that the letter did *not* say things that do *not* appear in actual debt collection letters. Perhaps some had seen the text of an actual validation notice in their personal lives. Perhaps some guessed correctly what the law requires. Or there may be another reason we have overlooked.

90. See *infra* Figure 7.



experience with validation notices does not improve the ability to understand them. But that statement comes with a significant limit. A creditor collecting its own debts, rather than retaining an independent collector or selling the debt to a debt buyer, is not required to provide a validation notice. That is because the FDCPA applies only to debt collectors, and that term does not apply to creditors collecting a debt originally owed to them unless the creditor uses a name other than its own.<sup>91</sup> Our question did not ask whether respondents had heard from a debt collector subject to the FDCPA or not.<sup>92</sup> Consequently, we do not know how many respondents claiming experience with a debt collector had actually received validation notices. In addition, it is possible that even consumers who had been pursued by collectors subject to the FDCPA's validation notice requirement did not actually receive the required notice because of compliance or other issues. As a result, it seems likely that receiving a validation notice in the past did not improve understanding of the notice in our survey, but we cannot be certain.

**Figure 7**

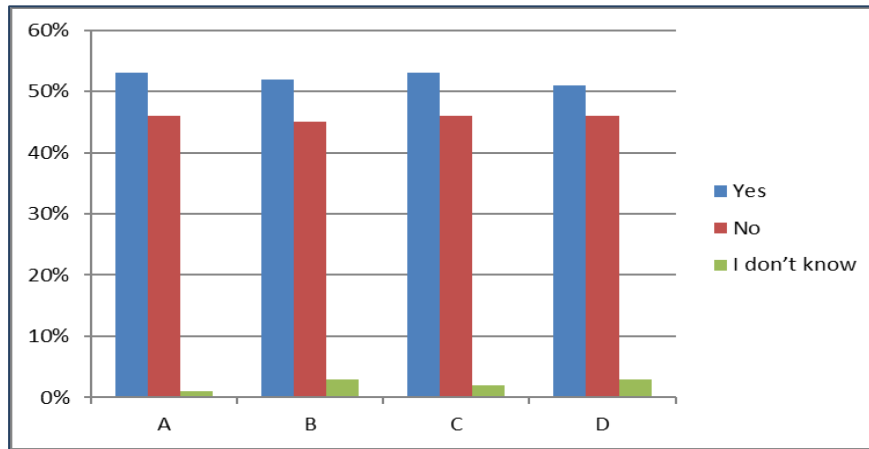
Q25: Now we want to ask some questions about you. Have you ever received a request for payment from a debt collector?

	Yes		No		I don't know	
	#	%	#	%	#	%
A	103	53	88	46	2	1
B	95	52	82	45	5	3
C	96	53	83	46	3	2
D	92	51	84	46	6	3

91. See 15 U.S.C. § 1692a(6) (2012).

92. We saw little point in asking because consumers may not know whether the collector is an internal employee of the creditor or an external debt collector, and because it was difficult to word such a question in a way that was not confusing.

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#### F. What Did Consumers Think Verification Meant?

The FDCPA does not specify what collectors must do when a consumer seeks verification, and some collectors have responded to such requests unhelpfully.<sup>93</sup> If consumers think verification will not generate a useful response, they might forgo demanding it even on a debt they believe they don't owe. On the other hand, if they expect it will help them, they should be more likely to request it. Accordingly, it is useful to determine what consumers think verification means. While the meaning of verification is a legal question, consumer understanding of the concept should also guide lawmakers in deciding what a response to a request for verification should entail.

We asked two questions about verification. First, we asked an open-ended question, question 20, which required respondents to enter some text of their own devising. Next, we asked a multiple-choice question, question 21, which mentioned eleven possible meanings, in addition to allowing respondents to select "all of the above," "none of the above," or "I don't know."<sup>94</sup> By posing the questions in that order, we eliminated the possibility that the choices in the multiple-choice question would influence respondents' answers to the open-ended question.

93. See, e.g., FED. TRADE COMM'N, *supra* note 11, at 30–32 ("Many debt collectors have responded to verification requests by only confirming in writing for consumers that the amount demanded is what the creditor claims is owed. Collectors are conducting this minimal effort at the same time that consumers increasingly complain about efforts to collect from the wrong person or the wrong amount.").

94. See *infra* Appendix A.

Question 20 asked, “[w]hat do you think verification of the debt means?” We counted the number of answers that seemed to fit within one of four overlapping categories;<sup>95</sup> the results appear in Figure 8. As with any attempt to code the answers to open-ended question, the coding process entailed some discretion. One category consisted of respondents who contemplated some form of consultation with the creditor. We included within this category responses that explicitly referred to checking with the creditor as well as responses that indicated that the collector should examine documentation that went beyond the spread sheets typically provided to debt buyers.<sup>96</sup>

A second category was devoted to responses that seemed to call for some type of investigation.<sup>97</sup> We also had a category for responses that demanded proof of some sort.<sup>98</sup> The final category was for responses that saw verification as entailing the supplying of documentation, such as a credit card statement.<sup>99</sup>

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95. Because some answers did not fit within any of these categories, the totals do not sum to the number of respondents.

96. For example, we coded in this category responses such as the following: “all bank information or report stating about where did you spent [sic] that money;” “[a] copy of all of the charges;” and “i [sic] would want to see my signature on transactions and proof I made the purchase like security cameras proving I signed or made those transactions.”

97. Among the entries included in this category were: “investigation,” “checking to see if there was fraud or if I really did create the debt, credit report, etc.,” and “it means to verify where the debt is coming from (what store, etc [sic]) and also to verify card number and amount.”

98. Many of these responses used the word “proof.” Examples of the responses in this category include: “Proof that it was owed,” “they have to prove that this debt belongs to you by showing proof of contract which includes proving that it is in your name under your social security number,” and “You acknowledge you owe the money or they will prove you owe the money.”

99. Examples include: “Copy of last bill showing your name, address, and any other pertinent info showing that its [sic] your debt,” “proof of where money was spent,” “the list of charges on the card as well as your personal info you used to sign up with that company.”

**Figure 8**

Q20. What do you think verification of the debt means?

	A		B		C		D		Total	
	#	%	#	%	#	%	#	%	#	%
Contem- plated some form of consult- ation with the creditor	41	21%	44	24%	52	29%	39	21%	176	24%
Conduct some form of investig- ation	21	11%	39	21%	16	9%	11	6%	87	12%
Furnish some form of proof	77	40%	66	36%	62	34%	57	31%	262	35%
Supply some form of docume- ntation	30	16%	29	16%	28	15%	27	15%	114	15%

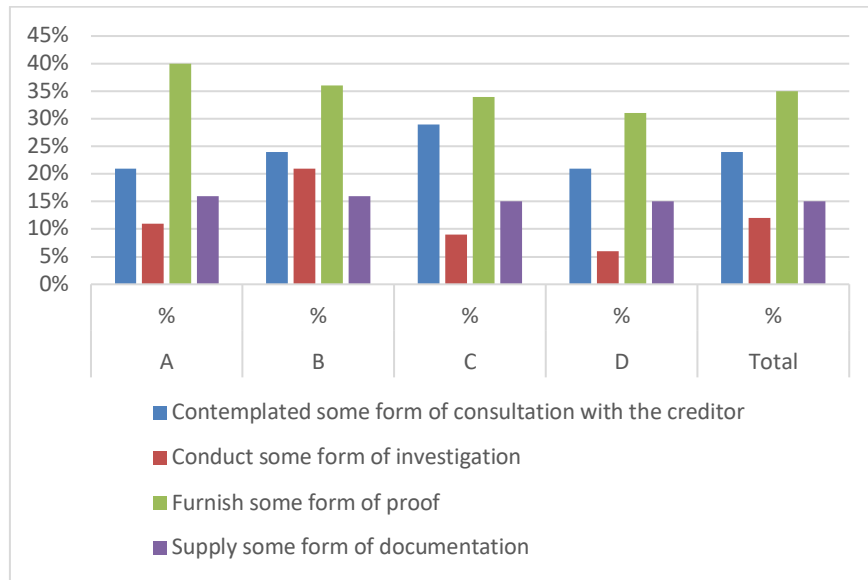


Figure 9 shows the responses to the multiple-choice question. One problem with offering respondents the various choices is that many may choose all or many of them even though particular choices might otherwise never have occurred to them and so tell us little about what they would have thought they would receive by requesting verification. Indeed, overall, 44% of the respondents selected “all of the above.” Every item was chosen by at least 55% of the respondents, though none was picked by more than 77%. Thus, many respondents resisted the urge to accept every suggested response.

**Figure 9**

Q21: Suppose the day after you got this letter, you had mailed the collector your own letter requesting verification of the debt. Which of the following would the collector have to do? Please click as many as you think correct.

Number who clicked item (with all of the above added in parentheses)

Percentage who clicked item<sup>100</sup> (with all of the above added in parentheses)

100. Only respondents who selected “all of the above” but did not select the item in question are added to the count in parentheses.

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	A	B	C	D	Total
The collector would have to check with the original credit card company.	103(151) 53%(78%)	84(140) 46%(77%)	79(129) 43%(71%)	94(140) 52%(77%)	360(560) 48%(76%)
The collector would have to conduct a reasonable investigation to determine if the debt was valid.	102(151) 63%(78%)	80(146) 44%(80%)	81(133) 45%(73%)	77(132) 42%(73%)	340(552) 46%(75%)
The collector would have to provide you the name of the original creditor.	102(156) 53%(81%)	79(136) 43%(75%)	71(129) 39%(71%)	85(138) 47%(76%)	337(559) 46%(76%)
The collector would have to tell you	69(122) 36%(63%)	51(116) 28%(64%)	54(115) 30%(63%)	53(110) 29%(60%)	227(463) 31%(63%)

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the date  
and  
amount of  
your last  
payment  
on the  
credit  
card.

The	79(133)	55(118)	50(112)	49(106)	233(469)
collector	41%(69%)	30%(65%)	27%(62%)	27%(58%)	32%(63%)
would					
have to					
give you a					
copy of the					
last					
statement					
for the					
credit					
card.					

	A	B	C	D	Total
The	54(114)	58(118)	45(112)	49(107)	206(451)
collector	28%(59%)	32%(65%)	25%(62%)	27%(59%)	28%(61%)
would					
have to					
give you a					
copy of the					
original					
contract or					
credit					
applicati-					
on with					
your					
signature.					

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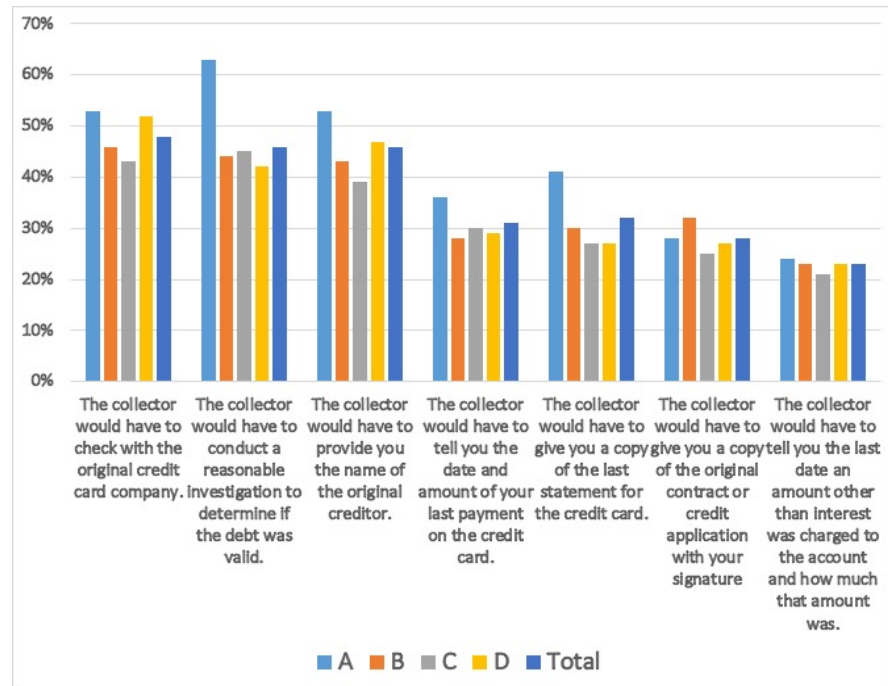
The collector would have to tell you the last date an amount other than interest was charged to the account and how much that amount was.	46(109) 24%(56%)	42(109) 23%(60%)	38(106) 21%(58%)	42(101) 23%(55%)	168(425) 23%(58%)
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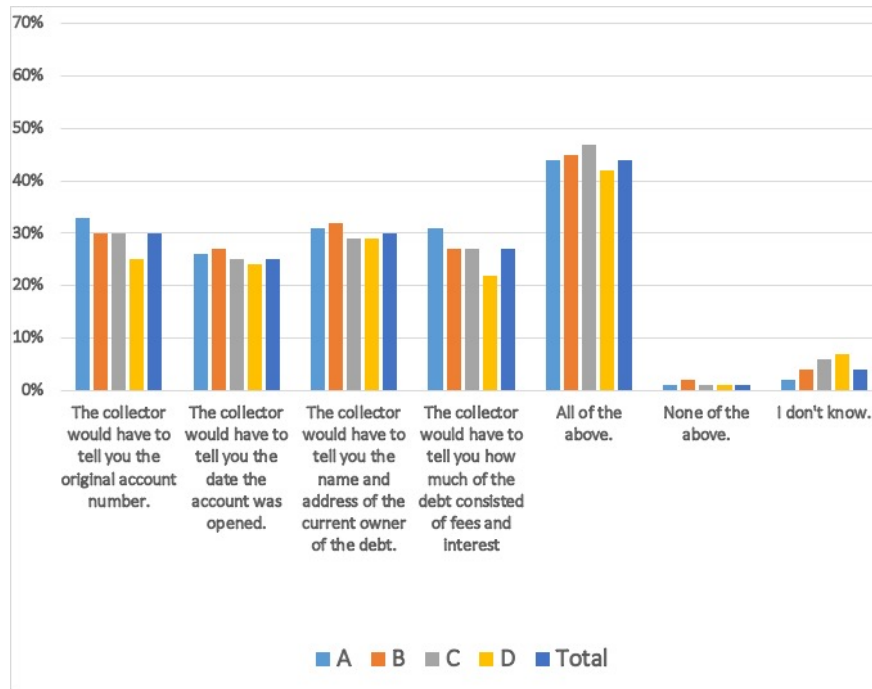
The collector would have to tell you the original account number.	64(125) 33%(65%)	54(115) 30%(63%)	55(122) 30%(67%)	46(106) 25%(58%)	219(468) 30%(63%)
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The collector would have to tell you the date the account was opened.	50(114) 26%(59%)	50(115) 27%(63%)	45(110) 25%(60%)	43(104) 24%(57%)	188(443) 25%(60%)
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The collector would have to tell you the name and address of the current owner of the debt.	59(127) 31%(66%)	58(121) 32%(66%)	52(119) 29%(65%)	53(116) 29%(64%)	222(483) 30%(65%)
	A	B	C	D	Total
The collector would have to tell you how much of the debt consisted of fees and interest.	59(124) 31%(64%)	50(117) 27%(64%)	49(116) 27%(64%)	40(101) 22%(55%)	198(458) 27%(62%)
All of the above.	84 44%	81 45%	85 47%	77 42%	327 44%
None of the above.	1 1%	3 2%	2 1%	1 1%	7 1%
I don't know.	1 2%	8 4%	11 6%	12 7%	32 4%

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Three items were selected by at least three-quarters of the respondents, demonstrating considerable support for them. In order of the greatest number of selections, the three were: the collector would have to check with the original credit card company; the collector would have to provide you the name of the original creditor; and the collector would have to conduct a reasonable investigation to determine if the debt was valid.<sup>101</sup>

The CFPB is considering adopting a regulation which would tailor to the particular type of dispute what documentation a collector responding to a consumer's notice of dispute would have to provide.<sup>102</sup> For example, the Bureau has proposed to permit the collector to meet its verification obligation to a consumer who denies having ever opened the account in

101. For calls for the conduct of an investigation when consumers request verification, see FED. TRADE COMM'N, *supra* note 11, at 33 ("The FTC believes that the FDCPA should be amended to require debt collectors to conduct 'reasonable' investigations that are responsive to the specific disputes consumers have raised."); Griffith, *Role of Validation*, *supra* note 65, at 469 (calling for collectors "to conduct some reasonable investigation" when the consumer disputes the debt).

102. See CFPB, SBREFA OUTLINE, *supra* note 2, at 13, app. D.

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question by supplying the consumer with “the consumer’s original agreement or original consent to the debt.”<sup>103</sup> On the other hand, that would not serve as verification when the consumer acknowledged incurring the debt but claimed it was owed in a different amount. Our survey did not specify the consumer’s reason for seeking verification,<sup>104</sup> and thus cannot tell us what consumers would expect from a verification request in particular circumstances. But as a general matter, 61% of our respondents said that verification required the collector to provide the consumer a copy of the original contract or credit application with the consumer’s signature.

*G. Will Consumers Dispute the Same Debt Repeatedly?*

When consumers dispute a debt, the FDCPA obliges collectors to cease attempting to collect the debt until it obtains verification of the debt and so notifies the consumer.<sup>105</sup> Sometimes, debt buyers respond to verification requests by abandoning attempts to collect the debt.<sup>106</sup> It may be that in some instances, the debt buyer lacks both sufficient information to verify debts and a contractual right to obtain the documentation required to do so, though how often or even whether that is actually the case is the subject of disagreement.<sup>107</sup> In any event, some debt buyers who receive verification requests may sell the debt to another

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103. *Id.* at app. D.

104. While some questions stated that the consumer did not owe the debt, for example, question 38, this question simply told respondents that the consumer had sought verification.

105. 15 U.S.C. § 1692g(b) (2012) provides:

If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

106. *See, e.g.,* Jang v. A.M. Miller & Assocs., 122 F.3d 480, 482 (7th Cir. 1997) (collector abandoned efforts to collect debt when consumer requested validation).

107. *Compare* MD. COURTS, STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE, NOTICE OF PROPOSED RULES CHANGES 7 (2011), <http://www.courts.state.md.us/rules/reports/171stReport.pdf> (“The problem, which has been well-documented by judges, the few attorneys who represent debtors, and the Commissioner of Financial Regulation, is that the plaintiff often has insufficient reliable documentation regarding the debt or the debtor and, had the debtor challenged the action, he or she would have prevailed.”), *with* FTC, DEBT BUYING INDUSTRY, *supra* note 2, at 40–41 (reporting that debt buyers are able to obtain sufficient information to verify debts).

debt buyer instead of supplying the required materials to the consumer.<sup>108</sup> Assuming the second debt buyer is subject to the FDCPA, it would then have an obligation to provide the consumer a fresh validation notice.<sup>109</sup> We wondered how consumers would respond to receiving a collection letter from a second collector after they had already requested verification from the first collector. Accordingly, we asked the following question, question 24:

Suppose that you had written to ABC Debt Collectors the day after you received the letter to say that you didn't owe the money the letter says you owe. You also said that you wanted ABC to verify the debt. You never heard back from ABC. Two months later, you received a letter from another company called DEF Debt Collectors. DEF asked for payment of the same debt the ABC letter had asked for. What, if anything, would you do in response to the DEF letter?<sup>110</sup>

Figure 10 presents the responses. As with question 15, because the question was open-ended, it required some discretion in the coding of answers. We first discuss the responses to question 24 in light of the responses to question 15, and then discuss the responses to question 24 by themselves.

#### Figure 10

Q24: Suppose that you had written to ABC Debt Collectors the day after you received the letter to say that you didn't owe the money the letter says you owe. You also said that you wanted ABC to verify the debt. You never heard back from ABC. Two months later, you received a letter from another company called DEF Debt Collectors. DEF asked for payment of the same debt the ABC letter had asked for. What, if anything, would you do in response to the DEF letter?

108. See E-mail from Judith Fox, Clinical Professor of Law, Notre Dame Law Sch., to Jeff Sovern, Professor of Law, St. John's Univ. Sch. of Law (Feb. 28, 2018, 5:24 PM) (on file with authors) (Notre Dame Law School Clinical Professor of Law reports that after she sends a verification request to a collector, a second collector sends a letter seeking to collect for the same debt "very often"). Conceivably, selling the debt to a debt buyer with the knowledge or expectation that that buyer will attempt to collect it violates § 1692g(b)'s command to cease collecting the debt, but that issue is beyond the scope of this Article.

109. See 15 U.S.C. § 1692g (2012). Debt buyers for which collection is not the principal purpose of their business—presumably because their business is sufficiently multifaceted to make debt collection a less significant part—are not subject to the FDCPA. See *Henson v. Santander Consumer USA Inc.*, 137 S. Ct. 1718, 1721 (2017).

110. See *infra* Appendix A.

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	A	B	C	D
Call <sup>111</sup>	34 (18%)	25 (14%)	32 (18%)	36 (20%)
Write <sup>112</sup>	40 (21%)	29 (16%)	25 (14%)	29 (16%)
Non-specified Communication <sup>113</sup>	52 (27%)	52 (29%)	43 (24%)	37 (20%)
Consult Attorney <sup>114</sup>	9 (5%)	13 (7%)	12 (7%)	14 (8%)

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111. We did not distinguish between calls to the creditor, calls to the original collector (ABC), or calls to the second collector (DEF) on the theory that consumers calling the creditor or ABC would be directed to DEF. In addition, some respondents were not specific about whom they would call, writing such statements as “call them” or simply “call.”

112. We did not distinguish between letters to the creditor and letters to the collector on the theory that consumers writing the creditor would be directed to the collector.

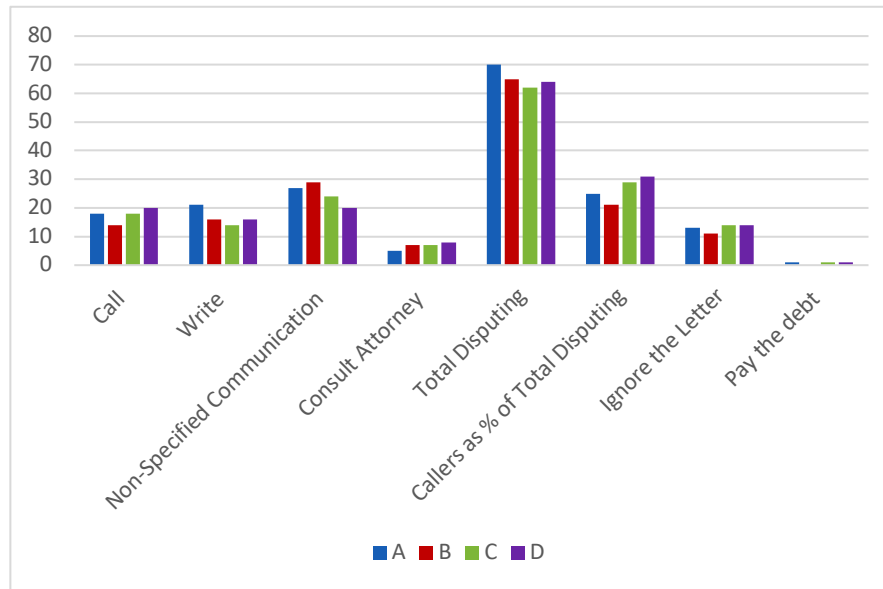
113. By non-specified communication, we mean that the respondent indicated that he or she would communicate with the collector without specifying whether it would be by phone call or letter. Examples include: “Contact the company immediately,” and “I would call them or write them.” But we did not include “contact them via phone *and* letter,” (emphasis added) or “call them, write them,” on the theory that in such cases the consumer would write and so assert her verification rights.

114. This category also includes calling consumer protection agencies, such as the FTC, on the assumption that they will advise consumers to write to protect their rights.

Total Disputing <sup>115</sup>	135 (70%)	119 (65%)	112 (62%)	116 (64%)
Callers as % of Total Disputing	25%	21%	29%	31%
Ignore the letter	26 (13%)	20 (11%)	35 (14%)	24 (14%)
Pay the debt	1 (1%)	0 (0%)	1 (1%)	2 (1%)

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115. This row represents the total of those calling, writing, communicating without specification, or consulting an attorney.

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To compare the responses to question 24 with the answers to question 15, we combined relevant responses into two groups. One group consisted of responses that indicated that the consumer would dispute the debt in some way, including by calling, writing, communicating in a non-specified way, or consulting a lawyer (“disputers”). The other group consisted of those who said they would either ignore the letter or simply pay the debt (“non-disputers”). When we combined all four conditions, we found that of the 479 respondents who said they would dispute the debt after receiving the first letter (question 15) 88.7% claimed they would also dispute the second letter (question 24). However, respondents were twice as likely to ignore or pay the second letter after having disputed the first as they were to dispute the second letter after having paid or ignored the first.<sup>116</sup> Put another way, while there is a significantly increased likelihood that people who receive a second letter from a fresh

116. This difference was statistically significant ( $p=.004$ ). We used McNemar’s test to compare the disputers with the non-disputers.

Because question 24 said that the consumer “had written” to the collector in response to the first dunning letter, it is possible that respondents were “primed” to say that they would write after receiving a second letter. On the other hand, because sending the first letter did not cure the problem, it might also have led respondents to conclude that sending a letter would not solve the issue of the second collection letter either.



debt collector report that they would not dispute it, it is still far more likely that a person who said they would dispute the first letter claimed they would also dispute the second. This raises a concern about whether consumers will cease asserting their rights, either because they feel that prior attempts to do so were unsuccessful or out of exhaustion.

These findings did not vary significantly across conditions. In other words, whether respondents saw a letter with a validation notice, no notice, a simpler notice, or a simpler letter did not significantly affect whether they said they would respond differently when receiving a dunning letter from a second collector than they had after receiving a letter from the first.

One other difference between the responses to questions 15 and 24 surfaced in the percentage of respondents who said that they would write a letter after receiving the second letter. Of the 739 respondents, 81 (10%) stated that they would write in response to the first letter, in question 15, while 123 (17%) reported that they would write, in response to question 24, if they had received the second letter.<sup>117</sup> This difference is statistically significant.<sup>118</sup> We cannot determine from the survey the explanation for this difference, but we speculate that because question 24 referred to the respondent having written to the collector in response to the first letter, while question 15 did not, question 24 “primed” respondents to state that they would write a letter. Another possibility is that an intervening question inspired them to so state. Still another explanation may be that some respondents concluded telephonic communications were insufficient.

We also examined the differences in the responses to question 24 across conditions. While the differences across conditions were not statistically significant when we compared individual categories (e.g., call), when we combined Conditions A, B, and D (the three conditions that saw a validation notice) and compared disputers (those who said they would call, write, consult an attorney, or communicate with the collector in an unspecified way) with non-disputers (those who said they would ignore the letter or pay the debt), with the same groups for Condition C, we found that C respondents were less likely to dispute and more likely to ignore or pay than people in the other conditions. Thus, it appears that those who see a letter with some form of a validation notice are significantly more likely to dispute the debt after receiving a second collection letter than are those who have not seen a validation notice.

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117. Compare *supra* Figure 1, with *infra* Figure 10.

118. *Chi-square* = 87.08, *p* < .001.

## IV. DISCUSSION AND RECOMMENDATIONS

The findings we report in this and our earlier Article collectively raise serious concerns about how well validation notices in the form currently considered acceptable by courts,<sup>119</sup> exemplified by the *Zemeckis* notice, accomplish the congressional goal of eliminating the problem of collectors seeking payment from the wrong person or of debts which have already been paid.<sup>120</sup> In truth, eradicating the problem of collectors demanding payments from the wrong consumer may be too much to expect just from a disclosure notice, especially in light of scholarship demonstrating the extent to which consumers ignore disclosures.<sup>121</sup> In its SBREFA Outline, the CFPB proposed other steps designed to reduce the likelihood that collectors dunned the wrong consumers.<sup>122</sup> Since the Bureau released its Outline, however, the leadership of the CFPB has changed to one expected to be less protective of consumers,<sup>123</sup> and so the Bureau may now be uninterested in improving the efficacy of validation notices. Even if the Bureau had not changed leadership, it is impossible to know if the Bureau would have pursued the proposals described in the Outline. The Outline represents an early stage in the development of a regulation, and the Bureau might well have changed its proposal in light of the comments it received during the SBREFA process, or for other reasons, before

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119. See generally Sovern & Walton, *supra* note 9.

120. S. REP. NO. 95-382, at 4 (1977), as reprinted in 1977 U.S.C.C.A.N. 1695, 1698.

121. See *supra* note 12 and accompanying text.

122. See CFPB, SBREFA OUTLINE, *supra* note 2, at 7–10. See generally John C. Redding, Walter E. Zalenski & Marhsall T. Bell, *Key Points in the CFPB's Outline of Proposed Rule for Third Party Debt Collectors*, 70 CONSUMER FIN. L. Q. REP. 161, 162–63 (2016).

123. At the time the Bureau issued its Outline, the Bureau's director was Richard Cordray. Mr. Cordray resigned from the Bureau on November 24, 2017, and the President named as interim director John Michael "Mick" Mulvaney. Mr. Mulvaney was much less protective of consumers than Mr. Cordray was. For a review of Mr. Mulvaney's performance, see Jeff Sovern, *Consumers are Biggest Losers of Trump's Ongoing War on Regulations*, CONVERSATION (Feb. 8, 2018), <http://theconversation.com/consumers-are-biggest-losers-of-trumps-ongoing-war-on-regulations-91301>; Jeff Sovern, Opinion, *The Consumer Financial Protection Bureau, Leaving the Public High and Dry*, N.Y. DAILY NEWS (May 24, 2018, 5:00 AM), <http://www.nydailynews.com/opinion/cfpb-leaving-consumers-high-dry-article-1.4006220>. The president later nominated Kathy Kraninger to serve as the Bureau's permanent director, and the Senate confirmed her nomination. See Yuka Hayashi, *Senate Confirms Trump Official as Consumer-Finance Regulator*, WALL ST. J. (Dec. 6, 2018, 3:23 PM), <https://www.wsj.com/articles/senate-confirms-trump-official-as-consumer-finance-regulator-1544124159?mod=searchresults&page=1&pos=5>. Ms. Kraninger had served as one of Mr. Mulvaney's assistants at the Office of Management of Budget. See *id.*

proceeding to a proposed rule, much less a final one.<sup>124</sup> In any event, proposals that do not pertain to validation are beyond the scope of this Article. Accordingly, this section discusses some changes involving the validation notice that Congress and the CFPB should consider to address that problem in light of our findings.

A. *Consumer Awareness of the Validation Notice*

This Article reports at least three findings that bear on consumer awareness of the validation notice. First, this paper reports that few consumers who saw the *Zemeckis* letter found the validation notice salient; indeed, more found the possibility of a lawsuit salient despite the fact that the letter said that a decision had not yet been made about whether to file one.<sup>125</sup> Second, both this Article and our previous one demonstrate that many consumers did not realize that the *Zemeckis* letter told them they could obtain verification of the debt. As we discuss above, a significant number of respondents who said they would obtain verification if told they could nevertheless did not recognize that the *Zemeckis* letter stated that they could indeed obtain verification.<sup>126</sup> Third, respondents who saw the *Zemeckis* letter—displayed in Condition A—did not perform significantly better, upon initial reading, than respondents shown a letter without a validation notice—shown in Condition C—when it came to taking in that the letter told them they could obtain verification.<sup>127</sup>

These findings are consistent with our first Article, which reported that about a quarter of the respondents who had seen the *Zemeckis* letter did not realize that it told them the collector would verify the debt upon

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124. See Press Release, Consumer Financial Protection Bureau Considers Proposal to Overhaul Debt Collection Market: New Protections Would Limit Collector Contact and Help Ensure the Correct Debt is Collected (July 28, 2016), <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-considers-proposal-overhaul-debt-collection-market/>.

125. See *supra* Part III.B.

126. See *supra* Part III.C. We did not find a significant difference between those who said they would write if told they could obtain verification by doing so and those who reported the *Zemeckis* letter said a collector would verify the debt if so requested in a writing sent the day after the consumer received the dunning letter. But the fact that a significant difference did exist between those who said they would write if told they could have the debt verified by doing so and those who did not realize that the letter said they could still do so twenty-five days after receipt remains a concern. That is because twenty-five days is within the deadline established by the *Zemeckis* letter and consumers who failed to act immediately after receiving the letter might forgo their verification rights even though the deadline for doing so has not passed.

127. See *supra* Part III.B.2.

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request and that the *Zemeckis* letter did not convey the availability of verification significantly better than a letter lacking a validation notice.<sup>128</sup> Indeed, of the seventeen questions discussed in our first Article in which we compared the *Zemeckis* letter (Condition A) respondents to those who had seen a letter without a validation notice (Condition C), the Condition A respondents performed significantly better than the Condition C respondents on only two of the questions.<sup>129</sup>

But there is some good news about the impact of a validation notice. Respondents who saw a validation notice were significantly more likely in response to an open-ended question to say they would write to protest and less likely to say they would ignore the debt or simply pay it than those who saw a letter without a validation notice.<sup>130</sup> Still, sometimes a positive effect from the validation notice was relatively modest: for example, in the same open-ended question, although significantly more Condition A respondents said they would write to dispute the debt than Condition C respondents, this amounted to only 13% of the A respondents.<sup>131</sup> In short, we did find some evidence that whether a letter contains a validation notice has an impact on how consumers respond to a dunning letter, though we found more evidence to the contrary and sometimes the effect, though significant, was rather limited in scope.<sup>132</sup>

In our first Article, we recommended that Congress or the CFPB explore additional ways for requiring collectors to convey validation rights to consumers, including oral disclosures.<sup>133</sup> The additional findings we report in this Article confirm our view that the written disclosures are not up to the task Congress has set for them and that additional forms of disclosure are needed. We also suggested that lawmakers consider limiting the length and content of collection letters that include validation notices in the hope that doing so would increase consumer awareness of the validation notice.<sup>134</sup> Our finding in this Article that many consumers did not find the validation notice salient also supports such a course.<sup>135</sup> In particular, the greater salience to respondents of the threat of a lawsuit than the validation notice suggests that collectors using the *Zemeckis* letter, at least, will succeed if their goal is to distract

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128. See Sovern & Walton, *supra* note 9, at 94.

129. See *id.* at 111.

130. See *supra* Part III.A.1.

131. See *supra* text accompanying notes 54–55.

132. See *generally* Part III.A.

133. Sovern & Walton, *supra* note 9, at 123.

134. *Id.* at 125–26.

135. See *supra* Part III.B.

consumers from the validation notice's statement of their rights.<sup>136</sup> Elwin Griffith's recommendation that collectors provide the validation notice some time before making a demand for payment also seems likely to increase the likelihood that consumers notice and react to validation notices.<sup>137</sup> We hope that the Bureau will test such approaches to determine if they increase the saliency of the validation notice to consumers.

*B. Consumer Awareness that Verification Demands Must Be in Writing, as Opposed to Being Spoken*

Our first Article reported that substantial majorities of the respondents shown a validation notice—sometimes by a margin of four-to-one—believed that a phone call would suffice to obtain verification, despite the fact that both the statute and the notice mandated a writing.<sup>138</sup> The finding in this Article that more than a third of the respondents—perhaps many more—said that they would call rather than write when asked an open-ended question about how they would respond to the dunning letter buttresses our conclusion that many respondents did not take in that obtaining verification requires a writing.<sup>139</sup> Those findings are also consistent with the CFPB's conclusion that “[c]onsumers appear to submit a large share of their disputes orally or more than 30 days after receipt of a validation notice, ways that are not specified in” the FDCPA for obtaining verification.<sup>140</sup> Accordingly, we reiterate our recommendation that Congress or the CFPB require

136. See Sovern & Walton, *supra* note 9, at 70–71; *supra* Part III.B.

137. See Griffith, *Framework for Improvement*, *supra* note 65, at 786–87; Griffith, *Role of Validation*, *supra* note 65, at 468.

138. See Sovern & Walton, *supra* note 9, at 94–98. Some respondents may also have thought a call would be sufficient because the dunning letter urged them to “call” to resolve the “matter,” though that recommendation appeared only once in the text of the letter, the collection agency’s phone number appeared three times on the first page. See *infra* Appendix A.

139. See *supra* Part III.A.1. To be sure, respondents so stated at a point when they could not return to the letter for additional study, but we rest our recommendation not only on our findings herein but also on our earlier-reported findings.

140. See CFPB, SBREFA OUTLINE, *supra* note 2, at 43. The Bureau also noted that most debt collectors report that they “follow the same process of verifying the debt” when they receive oral statements of disputes as they do for written statements. *Id.* That does not solve the problem, however, because the collectors according oral disputes the same treatment as written ones could abandon that practice without notice. Those reporting that they respond to oral notices as if they were in writing could be exaggerating the extent to which they do so, and in any event, some collectors do not treat oral disputes as if submitted in writing.

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collectors to respond to oral verification requests the same way they must respond to written ones.<sup>141</sup>

*C. The Problem of Disputed Debts Sold to Subsequent Collectors*

As noted above, a significant number of respondents who reported that they would dispute the debt once also indicated that they would not dispute it again after the debt had been sold to a second collector.<sup>142</sup> The Bureau has proposed to deal with the issue of collection attempts by subsequent collectors by requiring that later collectors be notified that a consumer has reported a dispute to a previous collector and by barring the subsequent collector from attempting to collect the debt until it has responded to the dispute notice.<sup>143</sup> This seems like an appropriate solution to the problem of diminishing disputing when consumers receive letters from fresh collectors. We recommend that the new leadership at the Bureau adopt this approach as well.

*D. What Should Collectors Have to Do When a Consumer Seeks Verification?*

At least two reasons exist for examining what respondents understand the word “verification” to mean. The first flows from the fact that courts often employ dictionaries in interpreting statutory texts.<sup>144</sup> Dictionaries are intended to reflect how words are used in actual

141. See Sovern & Walton, *supra* note 9, at 127. See also National Consumer Law Center, Comments to the CFPB on its Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking Outline of Proposals under Consideration and Alternatives Considered, at 7 (Feb. 28, 2017) [hereinafter National Consumer Law Center, Comments to CFPB, SBREFA Outline], [https://www.nclc.org/images/pdf/debt\\_collection/debt-coll-sbrefa-cmmnts-02282017.pdf](https://www.nclc.org/images/pdf/debt_collection/debt-coll-sbrefa-cmmnts-02282017.pdf) (recommending that CFPB “[r]equire collectors to accept disputes through any communication method that [the collector] uses to communicate with consumers”).

142. See *supra* Part III.G; text accompanying note 116.

143. See CFPB, SBREFA OUTLINE, *supra* note 2, at 11.

144. For an example of Supreme Court use of a dictionary to interpret the FDCA, see *Henson v. Santander Consumer USA Inc.*, 137 S. Ct. 1718, 1723 (2017) (using Oxford English Dictionary definition of “obtain”). For examples of courts employing a dictionary in attempting to interpret “verification” in connection with the FDCA, see *Haddad v. Alexander, Zelmanski, Danner & Fioritto, PLLC*, 758 F.3d 777, 782–83 (6th Cir. 2014) (*per curiam*) (quoting RANDOM HOUSE UNABRIDGED DICTIONARY 2113 (2d ed. 1993)). See also *Walton v. EOS CCA*, 885 F.3d 1024, 1027 (7th Cir. 2018); *Summit Petroleum Corp. v. U.S. EPA*, 690 F.3d 733, 741 (6th Cir. 2012) (“[t]his Court, and others as well, have often consulted dictionaries to ascertain the meaning of words.”).

communications,<sup>145</sup> and so when courts employ dictionaries, they are relying on what people understand words to mean. If a general dictionary definition of verification is useful, a survey that shows how people view the same word in the context that Congress used it—that is, in connection with debt collection—should be even more helpful to ascertain what Congress meant.<sup>146</sup> Thus, courts should find a survey about what verification entails in the setting of debt collection at least as valuable as a dictionary in understanding the FDCPA.<sup>147</sup>

Second, consumers' decisions about when to seek verification are likely to be informed by their beliefs about what information will be provided when they demand verification.<sup>148</sup> That argues for taking into account consumer expectations in determining what verification should require. Although, courts have generally not taken such an approach,

145. See *How Does a Word Get into a Merriam-Webster Dictionary?*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/help/faq-words-into-dictionary> (last visited Apr. 7, 2019) (“[T]o determine what [words] mean, Merriam-Webster editors study the language as it’s used.”).

146. Cf. Omri Ben-Shahar & Lior Jacob Strahilevitz, *Interpreting Contracts via Surveys and Experiments*, 92 N.Y.U. L. REV. 1753, 1759, 1803 (2017) (arguing that surveys should be used to interpret contracts because surveys “advance[] a particular conception of meaning: attaching to contracts the understanding assigned by those for whom they are written,” and since “trial judges—with background, knowledge, and experience unlike that of most consumers—are hardly in a position to understand consumer-facing communications the same way that consumers do”).

147. For the argument that courts should be guided in statutory interpretation by surveys that determine how “ordinary persons” would interpret the text used in the statute, see JP Sevilla, *Measuring Ordinary Meaning Using Surveys*, 1, 20–21 (Sept. 28, 2014), [http://www.jsevilla.net/uploads/2/6/3/4/26342659/sevilla\\_measuring\\_ordinary\\_meaning\\_using\\_surveys\\_12\\_sep\\_2014.pdf](http://www.jsevilla.net/uploads/2/6/3/4/26342659/sevilla_measuring_ordinary_meaning_using_surveys_12_sep_2014.pdf). The argument is surely strongest when courts interpret statutes dictating notices that consumers are intended to understand. See also Ben-Shahar & Strahilevitz, *supra* note 146, at 1826 (“[I]t is tempting to think that if the survey method could help interpret contracts, it could be expanded further, to resolve other legal issues, such as statutory interpretation . . .”).

148. Consumers are more likely to seek verification if they anticipate that the additional information obtained will be useful to them in identifying the debt or determining whether it is in fact owed in the amount claimed. They are less likely to seek verification if they expect that the information will not be useful to them, unless they are requesting verification for strategic reasons. As for what *collectors* actually do when a consumer disputes a debt, one survey reported:

Most respondents in phone interviews described a fairly standardized process of responding to a dispute, including ceasing activity on the account, obtaining account documentation from the creditor, and forwarding the information to the consumer. A few respondents said that, for some clients, some or all disputes were returned to the client for resolution.

CONSUMER FIN. PROT. BUREAU, STUDY OF THIRD-PARTY DEBT COLLECTION OPERATIONS 31 (2016).

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until this survey, little evidence has been available concerning consumer understanding of what verification means.<sup>149</sup>

We posed two questions about the meaning of verification, one open-ended and one closed-ended. In response to the open-ended question, more than a third of the respondents indicated in some way that the collector would need to submit some form of proof to the consumer, and at least 24% gave answers suggesting that they believed the collector would have to consult with the creditor.<sup>150</sup> It is possible that other respondents expected that such consultation would have to take place because many answers were ambiguous on that score. For example, consider the following responses we received: “verifying the accuracy or falseness of what they’re claiming,” “making sure it wasn’t a mistake,” and “find out if you really owe the debt.” We did not code any of those as requiring consultation with the creditor because the responses might mean only that the respondent expected that the collector would examine its own records to conduct the requisite verification rather than communicate with the creditor. On the other hand, the respondents who wrote those answers and the many more like them might have thought that the collector would review not only its own internal information, but also ask the creditor to join it in that effort. We simply could not tell.

Respondents answering open-ended questions must define on their own what verification entails, suggesting that the meanings they have chosen are particularly salient to them. But the multiple choice question about what a collector verifying a debt would have to do also supplies useful information.<sup>151</sup> As can be seen in Figure 9, the three most commonly-selected answers were that the collector would have to check with the original credit card company, the collector would have to provide the name of the original creditor, and the collector would have to conduct a reasonable investigation to determine if the debt was valid.<sup>152</sup> In fact, the FDCPA already requires the collector to furnish the name of the original creditor if the consumer so requests in writing.<sup>153</sup> But the other two items both contemplate something in the nature of an investigation,

149. See, e.g., *Clark v. Capital Credit & Collection Serv., Inc.*, 460 F.3d 1162, 1173–74 (9th Cir. 2006) (not using surveys to define verification); *Chaudhry v. Gallerizzo*, 174 F.3d 394 (4th Cir. 1999) (same).

150. See *supra* Figure 8.

151. See *infra* Appendix A.

152. See *supra* Figure 9; text accompanying note 101.

153. See 15 U.S.C. § 1692g(a)(5) (2006). The Bureau is considering requiring the validation notice itself to identify the creditor at the time of the default, so that consumers would not need to seek verification to obtain this information. See CFPB, SBREFA OUTLINE, *supra* note 2, app. F. The CFPB is also contemplating obliging collectors to provide this information when the consumer disputes the debt. See *id.* app. D.



and in considering what to require for verification, lawmakers should at a minimum give thought to imposing such an obligation.<sup>154</sup>

While 15% of the respondents indicated in response to the open-ended question that the collector would have to supply documentation about the debt, many more selected choices calling for documentation when answering the multiple-choice question.<sup>155</sup> Thus, 63% said that the collector would have to give the consumer a copy of the last statement for the credit card, and only a slightly smaller number said the same thing about a copy of the original contract or credit application with the consumer's signature.<sup>156</sup>

Have the courts agreed with our respondents? In fact, the circuits seem divided on the meaning of verification. A leading case is the Fourth Circuit's decision in *Chaudhry v. Gallerizzo*.<sup>157</sup> The collector in that case provided a considerable amount of information in response to the consumers' demand for verification: "a copy of the bank's computerized summary of the [consumers'] loan transactions. . . includ[ing] a running account of the debt amount, a description of every transaction, and the date on which the transaction occurred."<sup>158</sup> That information seemingly would have satisfied many of our respondents. Judge Murnaghan nevertheless opined that:

[V]erification of a debt involves nothing more than the debt collector confirming in writing that the amount being demanded is what the creditor is claiming is owed; the debt collector is not required to keep detailed files of the alleged debt. Consistent with the legislative history, verification is only intended to "eliminate the . . . problem of debt collectors dunning the wrong person or attempting to collect debts which the consumer has already paid." There is no concomitant obligation to forward copies of bills or other detailed evidence of the debt.<sup>159</sup>

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154. See FED. TRADE COMM'N, *supra* note 11, at v, <https://www.ftc.gov/sites/default/files/documents/reports/collecting-consumer-debts-challenges-change-federal-trade-commission-workshop-report/dcwr.pdf> (recommending amendment of the FDCPA to require that when consumers dispute debts "the debt collector must undertake a 'reasonable' investigation that is responsive to the specific dispute the consumer has raised").

155. See *supra* Figures 8, 9.

156. See *supra* Figure 9.

157. 174 F.3d 394 (4th Cir. 1999).

158. *Id.* at 406.

159. *Id.* (internal citations omitted).

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Thus, Judge Murnaghan appeared to believe verification requests impose only a modest obligation and can be used to address the problem of whether the correct person has been dunned or whether that consumer has already paid the debt, but not for any other purpose, such as whether the collector has sought the correct amount.

The Ninth Circuit agreed with the *Chaudhry* statement that verification “involves nothing more than the debt collector confirming in writing that the amount being demanded is what the creditor is claiming is owed” in *Clark v. Capital Credit & Collection Services*.<sup>160</sup> Like the *Chaudhry* collector, the collector in *Clark* had in fact sent the consumers an itemized statement.<sup>161</sup> Judge Nelson also opined that “the FDCPA did not impose upon [collectors] any duty to investigate independently the claims presented by” the creditor.<sup>162</sup>

*Chaudhry* and *Clark* present an interpretative challenge because the collectors went well beyond what the courts said was required: should the focus be on the facts of the cases—that the collectors provided a considerable amount of information—or the courts’ language—that contemplated a more parsimonious requirement. Faced with this question, the Seventh Circuit focused more on what the courts said, while the Sixth Circuit paid greater attention to what the collectors had done.<sup>163</sup> In *Walton v. EOS CCA*, the Seventh Circuit both adopted the *Chaudhry* standard for verification and agreed with *Clark* that a debt collector need not respond to a consumer’s demand for verification by “undertak[ing] an investigation into whether the creditor is actually entitled to the money it seeks.”<sup>164</sup> *Walton* explained that “Section 1692g(b) serves as a check on the debt-collection agency, not the

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160. 460 F.3d 1162, 1173–74 (9th Cir. 2006) (quoting *Chaudhry*, 174 F.3d at 406).

161. *Id.* at 1174.

162. *Id.*

163. The Eighth Circuit shed only modest light on its position on the split in *Dunham v. Portfolio Recovery Assoc., LLC*, 663 F.3d 997 (8th Cir. 2011). There, the collector sought payment from the wrong James Dunham and, upon Dunham’s request for verification, supplied a letter with the last four digits of the social security number of the James Dunham from whom it sought payment, as well as some other information, but not the itemized statements furnished in *Clark* and *Chaudhry*. *Id.* at 999–1000, 1003. Dunham was able to determine from the social security number that he was not the correct debtor. *Id.* at 1000. The court rejected Dunham’s complaint that the verification was not adequate, saying “[u]nder different facts, perhaps a debt collector must do more than what [the collector] did here, but here we find [the collector’s] verification to be sufficient. [The collector] sent Dunham enough information to put him on notice that [the collector] dunned the wrong person.” *Id.* at 1003.

164. 885 F.3d 1024, 1028 (7th Cir. 2018).

creditor.”<sup>165</sup> The *Walton* court determined that the collector had satisfied the statute because it had checked its own records and concluded that the consumer was in fact the person identified by the creditor. All that a collector must do, in the *Walton* court’s view, is confirm that its notice to the consumer matches the creditor’s “description of the debt and debtor.”<sup>166</sup> The Seventh Circuit based its decision on its view that demanding that collectors conduct an independent investigation would “be both burdensome and significantly beyond the Act’s purpose.”<sup>167</sup>

The Sixth Circuit found in *Haddad v. Alexander, Zelmanski, Danner & Fioritto, PLLC* that the facts of *Chaudhry* and *Clark* were more meaningful than the text.<sup>168</sup> The *Haddad* court granted summary judgment in favor of a consumer who had never received the requested verification on a \$50 charge.<sup>169</sup> After reviewing *Chaudhry* and *Clark*, among others, the court wrote that “the cases reflect that an itemized accounting detailing the transactions in an account that have led to the debt is often the best means of accomplishing [the] objective” of enabling

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165. *Id.* An argument against the court’s position is that obliging the *collector* to conduct an investigation imposes the principal duty on the *collector*, though the collector will often need to enlist the aid of the creditor to conduct a proper investigation. One way creditors can minimize their burden in responding to verification requests is by providing proper documentation to the collector when the debt is first turned over to the collector. In addition, as the creditor has chosen to retain the collector, or in the case of a debt buyer, has sold the debt to another who is subject to a verification requirement, the creditor should be obliged to participate in the verification process when needed.

166. *Id.* at 1027.

167. *Id.* at 1027–28. The court also quoted a dictionary definition of verification as “the authentication of truth or accuracy by such means as facts, statements, citations, measurements, or attendant circumstances.” *Id.* at 1027 (quoting WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 2543 (1961)). But the court did not require the collector to authenticate the truth concerning the debt or the accuracy of the collector’s claim that the debt is owed.

As for the statute’s purpose, the FDCPA states: “It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.” 15 U.S.C. § 1692(e) (1977). The listed purposes do not include reducing burdens on debt collectors, the court’s touchstone. In light of the evidence that collectors frequently demand payment of debts that are not actually owed, the *Walton* court would have done better to focus less on the burden on the collector and more on achieving the statutory goal. *See supra* notes 2, 7 and accompanying text. A requirement that the collector do no more than verify that the information it is using conforms to the information it had received does little to address the problem the CFPB noted of “substantial deficiencies in the quality and quantity of information collectors receive.” *See* CFPB, SBREFA OUTLINE, *supra* note 2, at 6; *supra* note 11 and accompanying text.

168. 758 F.3d 777, 783–86 (6th Cir. 2014) (per curiam).

169. *Id.* at 780, 786.

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the consumer to “sufficiently dispute the payment obligation.”<sup>170</sup> The *per curiam* decision explained that a verifying collector:

[S]hould provide the date and nature of the transaction that led to the debt, such as a purchase on a particular date, a missed rental payment for a specific month, a fee for a particular service provided at a specified time, or a fine for a particular offense assessed on a certain date.<sup>171</sup>

*Haddad* concluded that its definition of verification was “consonant” with the legislative intent and would not impose a significant burden on collectors or creditors.<sup>172</sup> The court also believed that an alternative approach would leave the consumer in an untenable position:

Because [the consumer] never received an accounting from the debt collector that showed why he was alleged to owe the original \$50 charge, from which all subsequent late fees, fines, and attorney’s fees flowed, he was unable to “sufficiently dispute the payment obligation.” Therefore, he was put to a choice. As he could not dispute the debt owed based on the information the Firm provided, he could either pay an amount he did not believe he owed or face the encumbrance of his property rights.<sup>173</sup>

*Walton* and *Haddad* together demonstrate that the scope of *Chaudhry* and *Clark* is unclear and the circuits are split about what verification entails.<sup>174</sup> In any event, the court’s interpretation in *Haddad* comes closer to the responses we found in our survey of consumers than *Walton*. As can be seen in Figure 9, more than three-quarters of our respondents said that the collector would have to check with the creditor<sup>175</sup>—a position eschewed by *Walton*, but that *Haddad* would adopt unless the collector already has the needed documentation.<sup>176</sup> While only 24% of our respondents said that the collector would have to

170. *Id.* at 783–85.

171. *Id.* at 786; *see also* National Consumer Law Center, Comments to CFPB, SBREFA Outline, *supra* note 141, at 7 (recommending that the CFPB “[r]equire review of original, account-level documentation in response to all disputes”).

172. *Haddad*, 758 F.3d at 785–86.

173. *Id.* at 785 (citation omitted).

174. For possible interpretations of *Clark* and *Chaudhry*, *see* NAT’L CONSUMER LAW CTR., FAIR DEBT COLLECTION § 9.4.3, at 498–500 (9th ed. 2018).

175. *See supra* Figure 9.

176. *See* *Walton v. EOS CCA*, 885 F.3d 1024, 1027–28 (7th Cir. 2018); *Haddad*, 758 F.3d at 785–86.

consult with the creditor in responses to the open-ended question, that may be because it occurred to fewer respondents. *Haddad* also said that the collector would have to provide the consumer an itemized accounting,<sup>177</sup> which is consistent with, though not identical to, the 63% of respondents who said the collector would have to furnish the consumer with a copy of the last statement for the credit card.<sup>178</sup> That is quite a bit more than the 15% of responses to the open-ended question we coded as requiring some form of documentation,<sup>179</sup> though it appears that requiring documentation had not occurred to some respondents until they saw it listed in the multiple-choice question.

We recommend that courts and the CFPB, in specifying what a collector must do when consumers demand verification, take into account the consumer understanding of the word and tilt more towards *Haddad* than *Walton*.

*E. The Problem of Consumers Ignoring the Letter or Paying the Debt*

One striking finding was that about 3% of our 739 respondents stated upon their initial reading of the letter that they would pay the debt of \$1708.40 despite the fact that they did not owe it.<sup>180</sup> That seems like a high price to pay—literally—to avoid challenging the debt. One speculation we can offer as to why consumers would pay a debt that they did not owe is that unpaid debts in collection can damage credit reports, and so consumers contemplating incurring a substantial debt, such as a mortgage, or making another application for which credit reports might be checked, would face an incentive to pay the debt solely to clear their credit report.<sup>181</sup> The prospect of consumers paying unowed debts is more than a chimera: the FTC recently settled a case for \$2.7 million in which it charged collectors with seeking payment of debts that the consumers had never incurred, debts that the Commission alleged “many

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177. *Haddad*, 758 F.3d at 785.

178. *See supra* Figure 9.

179. *See supra* Figure 8.

180. *See supra* Part III.A, Figure 1.

181. *See* CFPB, SBREFA OUTLINE, *supra* note 2, at 7, 17–18 (listing as a possible harm from poor debt collection practices that consumers pay unowed debts: “consumers [who] learn that the debt is in collection only when applying for credit, housing, employment, or another good or service . . . may feel pressure to pay the item merely to have it removed from the report or as a condition of obtaining the product or service for which the company pulled the report, even if the consumer would have disputed the debt had he or she learned of it earlier”); *see also* Odinet & White, *supra* note 5, at 892.

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consumers” paid.<sup>182</sup> It is difficult to know what to do about consumers who would rather pay a debt than dispute it, except to prevent the demand from being made in the first place, a goal the FTC seems to be pursuing.

*F. Consumer Expectations*

For the most part, consumers were not deceived by our questions about items that did not appear in any version of the letter, such as whether the letter reported that they had a right to know the date they last charged an item on the credit card.<sup>183</sup> But we were surprised that the consumers in Condition C—who did not see a validation notice—nevertheless were significantly more likely to say that the letter they were shown included the disclosures in the validation notice—such as that they had a right to dispute the debt—than items that did not appear on any letter.<sup>184</sup> We have two hypotheses as to why this may have occurred. First, some respondents who had seen a debt collection letter in their own lives might have assumed the letter they saw included a validation notice even though it did not. Second, some respondents might have guessed that the letter contained disclosures that intuitively made sense to them to include in a debt collection letter. In any event, some respondents may have answered our questions based on what they expected the letter to say instead of what it did say—and that would cast doubt on some of our findings.

*G. Cost*

Critics of consumer credit regulation sometimes charge that imposing requirements on debt collectors can increase the cost of credit

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182. Paragraph 22 of the complaint alleged: “Many consumers pay the alleged debts that Defendants purport to be collecting because they are afraid of the threatened repercussions of failing to pay, because they believe Defendants are legitimate and are collecting real delinquent debt, or because they want to stop the harassment.” Complaint at ¶ 22, *FTC v. Lombardo, Daniels & Moss, LLC*, No. 3:17-CV-503-RJC-DCK (W.D.N.C. Aug. 21, 2017), [https://www.ftc.gov/system/files/documents/cases/lombardo\\_complaint\\_8-29-17.pdf](https://www.ftc.gov/system/files/documents/cases/lombardo_complaint_8-29-17.pdf). For the settlement agreement, see Stipulated Final Order for Permanent Injunction & Settlement of Claims as to Defendant Dion Barron, *FTC v. Lombardo, Daniels & Moss, LLC*, No. 3:17-CV-503-RJC-DCK (W.D.N.C. Aug. 21, 2017), [https://www.ftc.gov/system/files/documents/cases/lomardo\\_de\\_49\\_stipulated\\_final\\_order\\_-\\_dion\\_barron\\_redacted\\_6-4-18.pdf](https://www.ftc.gov/system/files/documents/cases/lomardo_de_49_stipulated_final_order_-_dion_barron_redacted_6-4-18.pdf).

183. See *supra* Part III.D.

184. See *supra* Part III.D.4.

and reduce its availability.<sup>185</sup> To the extent that we propose additional requirements, that argument may have some force—though, as discussed in the following paragraph, not much force. But to the extent that we suggest only reforms intended to achieve the congressional goal of using the validation notice to prevent the dunning of the wrong consumer, Congress has already made a judgment about what the law should require of debt collectors and the only remaining question is how best to accomplish Congress’s goal. Accordingly, cost should not be an impediment to those recommendations.

Even if cost is taken into account, that cost should be minor. A study by two CFPB economists of the cost of recent state collection laws, including laws that require disclosures to prevent the dunning of the wrong consumer or demands for the wrong amount—the same goal that inspired the validation notice—found that the laws had a “very small” effect, comparable to at most an eight-point reduction in a credit score.<sup>186</sup> The economists also reported that perhaps because of the additional disclosures, consumers disputed the debts more often.<sup>187</sup> Though that may increase the cost of credit slightly, it seems to be a cost Congress thought worth incurring, judging by the fact that Congress obliged collectors to tell consumers of their right to dispute debts.<sup>188</sup> The economists also did not find evidence that consumers “were less likely to pay their debts in collection as a result of the debt collection

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185. See, e.g., Todd J. Zywicki, *The Law and Economics of Consumer Debt Collection and Its Regulation*, 28 LOY. CONSUMER L. REV. 167, 167–68 (2016) (“[P]oorly designed rules can reduce the effectiveness of debt collection, which will increase losses and lead to higher prices and less access to credit for consumers . . . .”); JULIA FONSECA, KATHERINE STRAIR & BASIT ZAFAR, FED. RESERVE BANK OF N.Y., ACCESS TO CREDIT AND FINANCIAL HEALTH: EVALUATING THE IMPACT OF DEBT COLLECTION: STAFF REPORT NO. 814, at 2 (2017) (study finding that “restricting collection activities leads to a decrease in access to credit . . . and to a deterioration in indicators of financial health”); Viktor Fedaseyev, *Debt Collection Agencies and the Supply of Consumer Credit* 5 (Fed. Reserve Bank of Phila. Research Dep’t, Working Paper No. 15-23, 2015) (“This paper finds that stricter debt collection laws reduce credit availability. This, however, does not imply that these laws necessarily reduce consumer welfare.”). But see ERNST & YOUNG, THE IMPACT OF THIRD-PARTY DEBT COLLECTION ON THE U.S. NATIONAL AND STATE ECONOMIES IN 2013, at 1 (2014) (“Unpaid debt often results in higher consumer prices and borrowing costs . . . . By recovering billions of dollars in delinquent debt each year that would otherwise go uncollected, the [debt collection] industry generates benefits to U.S. businesses. For consumers that pay their debts, the benefit of third-party debt collection can be seen through reduced consumer prices.”).

186. See Charles Romeo & Ryan Sandler, *The Effect of Debt Collection Laws on Access to Credit* 1–2 (CFPB Office of Research, Working Paper No. 2018-01, 2018), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3124954](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3124954).

187. *Id.* at 2.

188. 15 U.S.C. § 1692g(a) (2012).

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restrictions,”<sup>189</sup> implying that the collectors received all that they were entitled to obtain.

#### *H. A Note About Consumer Intent*

Some of our findings depend on what consumers say they will do. For example, we report that consumers say they will write or call to dispute a debt.<sup>190</sup> But researchers have known since at least 1934 that survey respondents sometimes say they will do one thing and actually do another.<sup>191</sup> It is difficult to know what implications this has for our survey. On the one hand, some consumers who believe they will seek verification of the debt may not get around to doing so within the thirty-day deadline, given the other demands of their lives. Similarly, some consumers who predict that they will write to dispute the debt may decide that calling requires less time and so it is preferable. On the other hand, some who say they will call to dispute the debt may decide writing is less likely to lead to an unpleasant confrontation with the collector, and so they may choose to write. In our view, the best course would be to test our data with further studies, and pending that, we believe our results should be taken as a guide, but not a perfect one.

#### *I. Further Research*

In our first Article, we urged more study of validation notices to ascertain how to maximize their value, especially as we examined only two versions of validation notices in just four collection letters.<sup>192</sup> Consequently, it was heartening that the CFPB proposed its own debt collection notice survey of some eight thousand consumers, far more than we surveyed.<sup>193</sup> Even industry trade groups supported the principle of surveying consumers to learn more about debt collection, though they

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189. Romeo & Sandler, *supra* note 186, at 22.

190. *See supra* Parts III.A, III.C.

191. *See* Richard T. LaPiere, *Attitudes vs. Actions*, 13 SOC. FORCES 230, 233–34 (1934) (finding that 91.6% of 128 surveyed auto camps, tourist camps, restaurants, and hotels said they would not accept people of Chinese ethnicity as customers but only one of 251 hotels, auto camps, tourist camps, and restaurants (which included the surveyed facilities) actually refused to accommodate a Chinese guest who visited the establishment). *See generally* Howard Schuman, *Attitudes vs. Actions Versus Attitudes vs. Attitudes*, 36 PUB. OPINION Q. 347, 349–50, 353 (1972) (noting inconsistencies between survey responses and real-life behavior).

192. *See* Sovern & Walton, *supra* note 9, at 123.

193. *See* Agency Information Collection Activities: Comment Request, 82 Fed. Reg. 25,779, n.1 (June 5, 2017).



voiced some specific concerns about the Bureau's proposed survey.<sup>194</sup> While the CFPB's interim management withdrew the application to conduct the survey,<sup>195</sup> the Bureau later reinstated its request.<sup>196</sup> We continue to recommend more study of validation notices.<sup>197</sup> Such research should enable lawmakers to formulate validation notices that accomplish the congressional goal of eliminating the problem of collectors dunning the wrong consumers in the wrong amounts.<sup>198</sup>

## V. CONCLUSION

This is the second Article reporting findings from our debt collection survey. While we found some evidence of consumer awareness of the validation notice, by many more measures consumers either did not notice it or misinterpreted it in a way that would cost them some consumer protections. In short, the two Articles together raise serious questions about whether the validation notice requirement, as that requirement has been interpreted by courts, has succeeded in communicating to consumers their validation rights.<sup>199</sup> The validation notice requirement is ripe for congressional attention, or, failing that, interpretation by the CFPB.

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194. See, e.g., Letter from Dong Hong, Vice President, Senior Counsel, Consumer Bankers Ass'n, to Darrin King, CFPB (Aug. 4, 2017) (on file with author) ("CBA is supportive of surveying consumers to gain relevant information, and we applaud the Bureau for carrying out this necessary research."); Letter from Anjali Phillips, Senior Counsel, Am. Bankers Ass'n. to Darrin King, CFPB (Aug. 4, 2017) (on file with author) ("ABA supports the Bureau's interest in conducting a survey of consumers to understand better their comprehension of and decision making in response to debt collection notices.").

195. See OFFICE OF INFO. AND REGULATORY AFFAIRS, OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, NOTICE OF ACTION: DEBT COLLECTION QUANTITATIVE DISCLOSURE TESTING (Dec. 14, 2017), [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201705-3170-001#](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201705-3170-001#).

For a discussion of the CFPB's interim director, see *supra* note 123.

196. See Agency Information Collection Activities: Submission for OMB Review, 84 Fed. Reg. 1430 (Bureau of Consumer Fin. Prot. Feb. 4, 2019) (notice and request for comment).

197. Cf. National Consumer Law Center, Comments to CFPB, SBREFA Outline, *supra* note 141, at 38–39 (calling for consumer testing of validation notices).

198. See S. REP. NO. 95-382, at 4 (1977).

199. See generally Sovern & Walton, *supra* note 9, at 113–22.

## Appendix A

1. St. John's University School of Law is conducting a survey into how well consumers understand a letter asking a consumer to pay a debt. Thank you for taking the time to participate in this research. First, we are going to show you a letter. Then we will ask you some questions about it. If you need to make the print size bigger, please use your browser's controls to do so. Before we can ask you the questions, we are required to show you a consent form and ask you to read it and click on the box that says you are willing to answer our questions. By clicking "Yes" below, you agree to participate in this survey of your own free will. You may refuse to participate or withdraw at any time. If at any time you decide not to participate, you will not be penalized in any way, except that you will not get paid for your time. You have the right to skip a question. You have a right not to answer any question you prefer not to answer. There are no known risks associated with your participation in this research beyond the risks of everyday life. There are two benefits you will receive if you complete the survey. First, you will receive the promised benefit after you complete the survey. Second, your answers may help consumers and researchers. Your identity will remain confidential. We will not make public your participation. Is there anything about the study or your participation in it that is unclear or you do not understand? If so, please contact Professor Jeff Sovern at 718-990-6429 or [sovernj@stjohns.edu](mailto:sovernj@stjohns.edu) or through St. John's University at 8000 Utopia Parkway, Jamaica, New York, 11439. If you have any questions about your rights as a research participant, please contact the University's Institutional Review Board at 718-990-1440.

1. Do you consent to answer the questions?

☐ Yes

2. We appreciate your willingness to take this survey. We will start by asking you some questions about you. Please tell us your age.

3. What is your gender?

☐ Male

☐ Female

4. If you wish to say more about your answer, you may do so here

5. Which is the highest level of education you have attained?

- ☐ Did not graduate from high school.
- ☐ High school graduate or GED.
- ☐ Some college or post-secondary work.
- ☐ College graduate.
- ☐ Post-graduate work.

6. If you wish to say more about your answer, you may do so here:

7. Which racial or ethnic group in this list best describes you? You can select more than one.

- ☐ White (including Middle Eastern or Arab)
- ☐ Black/African-American
- ☐ Hispanic/Latino/a
- ☐ Asian
- ☐ American Indian/Alaska Native
- ☐ Native Hawaiian/Other Pacific Islander
- ☐ Other
- ☐ Prefer not to answer.

8. If you wish to say more about your answer, you may do so here:

9. We will now ask about your total annual household income.

- ☐ Less than \$24,000.
- ☐ At least \$24,000 but less than \$51,000.
- ☐ At least \$51,000 but less than \$81,000.
- ☐ At least \$81,000 but less than \$144,000.
- ☐ At least \$144,000.
- ☐ Prefer not to answer.

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10. What state do you live in?

11. Imagine that you received the following letter addressed to you. The letter is two pages. Please give it the exact same amount of attention you would if it had just been mailed to you. This is not a test. Rather, we want to learn how you and other consumers interpret such letters in your everyday life. After you are finished with each page, please click the arrow at the bottom right of the survey to move forward.

[The text of the letter appeared at this point, varying according to which condition the respondent saw.]

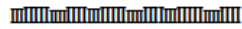
PO Box XXXXXX, Dept. XXXX  
Anywhere, USA

ABC

CREDIT & COLLECTION CORP.

February 23, 2015

XYZ Credit Card Company  
PO Box XXXXX  
Anywhere, USA  
1-XXX XXX-XXXX



— AUTO\*\*MIXED AADC 350

[Your name]

86

Client	XYZ Credit Card Company
Account No.	XXXXXXXX
Global ID	XXX
Amount Due	\$1708.40

Your delinquent account now meets XYZ Credit Card Company's guidelines for legal action if it charges off.

Your account has been placed with ABC Credit & Collection Corp., a collection agency. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

XYZ Credit Card Company has not yet made a decision to file a lawsuit, there is still time for you to work with us in resolving this matter.

If we cannot get this matter resolved soon and your account charges off, XYZ Credit Card Company may be forced to take legal action. This could result in a judgment against you. If XYZ Credit Card Company obtains a judgment against you, they can take whatever actions they deem advisable to enforce it. In addition, judgments are a matter of public record, and employers, landlords, and other creditors can check your credit and see that the judgment has been taken against you.

It is not too late to fix this situation: We urge you to act now.

Call our office today at 1-XXX XXX-XXXX to make arrangements to resolve this matter, if you cannot make your minimum payment, we can go over the options available to you.

Prior to any judgment, you will be notified and able to raise defenses. XYZ Credit Card Company's remedies will be subject to applicable property exemptions.

Ms. Smith  
1-XXX XXX-XXXX

If you would like to make your payment directly to XYZ Credit Card Company, please visit our website.

SEE NEXT PAGE FOR IMPORTANT INFORMATION.

Detach and Return Bottom Portion with Payment

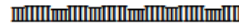
Please print address changes below using blue or black ink.

Street Apt. #  
City State ZIP

Total Balance: \$1708.40

Total Enclosed: \_\_\_\_\_

Home Phone Alternate Phone



[Your name]

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## INFORMATION NOTICE OF YOUR RIGHTS UNDER FEDERAL LAW

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment, if any, and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

WE ARE ACTING AS A DEBT COLLECTOR. THIS LETTER IS AN ATTEMPT TO COLLECT THIS DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

We are required under state law to give you the following notices, some of which refer to rights you also have under federal law. This list does not contain a complete list of the rights which consumers or commercial businesses have under state and federal law. Note the following which apply in the specified states:

STATE	APPLICABLE NOTICE
California	The state Rosenthal Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or <a href="http://www.ftc.gov">www.ftc.gov</a> .
Colorado	A consumer has the right to request in writing that a debt collection or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE <a href="http://WWW.COLORADOATTORNEYGENERAL.GOV/CA">WWW.COLORADOATTORNEYGENERAL.GOV/CA</a> .
Massachusetts	NOTICE OF IMPORTANT RIGHTS: YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT MAY NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST, YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR.  ABC Credit & Collection Corp. Office in Massachusetts: Anywhere, USA. Hours of operation: Monday to Thursday 10:00am - 3:00pm.
Michigan	Michigan requires us to give the following notice, however, all consumers have these rights under federal law: The failure of a consumer to dispute the validity of a debt shall not be construed as an admission of liability by the consumer.
Minnesota	This collection agency is licensed by the Minnesota Department of Commerce.
New York	New York City Department of Consumer Affairs license numbers are -XXXX. In accordance with the requirements of NY Code Section 20-493.1 we are disclosing that ABC Credit and Collection Corporation's contact person is Mr. Jones, telephone number 1-XXX XXX-XXXX.
North Carolina	North Carolina Department of insurance permit numbers are -XXXX.
Tennessee	This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance. Tenn. Code. Ann ss 62-20-III(b).
Washington	ABC Credit & Collection Corp. licensed address in Washington is: Anywhere, USA.
Wisconsin	This collection agency is licensed by the Administrator of the Division of Banking, Anywhere, U

## OFFICE HOURS:

Sunday: 9:00 am EST- 3:00 pm EST  
Monday- Thursday: 8:30 am EST- 9:00 pm EST Friday: 8:30 am EST- 6:00 pm EST  
Saturday: 9:00 am EST- 3:00 pm EST

12. What kind of document did you just see?

- ☐ A cell phone contract.
- ☐ A letter summoning you to serve on a jury.
- ☐ A letter requesting payment of a credit card bill.
- ☐ An offer of a rebate for buying a television

13. What percentage of the letter did you read and understand?

14. The letter you just saw said many things. We would like to know what you remember. Please put down a word or phrase for as many things as you recall. You do not need to repeat the actual words. For example, if you remember seeing the amount of the debt, you can put that down.

15. The letter referred to a credit card debt. Suppose you had never had a credit card with this company and you did not owe that debt. What, if anything, would you do? If you would do more than one thing, please list all the things you would do, in the order in which you would do them.

16. Which of the following did the letter say? Please click as many as you think correct.

- ☐ You have a right to know how much of the amount you owe is interest.
- ☐ ABC will send you verification of the debt if you ask for it.
- ☐ You may dispute the validity of the debt.
- ☐ You have a right to be told the date you last charged something on the credit card.
- ☐ If you don't dispute the debt within 30 days, ABC will assume the debt is valid.
- ☐ All of the above.
- ☐ None of the above.

17. If you wish to say more about your answer, you may do so here.

18. Now we want to ask a question about what you would do if you received a letter from a collector trying to collect a debt. Suppose the letter says that if you mailed a letter to the collector saying you didn't

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owe the debt and wanted them to send you verification of the debt, they would. Suppose also you believe you didn't owe the debt. Would you mail a letter to the collector saying you didn't owe the debt and requesting verification of the debt?

- ☐ Yes
- ☐ No
- ☐ I don't know.

19. If you wish to say more about your answer, you may do so here.

20. What do you think verification of the debt means?

21. Suppose the day after you got this letter, you had mailed the collector your own letter requesting verification of the debt. Which of the following would the collector have to do? Please click as many as you think correct.

- ☐ The collector would have to check with the original credit card company.
- ☐ The collector would have to conduct a reasonable investigation to determine if the debt was valid.
- ☐ The collector would have to provide you the name of the original creditor.
- ☐ The collector would have to tell you the date and amount of your last payment on the credit card.
- ☐ The collector would have to give you a copy of the last statement for the credit card.
- ☐ The collector would have to give you a copy of the original contract or credit application with your signature.
- ☐ The collector would have to tell you the last date an amount other than interest was charged to the account and how much that amount was.
- ☐ The collector would have to tell you the original account number.
- ☐ The collector would have to tell you the date the account was opened.
- ☐ The collector would have to tell you the name and address of the current owner of the debt.
- ☐ The collector would have to tell you how much of the debt consisted of fees and interest.
- ☐ All of the above.
- ☐ None of the above.
- ☐ I don't know.



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22. If you wish to say more about your answer, you may do so here:

23. Suppose you did nothing after receiving ABC's letter. What, if anything, do you think ABC would do? If you think ABC would do more than one thing, please list everything you think they would do.

24. Suppose that you had written to ABC Debt Collectors the day after you received the letter to say that you didn't owe the money the letter says you owe. You also said that you wanted ABC to verify the debt. You never heard back from ABC. Two months later, you received a letter from another company called DEF Debt Collectors. DEF asked for payment of the same debt the ABC letter had asked for. What, if anything, would you do in response to the DEF letter?

25. Now we want to ask some questions about you. Have you ever received a request for payment from a debt collector?

- ☐ Yes
- ☐ No
- ☐ I don't know.

26. If you wish to say more about your answer, you may do so here:

27. Are you an attorney or law student?

- ☐ Yes
- ☐ No

28. If you wish to say more about your answer, you may do so here:

29. Have you ever worked as or for a debt collector?

- ☐ Yes
- ☐ No

30. If you wish to say more about your answer, you may do so here:

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31. Now that you have answered questions about the letter you saw, we would like to show you the letter again and then ask you some more questions. This time, you will be able to go back to the letter as often as you want while answering the questions. Thank you again for taking the time to take our survey. First, here is the letter again:

[The text of the letter appeared at this point, varying according to which condition the respondent saw.]

32. Starting with the next screen, you will see some of the questions again, as well as new questions.

33. Suppose the day after you got this letter, you *called* ABC Debt Collectors to tell them that you had never had that credit card. You also said you didn't owe the money the letter said you did. (If you wish to see the letter again, please [click here](#) for the first page and [here](#) for the second. If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

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	Yes (1)	No (2)	I don't know (3)	If you wish to say more about your answer, you may do so here: (1)
According to the letter from ABC, would ABC assume the debt was valid? (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
According to the letter from ABC, would ABC send you verification of the debt? (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
According to the letter from ABC, would ABC stop trying to collect the debt until it mails you a response to your statement? (3)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

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Suppose you also told ABC you couldn't afford an attorney. Did the letter from ABC say that if you can't afford an attorney, one would be appointed to represent you for free? (4)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
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34. Please click "No" from the answers below:

- ☐ Yes
- ☐ No
- ☐ I don't know

35. Instead of calling, suppose the day after you got this letter, you mailed your own letter to ABC Debt Collectors to tell them that you had never had that credit card. You also said you didn't owe the money the letter said you did. (If you wish to see the letter again, please click [here](#) for the first page and [here](#) for the second. If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

	Yes (1)	No (2)	I don't know (3)	If you wish to say more about your answer, you may do so here: (1)
According to the letter from ABC, would ABC assume the debt was valid? (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
According to the letter from ABC, would ABC send you verification of the debt? (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
According to the letter from ABC, would ABC stop trying to collect the debt until it mails you a response to your statement? (3)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Suppose you also told ABC you couldn't afford an attorney. Did the letter from ABC	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

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say that if you can't afford an attorney, one would be appointed to represent you for free? (4)				
--	--	--	--	--

36. Suppose that instead of writing the day after you got ABC's letter, you mailed your own letter to ABC Debt Collectors 25 days after you got ABC's letter. You told them that you had never had that credit card. You also said you didn't owe the money the letter said you did. (If you wish to see the letter again, please click here for the first page and here for the second. If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

	Yes (1)	No (2)	I don't know (3)	If you wish to say more about your answer, you may do so here: (1)
According to the letter from ABC, would ABC assume the debt was valid? (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
According to the letter from ABC, would ABC send you	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

<p>verification of the debt? (2)</p> <p>According to the letter from ABC, would ABC stop trying to collect the debt until it mails you a response to your statement? (3)</p> <p>Suppose you also told ABC you couldn't afford an attorney. Did the letter from ABC say that if you can't afford an attorney, one would be appointed to represent you for free? (4)</p>	○	○	○	
--	---	---	---	--

37. Now suppose that 35 days after you got this letter, you mailed your own letter to ABC Debt Collectors to tell them that you had never had that credit card. You also said you didn't owe the money the letter said

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you did. (If you wish to see the letter again, please click [here](#) for the first page and [here](#) for the second. If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

	Yes (1)	No (2)	I don't know (3)	If you wish to say more about your answer, you may do so here: (1)
According to the letter from ABC, would ABC assume the debt was valid? (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
According to the letter from ABC, would ABC send you verification of the debt? (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
According to the letter from ABC, would ABC stop trying to collect the	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	



debt until it mails you a response to your statement? (3)				
Suppose you also told ABC you couldn't afford an attorney. Did the letter from ABC say that if you can't afford an attorney, one would be appointed to represent you for free? (4)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

38. Which of the following did the letter say? Please click as many as you think correct. (If you wish to see the letter again, please click here for the first page and here for the second. If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

- ☐ You have a right to know how much of the amount you owe is interest.
- ☐ ABC will send you verification of the debt if you ask for it.
- ☐ You may dispute the validity of the debt.
- ☐ You have a right to be told the date you last charged something on the credit card.
- ☐ All of the above.
- ☐ None of the above.

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- ☐ If you don't dispute the debt within 30 days, ABC will assume the debt is valid.

39. If you wish to say more about your answer, you may do so here:

40. Suppose you wanted to notify ABC Debt Collectors that you want ABC to verify the debt. According to the letter, how long would you have to tell ABC that you want ABC to verify the debt after you receive its letter? (If you wish to see the letter again, please click here for the first page and here for the second. If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

- ☐ 1 week.
- ☐ 2 weeks
- ☐ 3 weeks
- ☐ 30 days
- ☐ 60 days
- ☐ A different amount of time (you may state the amount of time in the space for comments below)
- ☐ The letter does not state a deadline.
- ☐ I don't know.

41. If you wish to say more about your answer, you may do so here:

42. Suppose that you don't owe the money that the letter says you owe but you missed the deadline stated in the letter for notifying ABC Debt Collectors that you dispute the validity of the debt. Which of the following do you think is correct? Please select as many as you think correct. (If you wish to see the letter again, please click here for the first page and here for the second. If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

- ☐ ABC Debt Collectors would assume that the debt was valid.
- ☐ I would have to pay the debt.
- ☐ If ABC Debt Collectors sued me, I could not argue in court that I didn't owe the money.
- ☐ All of the above.

- ☐ None of the above is correct.
- ☐ I don't know.

43. If you wish to say more about your answer, you may do so here:

44. Do you think you would lose any legal rights if you waited 25 days to communicate with ABC? (If you wish to see the letter again, please [click here for the first page](#) and [here for the second](#). If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

- ☐ Yes
- ☐ No
- ☐ I don't know.

45. If you think you would lose legal rights, what rights?

46. Do you think you would lose any legal rights if you waited 35 days to communicate with ABC? (If you wish to see the letter again, please [click here for the first page](#) and [here for the second](#). If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

- ☐ Yes
- ☐ No
- ☐ I don't know.

47. If you think you would lose legal rights, what rights?

48. What, if anything, did the letter say about XYZ's intention to sue if you don't pay the debt? (If you wish to see the letter again, please [click here for the first page](#) and [here for the second](#). If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

- ☐ The letter did not say anything about either XYZ suing.
- ☐ The letter said XYZ would sue if I don't pay the debt.

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- ☐ The letter said XYZ has not yet made a decision to sue.
- ☐ The letter said XYZ would not sue.
- ☐ I don't know.

49. If you wish to say more about your answer, you may do so here:

50. Did the letter say anything directed to residents of your state? (If you wish to see the letter again, please click here for the first page and here for the second. If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

- ☐ Yes
- ☐ No
- ☐ I don't know

51. If the letter said anything directed to residents of your state, what was it? (If you wish to see the letter again, please click here for the first page and here for the second. If the letter is too small for comfortable reading, please use your browser control to zoom in. You also have the option of hitting the back button to review the earlier presentation of the letter.)

## APPENDIX B

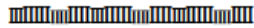
PO Box XXXXXX, Dept. XXXX  
Anywhere, USA

ABC

CREDIT&amp;COLLECTIONCORP

February 23, 2015

XYZ Credit Card Company  
PO Box XXXXX  
Anywhere, USA  
1-XXX XXX-XXXX



- AUTO\*\*MIXED AADC 350

[Your name]

86

Client	XYZ Credit Card Company
Account No.	XXXXXXXX
Global ID	XXX
Amount Due	\$1708.40

Your delinquent account now meets XYZ Credit Card Company's guidelines for legal action if it charges off.

Your account has been placed with ABC Credit & Collection Corp., a collection agency. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

XYZ Credit Card Company has not yet made a decision to file a lawsuit, there is still time for you to work with us in resolving this matter.

If we cannot get this matter resolved soon and your account charges off, XYZ Credit Card Company may be forced to take legal action. This could result in a judgment against you. If XYZ Credit Card Company obtains a judgment against you, they can take whatever actions they deem advisable to enforce it. In addition, judgments are a matter of public record, and employers, landlords, and other creditors can check your credit and see that the judgment has been taken against you.

It is not too late to fix this situation: We urge you to act now.

Call our office today at 1-XXX XXX-XXXX to make arrangements to resolve this matter, if you cannot make your minimum payment, we can go over the options available to you.

Prior to any judgment, you will be notified and able to raise defenses. XYZ Credit Card Company's remedies will be subject to applicable property exemptions.

Ms. Smith  
1-XXX XXX-XXXX

If you would like to make your payment directly to XYZ Credit Card Company, please visit our website.

SEE NEXT PAGE FOR IMPORTANT INFORMATION.

Detach and Return Bottom Portion with Payment

Please print address changes below using blue or black ink.

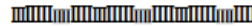
Street Apt. #

Total Balance: \$1708.40

City State ZIP

Total Enclosed: \_\_\_\_\_

Home Phone Alternate Phone



[Your name]

718HC

1-XXX XXX-XXXX

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## INFORMATION NOTICE OF YOUR RIGHTS UNDER FEDERAL LAW

You can dispute this debt at any time, either orally or in writing.

If you write to us within thirty days of when you get this letter, regarding:

- (1) A question or a dispute about all or any part of the debt, or
- (2) A request for the name and address of the original creditor

we will stop collecting until we mail you our response.

Also, we will stop calling and writing you if you tell us in writing that you refuse to pay or want us to stop calling and writing.

WE ARE ACTING AS A DEBT COLLECTOR. THIS LETTER IS AN ATTEMPT TO COLLECT THIS DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

We are required under state law to give you the following notices, some of which refer to rights you also have under federal law. This list does not contain a complete list of the rights which consumers or commercial businesses have under state and federal law. Note the following which apply in the specified states:

STATE	APPLICABLE NOTICE
California	The state Rosenthal Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or <a href="http://www.ftc.gov">www.ftc.gov</a> .
Colorado	A consumer has the right to request in writing that a debt collection or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE <a href="http://WWW.COLORADOATTORNEYGENERAL.GOV/CA">WWW.COLORADOATTORNEYGENERAL.GOV/CA</a> .
Massachusetts	NOTICE OF IMPORTANT RIGHTS: YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT MAY NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOUR PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST, YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR.
ABC Credit & Collection Corp. Office in Massachusetts: Anywhere, USA. Hours of operation: Monday to Thursday 10:00am - 3:00pm.	
Michigan	Michigan requires us to give the following notice, however, all consumers have these rights under federal law: The failure of a consumer to dispute the validity of a debt shall not be construed as an admission of liability by the consumer.
Minnesota	This collection agency is licensed by the Minnesota Department of Commerce.
New York	New York City Department of Consumer Affairs license numbers are -XXXX. In accordance with the requirements of NY Code Section 20-493.1 we are disclosing that ABC Credit and Collection Corporation's contact person is Mr. Jones, telephone number 1-XXX XXX-XXXX.
North Carolina	North Carolina Department of insurance permit numbers are -XXXX.
Tennessee	This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance. Tenn. Code. Ann ss 62-20-III(b).
Washington	ABC Credit & Collection Corp. licensed address in Washington is: Anywhere, USA.
Wisconsin	This collection agency is licensed by the Administrator of the Division of Banking. Anywhere, USA.

## OFFICE HOURS:

Sunday: 9:00 am EST- 3:00 pm EST  
 M Monday- Thursday: 8:30 am EST- 9:00 pm EST Friday: 8:30 am EST- 6:00 pm EST  
 Saturday: 9:00 am EST- 3:00 pm EST

## APPENDIX C

PO Box XXXXXX, Dept. XXXX  
Anywhere, USA

ABC

## CREDIT &amp; COLLECTION CORP.

February 23, 2015

XYZ Credit Card Company  
PO Box XXXXX  
Anywhere, USA  
1-XXX XXX-XXXX

XXXXXXXXXXXXXXXXXXXXXXXXXXXX  
- AUTO\*\*MIXED AADC 350  
[Your name]

\$6

Client	XYZ Credit Card Company
Account No.	XXXXXXXXXX
Global ID	XXXX
Amount Due	\$1708.40

Your delinquent account now meets XYZ Credit Card Company's guidelines for legal action if it charges off.

Your account has been placed with ABC Credit & Collection Corp., a collection agency. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

XYZ Credit Card Company has not yet made a decision to file a lawsuit, there is still time for you to work with us in resolving this matter.

If we cannot get this matter resolved soon and your account charges off, XYZ Credit Card Company may be forced to take legal action. This could result in a judgment against you. If XYZ Credit Card Company obtains a judgment against you, they can take whatever actions they deem advisable to enforce it. In addition, judgments are a matter of public record, and employers, landlords, and other creditors can check your credit and see that the judgment has been taken against you.

It is not too late to fix this situation. We urge you to act now.

Call our office today at 1-XXX XXX-XXXX to make arrangements to resolve this matter, if you cannot make your minimum payment, we can go over the options available to you.

Prior to any judgment, you will be notified and able to raise defenses. XYZ Credit Card Company's remedies will be subject to applicable property exemptions.

Ms. Smith  
1-XXX XXX-XXXX

If you would like to make your payment directly to XYZ Credit Card Company, please visit our website.

## SEE NEXT PAGE FOR IMPORTANT INFORMATION.

Detach and Return Bottom Portion with Payment

Please print address changes below using blue or black ink.

Street Apt. #

City State ZIP

Home Phone Alternate Phone

[Your name]

Total Balance: \$1708.40

Total Enclosed: \_\_\_\_\_



718HC

1-XXX XXX-XXXX

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## INFORMATION NOTICE OF YOUR RIGHTS UNDER FEDERAL LAW

WE ARE ACTING AS A DEBT COLLECTOR. THIS LETTER IS AN ATTEMPT TO COLLECT THIS DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

We are required under state law to give you the following notices, some of which refer to rights you also have under federal law. This list does not contain a complete list of the rights which consumers or commercial businesses have under state and federal law. Note the following which apply in the specified states:

STATE	APPLICABLE NOTICE
California	The state Rosenthal Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or <a href="http://www.ftc.gov">www.ftc.gov</a> .
Colorado	A consumer has the right to request in writing that a debt collection or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE <a href="http://WWW.COLORADOATTORNEYGENERAL.GOV/CA">WWW.COLORADOATTORNEYGENERAL.GOV/CA</a> .
Massachusetts	NOTICE OF IMPORTANT RIGHTS: YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT MAY NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST, YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR.  ABC Credit & Collection Corp. Office in Massachusetts: Anywhere, USA. Hours of operation: Monday to Thursday 10:00am - 3:00pm.
Michigan	Michigan requires us to give the following notice, however, all consumers have these rights under federal law: The failure of a consumer to dispute the validity of a debt shall not be construed as an admission of liability by the consumer.
Minnesota	This collection agency is licensed by the Minnesota Department of Commerce.
New York	New York City Department of Consumer Affairs license numbers are -XXXX. In accordance with tile requirements of NY Code Section 20-493.1 we are disclosing that ABC Credit and Collection Corporation's contact person is Mr. Jones, telephone number 1-XXX XXXX-XXXX.
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PO Box XXXXXX, Dept. XXXX  
Anywhere, USA

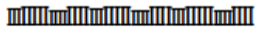
## APPENDIX D

ABC

CREDIT &amp; COLLECTION CORP

February 23, 2015

XYZ Credit Card Company  
PO Box XXXXX  
Anywhere, USA  
1-XXX XXX-XXXX



- AUTO\*\*MIXED AADC 350

[Your name]

86

Client	XYZ Credit Card Company
Account No.	XXXXXXXX
Global ID	XXX
Amount Due	\$1708.40

Your account with XYZ Credit Card Company has been placed with ABC Credit & Collection Corp., a collection agency. Call our office at 1-XXX XXX-XXXX to make arrangements to resolve this matter, if you cannot make your minimum payment, we can go over the options available to you.

Ms. Smith  
1-XXX XXX-XXXX

If you would like to make your payment directly to XYZ Credit Card Company, please visit our website.

## INFORMATION NOTICE OF YOUR RIGHTS UNDER FEDERAL LAW

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment, if any, and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

## SEE NEXT PAGE FOR IMPORTANT INFORMATION.

Detach and Return Bottom Portion with Payment

Please print address changes below using blue or black ink.

Street Apt. #

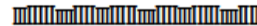
City State ZIP

Home Phone Alternate Phone

[Your name]

Total Balance: \$1708.40

Total Enclosed: \_\_\_\_\_



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Colorado	A consumer has the right to request in writing that a debt collection or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE <a href="http://WWW.COLORADOATTORNEYGENERAL.GOV/CA">WWW.COLORADOATTORNEYGENERAL.GOV/CA</a> .
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