

The Collector Chronicle

North American Recovery

June/July 2025

America's Collection Authority

LAST MONTH'S WINNER

The lucky winners of our client prize for June and July are: Lift Credit and Mountain America Credit Union. Lift has been with us since August of 2020. MACU has been a client since we opened our doors back in 1993, nearly 32 years! We will be sending both clients a gift basket from the Chocolate Covered Wagon. Enjoy!

THIS MONTH'S PRIZE

This month we will be giving away a gift basket from the Chocolate Covered Wagon. Each client who sends new accounts during the month will have their name entered into a drawing. At the end of the month, we'll draw a name, and if it's yours, you'll win the gift basket!

***Don't miss out on your chance to win!
Send new accounts before the
end of the month!
Good luck!!***



**CHOCOLATE
COVERED
WAGON**

FIGHT BACK

By: David J. Saxton

President, North American Recovery

I hate those "would you rather" questions, but this one is important. Would you rather pay \$5,000 every other month for the next 20 years or \$11,665 today? Let me put that another way. Do you believe it's better to settle an FDCPA lawsuit—*when you haven't done anything wrong*—or fight it? If you would rather settle, consider this: If you get sued every other month for the next 20 years (which, based on the size of your agency and its geographical location, could very well happen) and you settle each case for around \$5,000, you could end up paying \$600,000 by 2045. However, if you fight back and pay \$11,665 today, you could save up to \$588,335 over the next twenty years. Which would you rather do? I know what I would do.

Here is the problem we all face: There are consumer attorneys across the country who have weaponized the FDCPA and file unfounded, baseless lawsuits against honest, hardworking collection agency owners. These attorneys have discovered that the cost to defend a lawsuit—even if there are no facts to support their allegations and the agency wins—can run into the tens of thousands of dollars. So, any savvy businessperson decides to part with \$5,000 as an early settlement, rather than paying upwards of \$20,000 to win. And, even if they do win, the victory is hollow. Trust me. I know. I've had several. Settling is, unfortunately, a purely economic decision, so I get it.

I've been blessed to have been in this industry for over 35 years. I've met many agency owners and managers and found them to be honest, hardworking individuals like you and me. These individuals, through their blood, sweat, and tears, have built respectable and honest businesses. They provide thousands of jobs, donate to charities, and care about each other and their families. They are active in our churches, synagogues, mosques, neighborhoods, and communities. They are the down-to-earth people who make America great. These are the people I'm talking about. I'm honored and proud to consider myself one of them.



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So, what can we do about these frivolous, baseless lawsuits where we have done nothing wrong? First, we need to get our houses in order. Provide in-depth initial and ongoing training. Increase pay. Hire smart, dedicated people who take pride in their work. Ensure that everything we do is in full compliance with all applicable laws—every time, and on every account. Second, we need to STOP settling claims when we didn't do anything wrong. Lastly, when appropriate, pursue consumers and their attorneys who make false allegations and hold them accountable. That's the plan. It's simple, right? Not really, but is it worth \$588,335 to you? It is to me.

If we come together as an industry and make sure we have detailed written policies, procedures, and scripts that describe—in excruciating detail—everything our collectors can and can't say or do; if we provide extensive initial and ongoing training to our employees and document everything; and finally, if we all record every call—not just calls with consumers (in states where it's legal to do so)—we will be ready to fight back when someone lies about our conduct. We won't have to settle. This is what we do at my agency, and it works. We were ready when it came time to fight back. More on that later.

I know what some of you are thinking: "We've never been sued, we do everything right, I don't need to worry." I have some bad news to share with you. If your agency hasn't been sued, there is only one reason: You're small. If you grow to a certain point, you will be sued. It's inevitable. It doesn't matter if you're doing everything exactly right on every single account. A consumer will eventually lie about your conduct, and one of the consumer attorneys who specialize in suing collection agencies will believe them. Don't kid yourself, and don't live in denial. It will happen. I know because I used to kid myself and live in denial. However, that was when I only had four employees.

The first time my agency was sued, it freaked me out. Despite happening more than 30 years ago, I distinctly remember driving all the way home from the office that day, literally shaking the whole way home. I couldn't sleep for three days. I was 26, and I'd been in business for about three years. I'd never had any personal experience with being sued. It was one of the scariest things I'd ever gone

through. I eventually settled the case because we had made a technical error in one of our letters, but that experience solidified my resolve to ensure we always did things correctly.

Now, don't worry; it will be okay when you finally get sued (for those of you who haven't already) or when you're inevitably sued again (for those of us who have been around for a while) because you'll be prepared. You'll be ready to fight back—and you'll win. By doing so, you'll stand out from the crowd. Then, the next time a consumer approaches that attorney, they will think twice about taking the consumer's case. That's the plan you want to implement and stick to, not the "pay them off quick and settle the claim" approach that we've all been following.

Let me share my experience of how this works and the long-lasting, positive results we've achieved from it. (The names in this story have been changed, but the facts remain the same. *Side note: I originally wrote this article back in 2014. I've updated the numbers to reflect 2025 dollars and changed a few things to bring the story current.*)

In September 2013, a consumer named Bitsy Jenks contacted attorney Lucy Frank of Humbug & Associates. Ms. Jenks told lie after lie about the conduct of one of my collectors. As some of these attorneys do, without any evidence from Ms. Jenks, Ms. Frank believed every lie and filed an FDCPA lawsuit against my company in Colorado. In her complaint, Ms. Jenks claimed the following:

"Plaintiff excessively called, up to five calls a day."

"After communicating with Plaintiff on numerous occasions regarding the Debt, NAR began to repeatedly call Plaintiff's neighbors, stating they were attempting to locate Plaintiff in regards to a 'personal matter.'"

"NAR had already confirmed Plaintiff's location information through prior stated communications with Plaintiff. Furthermore, Plaintiff spoke to NAR in regards to the Debt multiple times during the week prior to NAR contacting her neighbors."

I won't bore you with every detail, but after a thorough and complete investigation, we determined every single allegation in her complaint was 100% false. They were complete and total lies! We listened to every call we had with the consumer and confirmed that we treated her with



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respect and dignity in every encounter. We hadn't done anything wrong, and we could prove it. We were ready to fight back.

We have excellent legal representation in Colorado (another essential part of your strategy when fighting back). Upon the advice of counsel, we notified the consumer's attorney that every single allegation was false, and we had rock-solid proof. We gave the consumer's attorney a chance to withdraw and walk away. She refused. Not only did she refuse, but she was kind enough to offer a "settlement" if we paid \$5,200. When my attorney relayed this to me, I was furious. There was no way I was going to pay her one red cent! We hadn't done anything wrong. I instructed our attorney to reject her offer and pursue litigation.

We scheduled a deposition with the consumer and received another "offer" to settle—this one was much more "generous." If we paid their filing fee of \$450.00 and waived the debt, we could have a mutual walk-away. I didn't take that offer either. The consumer's deposition was a joke. Every allegation was proven to be false by her answers to the questions my attorney asked. We next filed a motion for summary judgment; the consumer's attorney filed a response, but the judge agreed with us. BAM! We won. The court ordered the consumer to pay our filing fees. These were only \$540.46, but more importantly, a very valuable lesson was taught. (Her attorney ended up paying the costs out of her pocket.)

I paid my attorney \$11,665 to win this case. I consider that money well spent. Guess how much the consumer's attorney got? That's right, zero. However, let's look at the actual cost to her. She paid \$450.00 to file the lawsuit and then paid us an additional \$540.46 when she lost. If she had spent the same amount of time on the case as my attorney did (she probably spent more), she would have incurred at least \$10,665.20 in billable time. When you add it all up, losing this case cost the attorney nearly \$12,000. That's a significant success in my book.

However, it gets even better. Her "parent" law firm, a big national group that sues collection agencies across the country, is now turning away consumers when they make allegations about my agency. How do we know? A consumer told us. During a random call audit, we heard a consumer say, "I called Humbug & Associates and asked them to sue you guys. They said they wouldn't unless I had a recording of

a call where you broke the law or some other proof that you did something wrong. So, I guess I need to pay my bill."

What about the \$588,335 in savings I mentioned above? Well, it's been ten years, and I can't remember the last time we were served with a frivolous lawsuit. We still get sued from time to time because we are humans, and mistakes do happen. When we've done something wrong, we admit it, and we pay to settle as quickly as possible. But the baseless lawsuits? We don't see them anymore.

I have saved a significant amount over the last ten years and put those savings to good use. Paying higher wages, paying a larger portion of my employees' healthcare expenses, generously contributing to their retirement accounts, and buying the best software, hardware, and services for my company.

Sharing our savings with my employees is the best part of this story. They are the reason we won. In addition to my admiration and heartfelt thanks, they will continue to receive raises and other financial benefits in the years to come. That's where the money should be going, after all, to the honest, hardworking people who make America great. © 2025 David J. Saxton

About the author. David J. Saxton is the President, CEO, and owner of North American Recovery, a third-party collection agency founded in 1993 and headquartered in Salt Lake City, Utah. Dave and his 55 full-time employees provide debt collection services to over 3,000 companies across the United States. Dave enjoys writing, telling dad jokes, the great outdoors, sports cars, motorcycles, and spending time with family and friends. Dave would love your feedback and comments. Contact him at:

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The Collector Chronicle is published monthly by NORTH AMERICAN RECOVERY for prospective and current clients. Please direct questions or comments to the editor, Dave Saxton, at DaveSaxton@North-American-Recovery.com.

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