

# OPERATIONS GUIDE

# COLLECTION LETTERS



Complimentary  
Preview

**Copyright © 2014 insideARM.com. All rights reserved.**

**NOTICE:**

This product is offered for sale by insideARM.com. Purchase entitles the buyer to share this information only among his or her immediate management team of up to five individuals.

Site licenses or multiple copy discounts are available.

insideARM.com

Phone: 240.499.3834

**E-mail: [editor@insideARM.com](mailto:editor@insideARM.com) | Website: [www.insideARM.com](http://www.insideARM.com)**

## Legal Disclosure

This information is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case. Every effort has been made to assure this information is up-to-date. It is not intended to be a full and exhaustive explanation of the law in any area, however, nor should it be used to replace the advice of your own legal counsel.

Additionally:

**This report discusses the *formatting* of collection letters. It does *not* provide approved language for collection agencies and others to use in their own letters.**

Complimentary  
Preview

## Contents

Introduction .....	5
The CFPB, the FDCPA, and Collection Letters .....	6
§ 803. Definitions [15 USC 1692a] .....	6
§ 804. Acquisition of location information [15 USC 1692b].....	7
§ 807. False or misleading representations [15 USC 1692e] .....	8
§ 809. Validation of debts [15 USC 1692g].....	9
Collection Letters: Best Business Practices.....	10
Collection Letter Example 1 .....	11
Collection Letter Example 2 .....	12
Is there a recommended size for the font? .....	13
Collection Letters: Ensuring Correct Delivery .....	15
QR Codes? .....	16
Secure Emails .....	16
The Legal Landscape .....	17
Douglass v. Convergent [hyperlink to case].....	17
Other Cases to Consider .....	17
Logos and Letterheads: Too Close to Call .....	19
Interest and the Miller-McCalla Language.....	20
Superfluous Disclosures: The Gonzales Case .....	22
States that Require Disclosures .....	23
Including License Numbers? .....	26
Out of Stat Disclosures? .....	26
Settlement Offers: The McMahon Case .....	27
Questions and Answers from the Webinar.....	28
Are there requirements in any jurisdiction, whether statutory or coming by way of judicial decision, requiring a third-party debt collector to inform the consumer that he/she will be required by the IRS to report the forgiven amount by virtue of filling out a 1099(c)? .....	28
Is it recommended to not use the business name in the return address field on the outside of the envelope?.....	29
Could you please address the current jurisdictional factions that have developed over the, quote, “in writing” requirement present in the validation notice requirement? .....	29
Can you cover if the rate of interest must be disclosed, and does it differ from state to state? Do you need to disclose and display any other added fees, and if the consumer has multiple accounts, must the letter break out the fees for each account? .....	29
What differences should be allowed between regular debt collection letters versus tort collection letters, such as in the case of subrogation? Specifically, should tort collection letters use the FDCPA	

Rosenthal Act debt verbiage on the back of them, or would it be misleading, as the tort is not a debt? ..... 30

If an envelope can be manipulated by another to show an account number through a window or otherwise, is that a risk to the agency? ..... 30

New York City requires that in any permitted communication with a consumer, that an agency provide a callback number to a phone that is answered by a natural person—we all remember that Carol King song—and the name of the person to call back. Does this mean that the phone number provided on a collection letter be answered by the name of the person provided? ..... 31

Are you aware of any case law in regards to an attorney debt collector being sued for just sending out an initial demand letter?..... 32

Do any states restrict the use of a PO box address for a collection agency on a letter rather than an actual office/branch address? ..... 32

A discussion regarding the initial requisite FDCPA notice using language advising the debtor that notwithstanding the 30-day period, suit may be filed within that period, especially from an attorney firm who only accepts cases for litigation. .... 32

Complimentary  
Preview

## Introduction

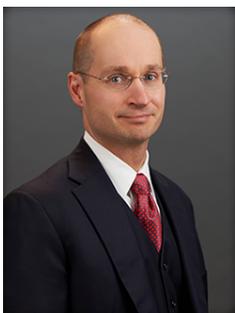
---

There is not a single method of communication between a debt collector and a consumer that isn't, in some way, regulated. Telephone calls need a mini-Miranda, a recording disclosure, and to not cross the line from persistent to annoying. Emails? You had better hope that you're answering an email from a consumer rather than initiating email contact because the alternative is incredibly risky and rife with compliance issues. Texts? No. No you still can't text consumers.

Collection letters alone may or may not be the solution. It's the method of communication most consumer advocates approve of. It's also a method of communication that is less likely to lead to charges of abusive language. But there are still pitfalls that agencies need to be aware of, and this Operations Guide, developed from an insideOperations webinar produced by insideARM.com, will put you on solid ground.

To watch the webinar, please follow this link: [insideOperations: Collection Letters](#).

This operations guide was developed with the benefit of the expertise of:



**John Rossman** John Rossman is a shareholder and Chair of the Creditors' Remedies Practice Group at Moss & Barnett. Mr. Rossman is authorized to practice in fourteen different courts and jurisdictions across the country and he defends FDCPA and related cases nationwide. He is the co-host of the collection industry podcast The Debt Collection Drill featured on InsideARM and is also a frequent writer and lecturer on debt collection issues.



**Mike McDonnell** Michael McDonnell has more than 15 years of business process outsourcing expertise, managing strategic relationships and applications in the Financial Services and ARM industries. Through these applications, hundreds of millions of correspondences have been generated, collecting billions of dollars in receivables. McDonnell's experience covers both third-party collection and first-party billing applications including traditional letters and statements as well as secure Internet-based presentment and payment applications. He has been an ACA Affiliate member since 1995 and currently serves on the ACA Council of Delegates.