



Phil Lattanzio
CLLA Executive Vice President
3005 Tollview Drive
Rolling Meadows, IL 60008
847-483-6477
Phil.lattanzio@ccla.org

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The Honorable Sherrod Brown
503 Hart Senate Office Building
Washington, DC 20510

Dear Senator Brown:

RE: SUSPENSION OF DEBT COLLECTION

I am the current President of the Commercial Law League of America (“CLLA”). The CLLA, founded in 1895, is the nation’s oldest organization of attorneys and other experts in credit and finance actively engaged in the fields of commercial law, bankruptcy and reorganization. The CLLA has long been associated with the representation of creditor interests, while seeking fair, equitable and efficient treatment of all parties in interest. CLLA members can be found in every state across America and in many foreign countries. The CLLA regularly submits policy papers to Congress and CLLA members have testified on numerous occasions before Congress as experts in fields related to creditor interests.

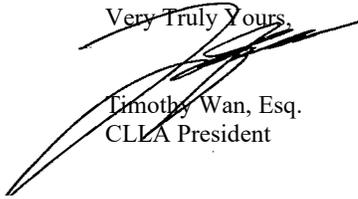
CLLA members, like all other Americans, are facing this time of crisis with solidarity, resolve, and an effort of togetherness and we wholeheartedly agree and support recent consumer relief actions, including the moratoriums on evictions and foreclosures and the protection of the Coronavirus Aid, Relief, and Economic Security Act’s government payments from garnishment. However, legislative actions including a wholesale prohibition of debt collection, such as those included in the Small Business and Consumer Debt Collection Emergency Relief Act (the “Act”)¹, will actually damage small businesses by cutting off their ability to require customers to pay for their goods and services, and does not accomplish the goals for which it was created.

While the CLLA understands the Act is well-intentioned, it remains that any policy creating a blanket prohibition of all debt collection and judgment enforcement, with no distinction between who can collect from whom, or for what reason, will hurt the very people the law is intended to protect. For example, small businesses, including sole proprietorships and “mom and pop shops,” would be prohibited from enforcing debts owed to them at a time when they most need the funds to survive, even if the judgment is against a larger company, or against a business that is operating fine or even thriving during the pandemic. Implementing a widespread ban on collections and judgment enforcement will not achieve the goals of protecting consumers in this economic crisis and the Act will unfortunately harm many consumers and small business owners since they will be prohibited from recovering money that is legally due them.

Additionally, those that are most in need, and suffering the most hardship, are already protected under most states laws. States have bank exemptions that protect those funds from executed, and maximum income executions that are permitted. For example, where I practice, in New York, the Civil Practice Laws and Rules (CPLR) §5222-a provides for exemptions of \$2,850.00 from every individual’s bank account, which means that these funds cannot be executed upon by a creditor, are automatically exempt from any Bank Execution, and cannot be restrained. Furthermore, CPLR §5231 limits any Income Execution to 10% of the wages and only permits that 10% to be calculated for wages in excess of \$450.00 per week. Moreover, CPLR §5240 gives the Courts wide latitude to reduce any Income Execution based on hardship. So, if someone is not working or is suffering hardship, no judgment can be enforced against them.

As such, despite your best intentions, CLLA must strongly oppose the Act as it would harm our members and their legitimate business interests in debt collection. Two quick fixes can be applied to the Act that would make it more functional from a practitioner’s perspective. One, any legislation that prohibits collections against consumers and small businesses, due to any National Emergency, with no distinction as to whether or not there is any harm suffered, should require that there is a “qualifying event” to have impacted a consumer or small business. Two, there should be a provision for any notice to be provided to a creditor so that it is aware that the consumer or small business has been impacted. I would urge you to please reconsider Act in its current form, or any legislation for that matter, that offers a blanket prohibition on debt collection and judgment enforcement, as unintended consequences are likely to occur.

Very Truly Yours,


Timothy Wan, Esq.
CLLA President

Cc: Senator Elizabeth Warren
Senator Doug Jones
Senator Cory Booker
Senator Robert Menendez
Senator Jeff Merkley

¹ Small Business and Consumer Debt Collection Emergency Relief Act of 2020, S. 3565, 116th. Cong. (2020).