

Why States Should Have Primary Oversight of Attorney’s Activities in Debt-Collection Litigation

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Since its enactment in 1977, there has been great controversy over if the Fair Debt Collection Practices Act (“FDCPA”)² does and should apply to attorneys’ conduct in debt-collection litigation, most of which occurs in state court. Although the statute originally exempted attorneys, Congress rescinded that exemption and courts have since applied the FDCPA to a growing range of activities in litigation. The National Creditors Bar Association and the American Bar Association have advocated that Congress pass legislation³ that would exempt lawyers’ litigation activities from the FDCPA.⁴ Even though we take no position on this proposed legislation, we generally agree that the best approach to protecting consumers from the litigation activities of lawyers is to rely on state court and state bar enforcement of state law along with FTC enforcement of the FTC Act as a ba

at all hours of the night.

and sufficient information.”¹² The CFPB likewise has acknowledged that states play this role, recognizing “the traditional role of the States in overseeing the administration and operation of

confusion from overlapping federal and state standards. We, therefore, do not believe the FDCPA should