

Collector's Ink

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President's Message

OPPORTUNITIES TO CONNECT AND COLLABORATE

By Maryrose Diaz



We have been putting our heads together to discuss the location of our 2024 CAC conference! Stay tuned, I believe it's going to take place in either Santa Barbara or Monterey. How can we go wrong with either?

We are getting closer to Legislative Day and are hoping for a great turn out, please sign up so we are strong in numbers. You matter, so do whatever it

takes to join us in Sacramento. Rooms sell out quickly so please don't wait.

Here is more information on what we, your board, are working on.

1. Association News

Upcoming Events: We have several exciting events lined up for the coming months, including our annual Legislative Day on April 16-17, 2024. Make sure to mark your calendars, as this will be a fantastic opportunity to network and meet with legislators to advocate on behalf of our industry. We are also working on contracting for our 2024 Annual Conference. Keep watch for more information to come on that.

Membership Renewal: It's that time of year when we encourage all members to renew their memberships. Your continued support is vital to our association's success, and we value your involvement. If you haven't done so already, please be sure to renew your membership.

2. Member Spotlight

If you are interested in being highlighted in our Member Spotlight, please email info@calcollectors.net.

3. Call for Volunteers

Our association thrives on the dedication and passion of our members. Committee chairs for this year will be as follows:

- **Communications (social media/publications):** Chair, Maryrose Diaz
- **DFPI Committee:** Chair, Cindy Yaklin; Co-Chair, Kelly Parson's O'Brien
- **Education and Conference Committee:** Chair, Kelly Parson's O'Brien
- **Legislative Council:** Chair, Kelly Parson's O'Brien
- **Membership:** Open
- **Vendor Council:** Chair, Bob Keith

If you're interested in getting more involved or volunteering your time on one of these committees, please don't hesitate to contact us at info@calcollectors.net. Your support is invaluable.

4. Feedback and Suggestions

We always value your feedback. If you have any suggestions, comments, or ideas to improve our association or our newsletter, please reach out to us at info@calcollectors.net.

Special thanks to all of you who have so kindly helped me navigate through my first official board meeting! I could not do this without you.

Sincerely,
Maryrose Diaz, *President*

2023-2024 BOARD OF DIRECTORS

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Executive Director's Message

MARK YOUR CALENDARS FOR THE 2024 LEGISLATIVE DAY!

By Tammy Schoenberg

CAC's 2024 Legislative Day will take place April 16-17, 2024, at the Hyatt Regency Sacramento. **Register today** at www.calcollectors.net/events/.

Speaking of legislative items, don't forget that the CAC PAC needs you!

The California Association of Collectors continues to focus on building our Political Action Committee fund for 2024. Our PAC is growing and important—thanks to our valuable members!

As you read the updates from your CAC leadership, please consider adding your additional support to the imperative CAC PAC fund. A pledge of \$500 will go a long way to win decisively for our industry.

Here's where the money will go:

- **First priority:** The legislature is in a major state of change. Members are leaving and new members have been elected. Before California passed term limits, that was not the case. A small interest group like CAC must move quickly to educate new members on our industry and defuse long-held incorrect impressions of the collection industry.
- **Second priority:** A small group like ours needs to have the leadership of both Houses know us and our issues. We do not have the capacity to be a major player with the legislators, so we are left to be known by those legislators who can influence others to help us. This means the leadership of both Houses as well as committee chairs and vice chairs.

These are real, tangible benefits that will help each and every collection agency in California!

By providing just \$500 to CAC's PAC fund, you will become an integral part of the history-making team that continues to protect the California collection industry. The CAC PAC fund needs your support to help elect legislators who favor creating a pro-business environment in California; an environment that allows businesses like yours to grow and prosper. We are asking you and all of your colleagues in the industry to write a check for \$500 (or any amount you can provide) to the CAC PAC fund. You know where the money will go and what it will do. Now, it's up to you. Contributions in any amount may also be made by credit card by clicking [here](#). Thank you for your generous help! See you in April at the State Capitol.

Tammy Schoenberg



CALIFORNIA BILL AB 1160 FACES OPPOSITION AND AMENDMENTS IN EFFORT TO REGULATE HIGHER EDUCATION DEBT PRACTICES

By Lori Bowes

After passing out of the Assembly, the legislation is expected to be reviewed by the state Senate later this spring.

In the legislative spotlight, Assembly Bill 1160 emerged as a top priority for the California Association of Collectors during the last session, sparking intense debates and subsequent amendments.

Initially aiming to restrict institutions of higher learning from involving third-party debt collection agencies and selling institutional debt, the bill faced considerable resistance from the accounts receivable management (ARM) industry and California schools. The legislation was designated as a “two-year bill,” meaning that it would be tabled for the remainder of the 2023 session but would be placed on an accelerated path in 2024 session needing to pass out of the California Assembly by Jan. 31. After multiple hearings and amendments, the legislation successfully passed out of the Assembly in late January before the looming deadline. Now, the legislation will be taken up by the state Senate with committee activity expected to start later this spring.

Originally introduced with stringent measures, AB 1160 underwent significant modifications after encountering pushback. The Assembly Committee on Higher Education, responding to concerns, made crucial amendments before passing the bill to the Appropriations Committee. Notably, the initial prohibition on schools assigning institutional debt to third-party agencies and the outright ban on selling institutional debt were removed. Despite these improvements, the legislation retains cumbersome provisions, leading to a substantial coalition of schools advocating for further amendments or a halt to the bill’s progression.

Advocacy Efforts

The CAC and ACA International joined forces with the Coalition of Higher Education Assistance Organizations (COHEAO) in a concerted effort to keep both California and national schools informed and engaged in the advocacy process. Hosting numerous webinars for interested schools and supporting a letter of opposition circulated by COHEAO, the collective efforts garnered nearly 70 colleges and universities expressing their dissent against AB 1160.

What’s Next?

As AB 1160 continues to navigate through the California legislature, the recent amendments have not quelled opposition from schools and industry players involved in the student debt landscape. With the bill now in the Senate, further debates and challenges are anticipated, marking a crucial phase in determining the fate of this contentious legislation. The intricacies of regulating higher education debt practices continue to unfold, leaving stakeholders and observers closely watching the unfolding legislative drama.

The CAC Educational Scholarship Foundation is accepting applications [online](#) through June 30, 2024!

To qualify, student applicants must submit an original essay addressing *The Importance of Establishing and Maintaining Good Financial Credit During Your College Years*, and must also meet the following criteria:

- Be a current high school junior or senior enrolled in a California high school.
- Plan on attending an accredited public or private college, university, or trade school within 12 months of graduation.

For details on eligibility requirements and to access the application, please visit the [CAC website](#). All applications must be submitted online no later than June 30, 2024.

Please share this scholarship opportunity with your family, friends, colleagues, and within your community!

Interested in becoming a scholarship essay reader? We are looking for essay readers to help narrow down the finalists. If you would like more information on the timeline and responsibilities, please email scholarship@calcollectors.net.

Contribute to CACESF and help a student achieve their college dreams! Because financial literacy is also a foundation of the banking and finance industry, we hope you will join us in helping the youth of California have the opportunity to research, learn, and share the importance of good financial credit by donating to this program. No amount is too small, and every dollar raised will help fund the college education of a promising young student. Donations to the CACESF can be made [here](#).



CAC MEMBER SPOTLIGHT: BOB KEITH

Get to know California Association of Collectors member Bob Keith, vice president of operations at Rash Curtis & Associates.



How did you get started in this industry?

Believe it or not, I answered an ad for a collector in the "Help Wanted" section of the *Napa Register* newspaper. I quickly found that I was a natural bill collector and have been doing it since 1989—34 years.

Do you have a career highlight that you are most proud of?

Let me think on this. How long do I have? One thought is that we fought a lawsuit against us, *Jones vs. KRB Inc.* (Rash Curtis), and made case law regarding how many calls is considered too many. This was before all the new laws, so things have changed in recent years. Another career highlight I'm very proud of is just staying on top of state laws and technological advancements and keeping my company current and compliant. Lastly, I really pride myself on moving up through the ranks in my career. I started as an entry-level debt collector and today I am a vice president.

Why did you want to get involved in the CAC?

A.B. 1020 was the reason I got involved with the CAC. Going forward, I needed to see what was coming at our industry so I could prepare my company and my clients for the challenges ahead.

What's something that you think CAC members don't know (but should!) about the CAC?

Often a bill that first appears in California will spread to other states, so the work we do can have national implications. That said, our Legislative Committee can't stop all the bad bills that affect our industry. Sometimes all we can do is negotiate with legislators and try to minimize the impact that the law will have on our industry.

MARK YOUR CALENDAR FOR LEGISLATIVE DAY 2024

CAC Legislative Day

April 16-17, 2024

Hyatt Regency Sacramento

[Register Now!](#)



CALIFORNIA PROPOSES RULEMAKING ON DEBT COLLECTION LICENSEE FEES AND ANNUAL REPORTS

Comments on the proposal to fulfill the requirements of the state's Debt Collection Licensing Act are due March 27.

California's Department of Financial Protection and Innovation (DFPI) is seeking input to help define debt collection licensee fees and annual report requirements in a [proposed rulemaking](#) (PDF) under the Debt Collection Licensing Act (DCLA).

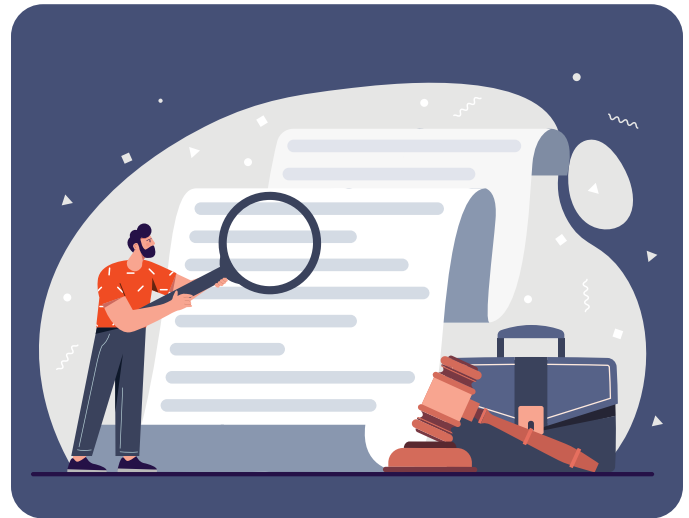
The DCLA took effect in January 2022, starting with a debt collection licensing system for the state. Among other things, the DCLA requires a licensee to pay the DFPI annually its pro rata share of all costs and expenses reasonably incurred in the administration of the DCLA.

The first assessment will occur in 2024. The calculation of the pro rata share is based, in part, on the amount of net proceeds generated by California debtor accounts in the preceding year.

The term "net proceeds" is not defined by statute; therefore, the DFPI has proposed adopting a definition through the rulemaking.

The proposed definitions include:

- For a debt buyer, net proceeds are equal to the amount it collects on a debt minus the prorated amount it paid for that debt, before deducting costs and expenses.
- For a purchaser of debt that has not been charged off or debt that is not in default, net proceeds are equal to the amount it collects on a debt minus the prorated amount it paid for that debt, before deducting costs and expenses.
- For a third-party collector, net proceeds are equal to the amount a collector receives from its clients, regardless of fee structure, before deducting costs and expenses. For purposes of this section, "client" means the company on whose behalf the third-party collector has been contracted to collect on an account.
- For a first-party collector, net proceeds are equal to the amount it receives in fees and other charges from debtors that it would not have received had the debt been paid on time, before deducting costs and expenses. For purposes of this section, a first-party collector means a person or entity that collects a debt owed directly to it.



Annual Report Proposals

The DCLA also requires a licensee to file an annual report and mandates certain information that must be disclosed in the report. This rulemaking action clarifies terms in the annual report and establishes additional annual reporting requirements.

The DCLA authorizes the commissioner to require additional information to add to the existing required report such as:

- The total number of California debtor accounts collected in full.
- The total number of California debtor accounts collected on that were resolved for less than the full amount of the debt.
- The total number of California debtor accounts collected on where less than the full amount of the debt was collected, and a balance remains due.

Meanwhile, the first annual report following the current requirements under the licensing law is due to the DFPI March 15, 2024.

The current requirements for the annual report can be found in [California Financial Code section 100021\(a\)\(1\) - \(4\), \(6\) and \(7\)](#). The annual report must be filed through the [DFPI portal](#), according to the [DFPI, ACA International previously reported](#).

The public comment period regarding the proposed rulemaking ends on March 27, 2024.

Comments may be submitted by mail to:

Department of Financial Protection and Innovation
Attn: DeEtte Phelps, Regulations Coordinator
2101 Arena Boulevard
Sacramento, California 95834

Comments may be submitted electronically to regulations@dfpi.ca.gov with a copy to mary.tome@dfpi.ca.gov. Comments should be identified by PRO 01-23 in the subject line and submitted in Microsoft Word format, if available. For more information, the DFPI's initial statement of reasons for the proposed regulations (PDF) is available [here](#).

CALIFORNIA COURT REFUSES TO DISMISS PRIVACY CASE INVOLVING ALLEGED UNLAWFUL RECORDING

A California district court rejected the defendants' motions to dismiss in a case where the plaintiff claimed her privacy rights were violated through the use of a recording software.

In a [recent court order \(PDF\)](#), a California district court denied the defendants' motions to dismiss a second amended complaint in a case involving allegations of unlawful recording and violation of privacy. The hearing, originally scheduled for Jan. 12, 2024, was deemed unnecessary by the court.

Background

The case revolves around the plaintiff, Loretta Williams, who contends that her personal information, including her name, address and phone number, was recorded without her consent when she visited a website belonging to DDR Media LLC. The recording allegedly occurred through the use of a software code named TCPA Guardian, provided by the defendant Lead Intelligence, Inc., doing business as Jornaya.

In a prior order from Aug. 18, 2023, the court granted the defendants' motions to dismiss the first amended complaint but allowed the plaintiff to amend her claims. The central issue in the court's previous ruling was whether Jornaya, through TCPA Guardian, acted as a third-party "eavesdropper." The court had determined that Jornaya resembled a tape recorder vendor rather than an eavesdropper, leading to the dismissal of the California Invasion of Privacy Act (CIPA) claims against both defendants.

However, Williams filed a second amended complaint on Sept. 20, 2023, focusing on new allegations based on marketing information from Jornaya's parent website about TCPA Guardian. The plaintiff argued that Jornaya must read or attempt to read the contents of communications for TCPA Guardian to function, thereby constituting a violation of the CIPA.

Discussion

Jornaya argued that the software does not capture and store personally identifiable consumer data but operates more like a bank safety deposit box, where data is stored and provided to customers upon request without Jornaya reading the contents. Additionally, Jornaya highlighted the use of hashing techniques to verify data without accessing its content.

Decision

While the court acknowledged the defendants' arguments, it concluded that a fuller factual record is necessary to determine the accuracy of the claims. The court emphasized that, as a matter of undisputed fact and law, it cannot conclude whether Jornaya did or did not read the contents of the communications in question. The court also suggested that targeted discovery and an early summary judgment motion could help resolve this question, prompting discussion with the parties at the upcoming case management conference.

Despite the court finding Jornaya's arguments persuasive, it ultimately sided with the plaintiff, asserting that a more comprehensive factual record is required for a conclusive resolution. The court believes that the allegations presented by the plaintiff were sufficient at this stage and denied the defendants' motions to dismiss.

As technology continues to advance, courts will likely grapple with defining the boundaries of surveillance and data collection, particularly in cases where innovative tools like TCPA Guardian are involved.

The upcoming case management conference on Feb. 9 will provide an opportunity for further discussion and clarification on the path this case will take.

[Read the order here \(PDF\).](#)