DEBT COLLECTION LAB

More Paper in California: An Evaluation of Documentation Reforms in State Court

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July 2024

EXECUTIVE SUMMARY

As consumer debt has surged, the debt collection industry has grown significantly, with revenues of almost $18 billion in 2023. Debt collectors and debt buyers (third-party creditors), companies who collect debt on behalf of original creditors or purchase the debts from them, play a central role in this industry. However, inadequate documentation during the debt assignment and collection process has led to numerous abuses, including attempts to collect debts not owed, from the wrong person, for the wrong amount, or without legal basis of ownership.

The California Fair Debt Buying Practices Act (CFDBPA), enacted in 2014, aimed to address these issues by requiring debt buyers to have certain information on hand before attempting to collect or sue individuals for nonpayment of a debt.

In this Report, we use an event study design to estimate the causal effect of the CFDBPA on court outcomes using a dataset of over 1.6 million court cases filed in 16 California counties between 2011 and 2020. We show that the CFDBPA affected several court outcomes. We find that:

- **The CFDBPA did not significantly impact the number of debt collection filings or the value of cases.** These findings suggest the CFDBPA did not substantially increase the cost of filing for third-party creditors.
- **The CFDBPA did not significantly affect the likelihood that defendants responded to lawsuits.** The average response rate remained low (8%) indicating that the law's requirements did not lead more defendants to engage in the legal process.
- **There was a decrease in attorney representation for defendants** who participated in the lawsuit **in cases involving third-party debt buyers post-CFDBPA.** The difference in the rate of representation between third and first-party creditors fell by 15 percentage points. This is 50% of the average representation rate of 30% among the 8% of consumers who responded to a debt collection lawsuit.

- **After the CFDBPA, defendants in cases involving third-party creditors were less likely to experience a default judgment**. The difference in the rate of default judgments between third and first-party creditors fell by 7 percentage points. This is 14% of the overall average default judgment rate of 49% among all cases filed.

- **Cases filed by third-party creditors took longer to reach a judgment post-CFDBPA.** The difference in the time to obtain a judgment between third and first-party creditors increased by 10 weeks. This is 24% of the average time to judgment of 42 weeks.

- **The CFDBPA increased the rate of personal service by third-party creditors on their defendants.** The difference in the proportion of cases filed by third-party creditors in which a proof of service was filed asserting that the defendant was served versus cases filed by original creditors increased by approximately 5 percentage points after the CFDBPA went into effect. This is approximately 6.5% of the average rate of 77%.

The mixed outcomes observed in the event study are also reflected in the results from a small qualitative survey sent to court personnel earlier this year. Responses were mixed on whether the CFDBPA's requirements were helpful, although only a minority thought that default judgments against consumer defendants were a problem in the court they worked in.

California is one of several states that have enacted documentation laws, and almost no two laws are the same. More research is needed to determine whether these laws have had their intended effect.

BACKGROUND

Inadequate documentation during debt collection

As American consumer debt has grown to unprecedented levels over the past several decades, by 2023, third party debt collection has transformed into a $17.9 billion dollar industry.[1] Central to the growth of this industry have been debt buyers, who purchase delinquent debts from original creditors and collect through mail, phone, digital communications, and ultimately, lawsuits. These suits dominate state civil courts across the country.[2] In a study of 16 California counties that comprise 80% of the state's population, debt collection suits reached peaks of over 300,000 cases in 2009 and 250,000 in 2019—37% of the counties' civil dockets that year.[3]

In California and nationwide, a key concern as the debt buying industry grew has been the ability of debt buyers and others to provide adequate documentation of a consumer's debt throughout the collections process.[4] Without proper documentation—for example, proof of the debtor's identity and payment history, an itemization of the amount due, evidence that the debt has not passed its statute of limitations, or evidence that the buyer has acquired the consumer's account through an appropriate chain of title—debt buyers may contact or even sue consumers for debts that are owed by someone else, are for the wrong amount, were already settled or paid, are results of identity theft, or have long passed their statutes of limitations. The issue has been repeatedly documented by regulatory bodies, researchers, journalists, and consumer advocates.[5] Tellingly, for over a decade, the predominant consumer complaint made to the Consumer Financial Protection Bureau regarding debt collection has been "attempts to collect debt not owed."[6]

The issue originates in the structure of the collections industry, beginning when original creditors sell consumer accounts to buyers with essentially no supporting documentation or guarantees of the accuracy of the information provided.[7] Typically, buyers receive a spreadsheet containing basic information about the purchased accounts (e.g. identity of debtor, outstanding balance, dates of last payment and charge-off), but few if any original documents, such as account statements or original loan contracts.[8] In 2015, Jiménez documented how purchase agreements frequently disclaimed warranties and representations about the accuracy of the information sold.[9] As debts are then transferred multiple times between buyers across the debt assembly line, spreadsheet files can accumulate errors and original documentation be lost, making it increasingly difficult to guarantee the integrity of the information that buyers use in collections.[10]

The consequences can be disastrous for consumers. Beyond simply contacting consumers about debt that they do not owe; debt buyers sue and win court judgments without ever having to produce rigorous documentation. Affidavits of debt may be signed, or robo-signed, by individuals who likely do not have personal knowledge of the case.[11] Importantly, the vast majority of debt collection litigation is one-sided, i.e. defendants are unrepresented and do not respond to the lawsuit, possibly because they never received a proper notice of the suit or are unaware of how to navigate the court system. When defendants do not respond, they are subject to default judgments in favor of the debt buyer, which can then be followed by wage garnishments, bank levies, and placements of judgment liens on property.[12]

In 2013, the California Legislature sought to address these issues by passing the Fair Debt Buying Practices Act (CFDBPA). The CFDBPA establishes a minimum set of documentation required for debt buyers to attempt collection, bring debt suits, and seek default judgments against debtors.[13] The legislation also prohibits lawsuits on debt that has passed its statute of limitations[14] and provides consumers with a private right of action to challenge violations of the law.[15] First introduced to the California Legislature in 2011, the CFDBPA took effect on January 1, 2014, and only applies to debts sold after that date, with subsequent amendments in 2015, 2018, 2021, and 2022.[16] This Report focuses on the 2014 changes of the CFDBPA.

California's Fair Debt Buying Practices Act (CFDBPA)

The CFDBPA is part of a series of efforts nationally and in California to address predatory debt collection practices. As far back as 1977, the federal Fair Debt Collection Practices Act (FDCPA) and California's Rosenthal Fair Debt Collection Practices Act prohibited a variety of predatory collection practices such as deception, threatening language, and inappropriate communication methods.[17] Distinct from these two earlier pieces of legislation, where many of the duties imposed on debt collectors arise before a lawsuit is filed, the 2014 CFDBPA specifically addresses the documentation that debt buyers must provide to collect on a debt both outside of a lawsuit and within it.

First introduced in 2011 and passed in 2013, the CFDBPA reflects the result of a multi-year period of negotiation between legislators and the debt collection industry.[18] During these years, negotiations weakened requirements in favor of industry stakeholders, who contended that the new documentary requirements were excessive and went beyond even what original creditors would be able to produce, let alone the debt buyers subject to the law.[19] For example, early versions of the bill required debt buyers to possess or provide multiple pieces of documentation when writing to consumers and bringing suit.[20] The bill that was ultimately implemented requires debt buyers to possess only certain *information* (not documentation) about the debt and a copy of the debtor's original agreement to the debt—and these are only required to be made available if requested by the consumer. In lawsuits, actual business

records in support of the debt buyer's allegations are required only prior to entering a default judgment.[21] Nevertheless, the CFDBPA was an early volley among states that moved to increase the certainty that a collector was seeking to collect a valid debt.

The 2013 CFDBPA as enacted requires that **before contacting a debtor to attempt collection**, a debt buyer must possess documentation of the debtor's agreement to the debt, such as a copy of the original loan contract, and information that shows:

(1) that the debt buyer is the sole owner of the debt or has authority to assert the rights of all owners of the debt,
(2) the debt balance at charge-off and any post-charge off fees and interest,
(3) the date of default or last payment,
(4) the name and address of the creditor at charge-off,
(5) the name and address of the debtor in the charge-off creditor's records,
(6) the names and addresses of all purchasers of the debt after charge-off, and
(7) the California license number of the debt buyer.[22]

The debt buyer only needs to show this information to a debtor if they receive a written request for information or proof regarding the debt. In that case, they must provide it to the debtor within 15 days, but if they cannot provide it, the statute requires the debt buyer to stop collection until they have done so.[23]

To bring a lawsuit, the debt buyer must provide documentation of the debtor's agreement to the debt in the form of a contract or "a copy of a document provided to the debtor while the account was active, demonstrating that the debt was incurred by the debtor."[24] and the **complaint must allege**: (a) items 1-6 above, (b) that the plaintiff is a debt buyer, (c) the nature of the debt and the consumer transactions that generated the debt, and (d) that the debt buyer complied with the requirements of the CFDBPA when writing to the debtor.[25] The debt must also not have passed its statute of limitations.[26]

CFDBPA Requirements

The California Fair Debt Buying Practices Act of 2013 requires that debt buyers:

(1) possess certain documents and information before contacting a consumer,
(2) make certain specific allegations in the complaint if they sue and attach documentation of the debt to the complaint, and
(3) provide business records in support of the complaint's allegations and a sworn declaration of their authenticity before obtaining a default judgment.

Finally, **to seek a default judgment against a debtor**, which is an entry of default sought by the creditor plaintiff when a consumer defendant fails to respond the lawsuit, debt buyers must provide business records in support of the complaint's allegations and a sworn declaration of the records' authenticity.[27] The above requirements apply to debt sold on or after January 1, 2014.[28]

The CFDBPA places responsibility for enforcement of the law on consumers and state enforcement agencies.[29] However, when debt buyers file a lawsuit or request a default judgment, an application for default judgment goes to a judge rather than a court clerk. At that time, the judge reviews debt buyers' compliance with the CFDBPA's requirements before granting a default judgment, and the judge may deny entry of default, or, in their discretion, dismiss the case, when the required documentation is not included.[30] This creates an important opportunity for courts to ensure that they review cases for adherence to the law.

As early as 2016, the California Attorney General expressed the view that "a large number of default judgments [were] being entered across the state for plaintiffs who had not complied with the [CFDBPA]."[31] As a result, in 2018 the California Judicial Council created form CIV-105 specifically for requesting default judgments in civil cases subject to the CFDBPA.[32] CIV-105 includes three items beyond the form traditionally used for requesting default judgment (CIV-100).[33] The additions require that the plaintiff or their attorney sign a statement that lists the requirements CFDBPA requires a debt buyer to include if they are bringing suit, including: a statement that the request is not barred by the statute of limitations, a list of information that the debt buyer must allege in their complaint, and a list of documentation that must accompany the request for judgment.[34] Although sections of both forms require that the declarant sign under penalty of perjury and many urged the same for CIV-105, the Judicial Council declined to require such a declaration.[35]

The CFDBPA also gives consumers a private right of action to challenge violations of the law. Consumers may sue violators of the CFDBPA for damages, attorneys' fees, and court costs.[36]

The scope of actors covered by the CFDBPA is an outcome of legislative compromises. Specifically, the CFDBPA applies narrowly to "debt buyers" as defined in the legislation, and not to original creditors or other entities that collect debt such as debt collectors. This is a result of the CFDBPA's final round of negotiations, where legislators heard industry concerns about the broad scope of the phrase "debt buyer."[37] For example, the California Bankers Association opined that the phrase could be interpreted to encompass banks that acquired charged-off debts incidentally, for example, while purchasing a portfolio of consumer credit or acquiring another bank.[38] The final version of the CFDBPA thus adopts a narrower definition of "debt buyer" that corresponds more closely to entities whose business models center

around purchasing and collecting delinquent debts: “a person or entity that is regularly engaged in the business of purchasing charged-off consumer debt for collection purposes.”[39] Elsewhere in the Rosenthal Fair Debt Collection Practices Act, which the CFDBPA amends, the definition of consumer debt is limited to a debt incurred from a “consumer credit transaction,” which is defined as a transaction “in which property, services, or money is acquired on credit.”[40]

Analysis of the Law

Discussions about the consequences and effectiveness of the CFDBPA are ongoing and mixed. Following passage of the law, consumer-side advocates expressed optimism about the potential for the CFDBPA to prevent meritless debt suits, as well as concerns with the implementation and scope of the law. Would debt buyers be able to provide a copy of the original debt contract, when even original creditors are sometimes unable to produce one?[41] Was the applicability of the law solely to debt buyers too narrow? [42] On the creditor-side, stakeholders noted the increased documentation burden and the risks associated with consumers’ private right of action.[43] Some warned that collections suits would increase as debt buyers proceeded directly to litigation to avoid the law’s costly pre-suit requirements.[44]

Such comments about the CFDBPA’s documentary burdens are in line with broader concerns that restrictive debt collection laws, by making collections more costly, may raise the cost or reduce the availability of credit. Several economic studies have evaluated this claim. For example, stricter laws regulating third-party debt collection have been found to reduce the effectiveness of debt enforcement, which in turn reduces new revolving lines of credit.[45] In other studies, restrictions on debt collection have been found to reduce access to mainstream credit to varying degrees,[46] while increasing higher-cost payday borrowing.[47]

Investigation of these and other hypotheses in the specific context of the CFDBPA remain limited. In one 2020 study, the Center for Responsible Lending reported that debt buyers continued to win cases without sufficient documentation.[48] Examining a sample of cases from the ten most populous counties in California, the study found that 61% were filed without meeting the minimum documentary requirements of the CFDBPA, and almost one in four default judgments were granted without the minimum required documents.[49]

Considering this mixed commentary on the consequences of the CFDBPA and other debt collections regulations, this report evaluates the effect of the CFDBPA on case outcomes that are observable from court records.

DATA AND METHODOLOGY

State Court Data

The California dataset was obtained from a commercial vendor, UniCourt.[50] The data were obtained for the 16 California counties in which data are available to the public through scraping website portals hosted by the counties. These counties comprise over 80% of the population of California. We used data from January 1, 2011, through December 31, 2020. Within this dataset, at the end of the data collection, 13.3% of cases were still pending, and of cases that were resolved, we classified the case dispositions as entries of default judgment, other entry of judgment, or case dismissal. This dataset represents cases filed for three years before and seven years after the law became effective. The state court administrative body implemented the law by establishing rules of court and mandating certain forms to be filed by third-party debt collectors. The data contain court records before and after these actions. The data contain plaintiff party names, attorneys, and law firms. We extracted from information recorded in the docket all events corresponding to a single case to isolate whether and when certain case events occurred. The California dataset contains 1,631,054 individual court cases for this period.

Statistical Methodology

The state law change evaluated in California only applies to third-party debt collectors, which allows us to estimate the causal effect of the new legislation through a difference-in-difference (DiD) approach.[51] This approach allows us to compare outcomes for a treated group (cases involving third-party collectors) to a control group (cases involving original creditors), before and after the state law change. Where the CFDBPA applies to collection behavior outside of the courts, we are unable to observe that behavior. To evaluate the law, we focus on debt collection cases and court-related outcomes such as volume of filings, amounts sought, defendants' attorney representation, defendants' response to the lawsuit, rates of entry of default judgment, time to judgment, and plaintiff's requests for a writ of execution.

Using the DiD method requires us to distinguish between plaintiffs affected by the law (debt buyers) and those unaffected, original creditor plaintiffs. To categorize plaintiffs, we examined every plaintiff that filed more than 20 cases per year during the study period and classified each filer as either original creditor or third-party debt collector using California's Department of Financial Protection and Innovation debt collector registration site, websites maintained by the creditor entities, and the California Secretary of State website.

The DiD methodology compares outcomes (e.g. number of filings) of parties affected by the new law, in this case filings by a third party, to outcomes of parties not affected by the law, in this case filings by the original creditor, before and after the new law went into effect in January 2014. To account for unobserved time invariant factors that might bias the estimates, we include plaintiff fixed effects in all our analyses. Standard errors are clustered at the plaintiff level.

In other words, our empirical approach is to compare in each period the deviations from the average outcome of third-party plaintiffs to the deviations from the average outcome of original creditor plaintiffs. This approach renders unbiased estimates under the assumption that without the CFDBPA, outcomes (e.g., number of filings) for third-party plaintiffs and original creditors would have trended in the same way. We check the plausibility of this assumption by estimating a treatment effect for each quarter before and after the law went into effect and displaying them graphically. If the estimates for quarters before 2014 are not statistically different from zero, it means that outcomes had parallel trends before the new law went into effect, making plausible the assumption of parallel trends after 2014.

Stakeholder Survey

In addition to the quantitative analysis, we designed and implemented a survey to learn stakeholder perspectives on the effectiveness of the CFDBPA and the form change in 2018. We sent emails inviting participation to judicial officers and court executive officers of the 58 counties in California. The survey, included at Appendix B, sought to discover the impacts that respondents have observed on internal court processes because of the reforms and to uncover suggestions for further reforms to improve access to justice. Due to a low response rate, we are not reporting topline findings from the survey; however, we have included quotes from stakeholders who took the survey.

RESULTS

We study several outcomes, including filing volume, amount in controversy, attorney representation, defendant response to the lawsuit, writ of execution, time to judgment, default judgments, and the rate at which proofs of service are filed, indicating that the plaintiff's process server reported that a defendant received notice of the lawsuit. We also report on stakeholder views and understandings of the CFDBPA from an online survey.

Table 1 shows the means, standard deviations and difference between original creditors and third-party means for all the outcomes studied in this report. Between 2011 and 2020 there were approximately 39,000 filings per quarter per county on average. Approximately 53% of the filings corresponded to filings by third-party plaintiffs, meaning they were debt buyers.

Of all cases where a defendant answered (which was only in 8% of cases), less than one-third of defendants were represented by an attorney. When breaking this down by plaintiff type, there is a large difference of almost 10 percentage points in attorney representation rate according to the plaintiff type, less than a quarter of cases filed by third-party plaintiffs had an attorney representing the defendant, compared to 34% where the plaintiff was an original creditor.

We can also observe differences between third-party and original creditor filings in terms of defendant response rate and amount in controversy. Defendants were less likely to respond to cases filed by a third-party plaintiff. Cases filed by a third-party plaintiff had a lower amount in controversy than those filed by original creditors. The time to get a judgment was also significantly different by type of plaintiff. Cases filed by third-party creditors took 4 more weeks to reach a judgment than cases filed by original creditors. Smaller but statistically significant differences by plaintiff type are found in default judgment and defendant-served rates. Cases filed by third-party creditors are 1.4 percentage points more likely to obtain a default judgment than cases filed by original creditors. Similarly, defendants are 2 percentage points more likely to be served when the case is filed by a third-party creditor than when filed by an original creditor.

Table 1 – Summary Statistics Whole Period (2011-2020)

	Total	Third Party	Original Creditor	Difference
Average Filings per Quarter	39,131	20,749	18,382	2,367
	(15,824)	(7,749)	(10,472)	(1,492)
Attorney Representation Rate	0.304	0.247	0.346	-0.099*
(among defendants who answered)	(0.080)	(0.053)	(0.097)	(0.011)
Self-Representation Rate	0.643	0.695	0.605	0.090*
(among defendants who answered)	(0.069)	(0.047)	(0.085)	(0.010)
Unknown Representation Rate	0.053	0.058	0.051	0.009*
	(0.022)	(0.022)	(0.022)	(0.002)
Defendant Response Rate	0.080	0.067	0.095	-0.029*
	(0.010)	(0.013)	(0.012)	(0.002)
Writ of Execution Rate	0.290	0.301	0.281	0.020*
	(0.101)	(0.100)	(0.105)	(0.007)
Amount in Controversy < $10,000	0.772	0.812	0.738	0.075*
	(0.039)	(0.047)	(0.040)	(0.007)
Amount in Controversy between $10,000 & $25,000	0.172	0.144	0.196	-0.051*
	(0.022)	(0.032)	(0.025)	(0.005)
Amount in Controversy > $25,000	0.057	0.043	0.067	-0.024*
	(0.028)	(0.021)	(0.032)	(0.003)
Time to Judgment (Weeks)	41.8	44.1	39.8	4.3*
	(4.1)	(4.6)	(5.3)	(0.8)
Default Judgment Rate	0.489	0.495	0.481	0.014*
	(0.047)	(0.057)	(0.040)	(0.006)
Defendant Served Rate	0.767	0.778	0.758	0.020*
	(0.041)	(0.039)	(0.049)	(0.004)

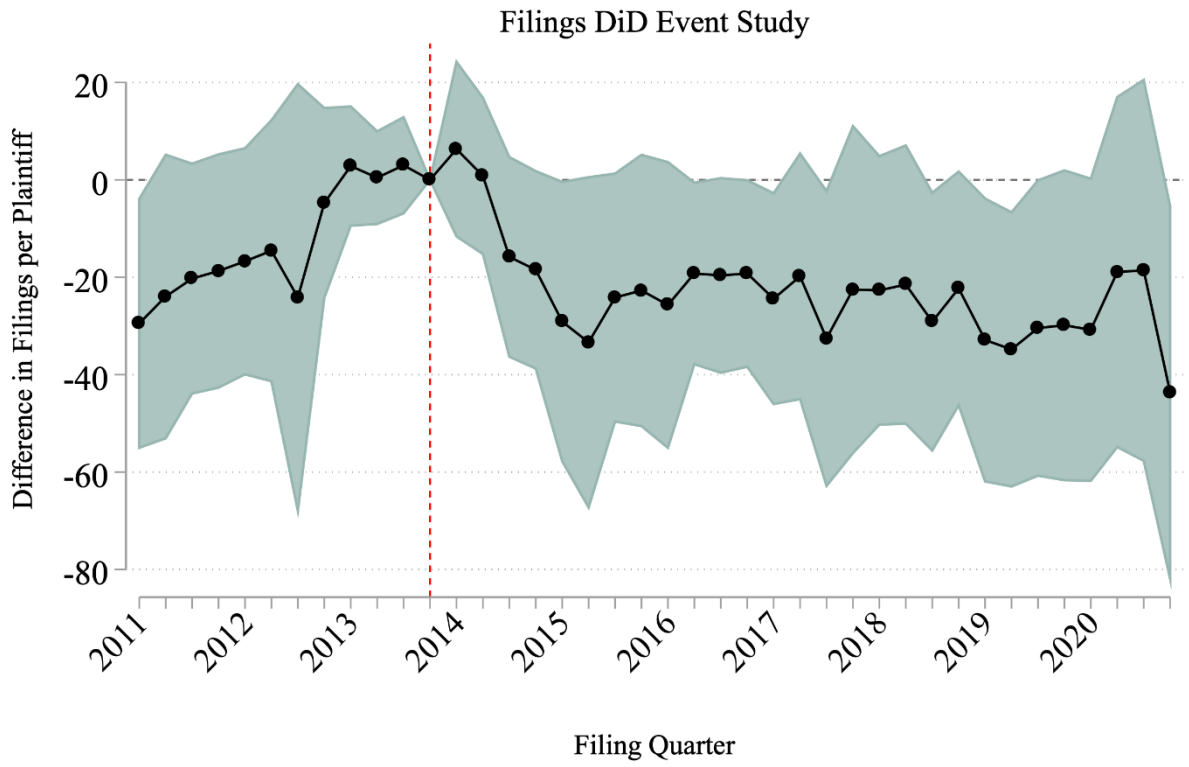
Notes: Standard Deviations in parenthesis. Four percent of filings during the period were by plaintiffs who initiated fewer than 20 cases per year and so were not categorized as original creditors or third-parties and excluded from the analysis.
*Indicates that the difference between Original Creditor and Third Party is statistically significant at 95% confidence level.

Filings per Creditor: No Significant Difference

We find no evidence that the CFDBPA had an effect on filings per creditor. The CFDBPA added several requirements before a debt buyer could collect and sue on a debt. We predict that these requirements would decrease the number of filings by third-party creditors as they

attempt to comply with the law. Since the law only applies to debts purchased after the effective date of the law, we would expect any decrease in filings to take place slowly over time. Fedaseyeu, Romeo and Sandler, and Fonseca have found that additional regulations on third-party creditors are associated with lower levels of consumer credit.[52] If these regulations affect credit supply by lowering third-party collection activity, they would also be associated with a decline in third-party filings. To study changes in the number of filings, we aggregate filings by creditor in each county by year-quarter. Figure 1 shows an event study analysis depicting the average difference in filings between third-party plaintiffs and original creditors by quarter. There is no evidence of a statistically significant difference in the number of cases filed by third-party plaintiffs and cases filed by original creditors after 2014. There is some evidence that the difference in filings between first and third-party plaintiffs increased prior to 2014 and then reverted to its previous level.

Figure 1 – Event Study of Filings



Note: Each estimate represents the difference in the number of filings per plaintiff between third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the CFDBPA went into effect (Q4 2013). Shaded area represents 95% confidence intervals.

Amount in Controversy: No Significant Difference

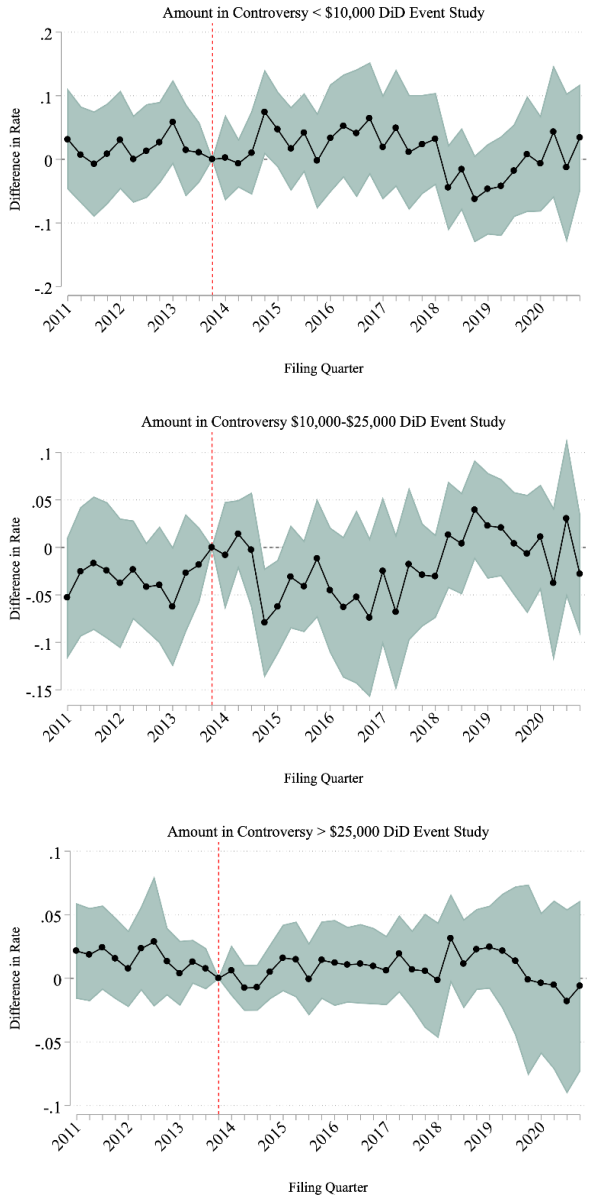
We find no evidence that the CFDBPA had an effect on the amount in controversy. If the law raised the cost of filing for third-party creditors, then we would expect these creditors to forego more low-value lawsuits. The average amount in controversy should then rise. We would also expect the amount in controversy to rise if first-party creditors limit the supply of credit to lower-value borrowers.

Unfortunately, California courts do not typically collect data on the amount sought in a lawsuit. However, the courts in our sample do reliably track the fees charged for a lawsuit. Since those fees vary according to the amount sought, we are able to create three bins of the amount in controversy and analyze changes due to the law along these three categories.

Figure 2 displays the results for amount in controversy below $10,000 (fees of $181-255 depending on the time period), amount between $10,000 and $25,000 (filing fees of $380-395), and amount over $25,000 (filing fees of $435-450), respectively. All graphs show that there were no significant differential trends before 2014 regardless of the amount in controversy.

There is no evidence of a fall in low-value cases (below $10,000) for third-party creditors after the passage of the law. Moreover, there is no compelling evidence of any change in case values for third-party creditors after the CFDBPA.

Figure 2 – Event Study of Case Values



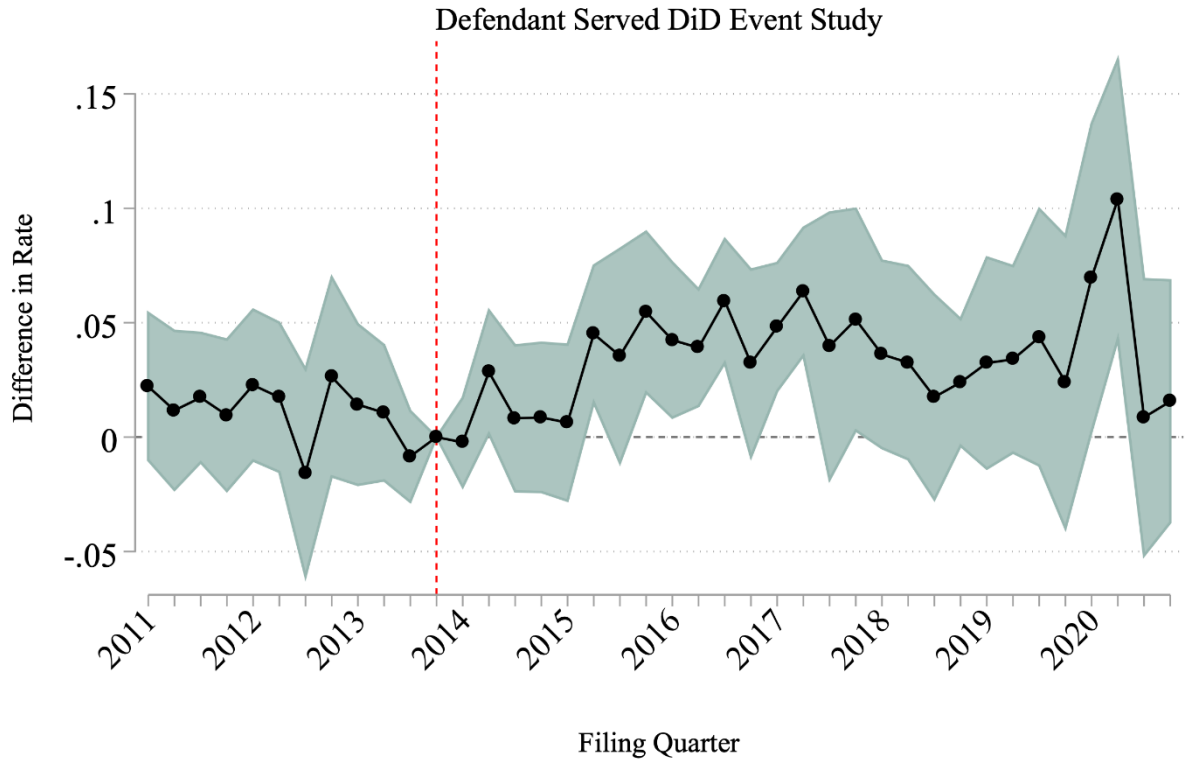
Note: Each estimate represents the difference in the proportion of cases in each amount in controversy bracket between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the CFDBPA went into effect (Q4 2013).

More Defendants Reported as Served with Lawsuit

We would expect that the better documentation required by the CFDBPA would improve the plaintiff's ability to locate and effect service on defendants. For example, third-party creditors would be able to share with process servers more accurate and up-to-date information, such as defendant addresses, for cases sold after the CFDBPA went into effect in 2014. This is borne out by the data—we find that defendants in cases involving third-party creditors are more likely to be reported to be served after the CFDBPA.

We study the effect of the CFDBPA on the proportion of defendants served. We create a dummy variable equal to one if a proof of service was filed in the lawsuit, indicating that the plaintiff's process server reported that they were able to serve the defendant, zero otherwise. Figure 3 shows that the CFDBPA increased the ability of third-party plaintiffs to serve defendants. Approximately a year after the CFDBPA went into effect, the difference in the proportion of cases filed by third-party creditors that were served versus cases filed by original creditors increased by approximately 5 percentage points compared to just before the CFDBPA went into effect. This is approximately 6.5% of the average rate of 77% at which defendants are served in the sample. We can interpret this result as causal since there were no differential trends in the proportion of defendants served before 2014.

Figure 3 - Event Study of Defendant Served



Note: Each estimate represents the difference in the proportion of cases in which the defendant was served between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the CFDBPA went into effect (Q4 2013). Shaded area represents 95% confidence intervals.

Fewer Defendants Have an Attorney in Cases Affected by the Law

We find evidence that the CFDBPA led to lower rates of attorney representation in cases involving third-party creditors in cases in which the defendant responded to the lawsuit by filing an answer or general denial. In our view, the relationship between the CFDBPA and attorney representation is ambiguous. On the one hand, greater documentation could make defendants more likely to seek out an attorney or make attorneys more willing to take on a case involving a third-party creditor. On the other hand, greater documentation could also lead defendants to think that an attorney is less likely to help with their case.

The court dockets only show when an attorney made an appearance. We do not observe whether a defendant received help from an attorney who did not enter a formal appearance, such as a lawyer for the day program or other forms of legal help, such as visits to a self-help center. We consider only cases that did not result in a default judgment—because an attorney is unlikely to advise their client to default—and code cases where an attorney entered an appearance as a one.[53] For the remaining cases (coded as a 0), we assume the person responding to the lawsuit was self-represented, although as noted, these may include cases in which the defendant received legal assistance that was less than full representation.[54] We exclude cases in which the representation status is unknown. Figure 4 depicts the attorney representation rate over the period covered in this report. We observe that this rate more than doubled from 2011 to 2020, going from approximately 18% to around 48%.

Figure 4 - Attorney Representation Rate

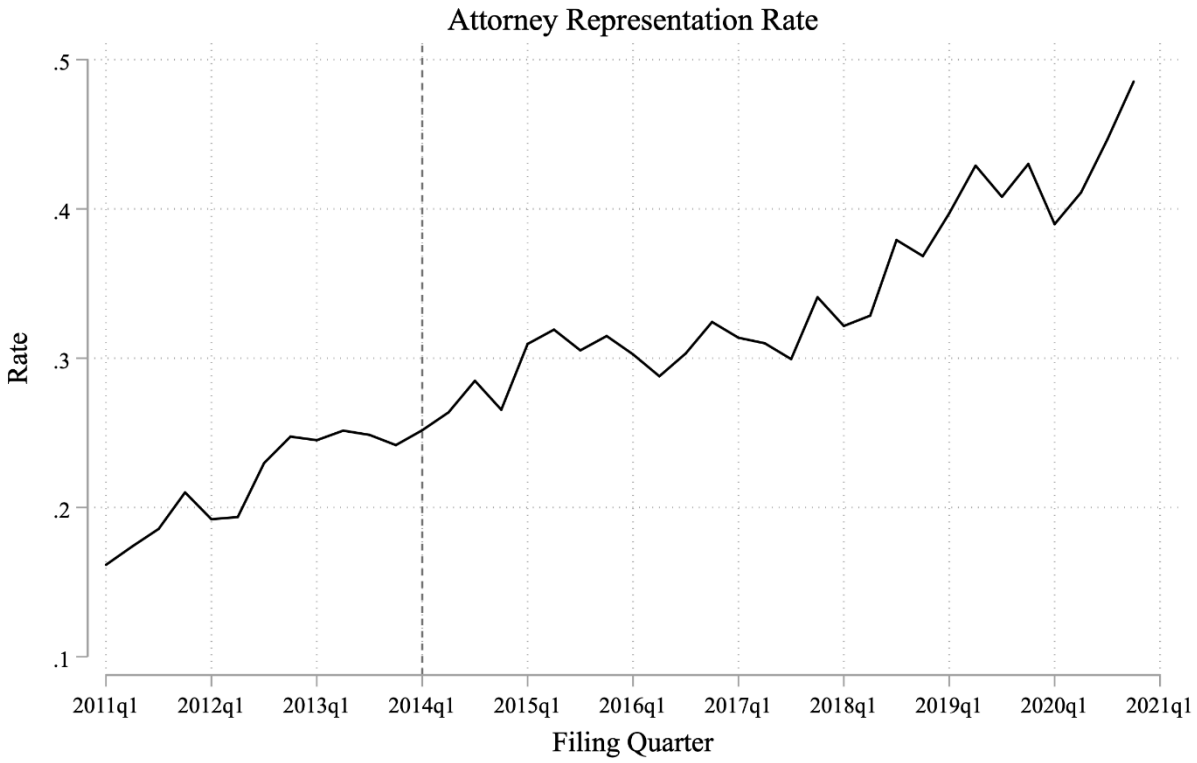
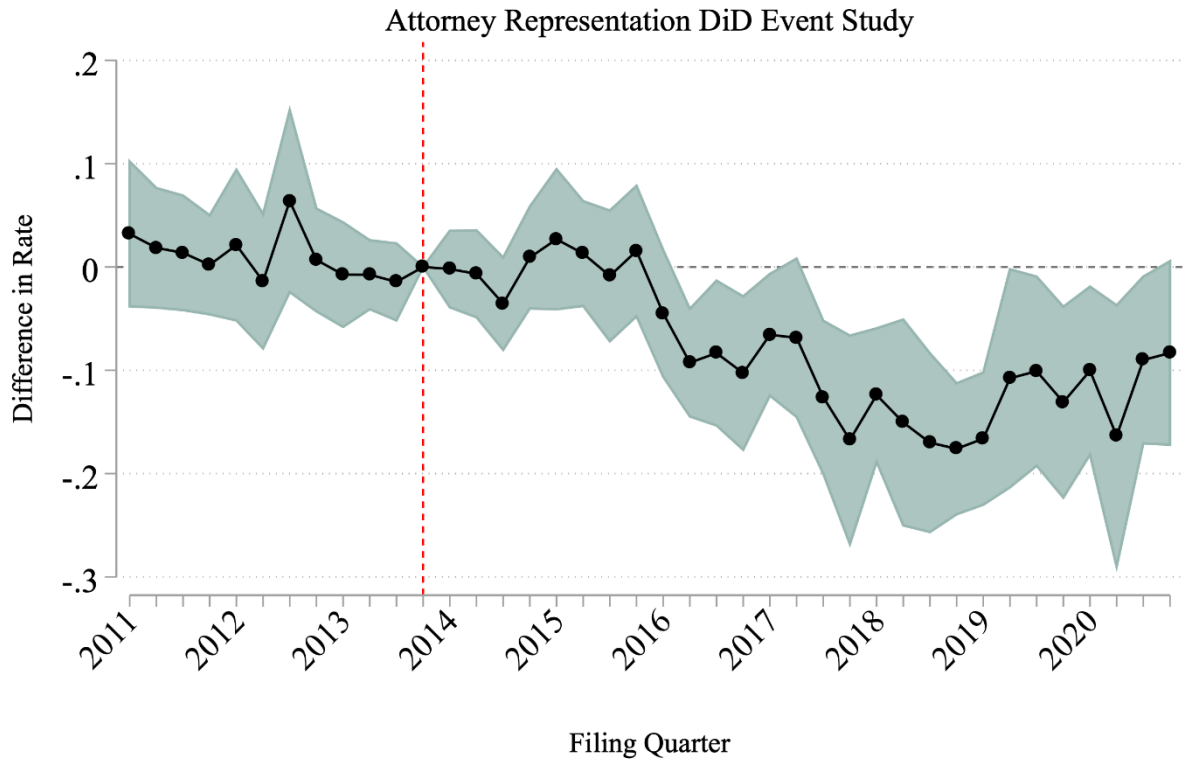


Figure 5 depicts the findings for the attorney representation event study.[55] There are no differential trends in attorney representation before 2014, meeting the parallel trends assumption.[56] After the passage of the law, there is a 15-percentage point decrease in the difference in attorney representation between cases involving first and third-party creditors. This is half of the 30% average for attorney representation in the sample. This effect takes about two years to appear. A delay of this magnitude is consistent with the fact that the law only applies to debts purchased after the law took effect. On the other hand, we cannot rule out the possibility that some unobserved factor after 2014 has a differential effect on attorney representation in third-party cases.

What explains these findings? We propose some hypotheses. If complaints contain more information, defendants may be less likely to believe that attorneys can help them. Below, we show that after the law defendants are no more or less likely to file an answer in cases involving third-party creditors than in cases with original creditors. But once they file an answer, they may be more likely to settle without consulting an attorney. We have no reason to believe that attorneys are less willing to take cases involving third-party creditors after the law. These findings could be driven by changes in the composition of defendants responding to the suits because of the new legislation. Instead of limiting the sample to filings without a default judgment, we conduct the same test using the whole sample of filings. We find a similar decrease in attorney representation (not shown).

Figure 5 - Event Study of Representation (excludes defaulted cases)



Note: Each estimate represents the difference in the proportion of cases in which the defendant was represented by an attorney between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the CFDBPA went into effect (Q4 2013). Shaded area represents 95% confidence intervals.

Another possibility is that the law could change the distribution of the amount owed to third-party creditors, which could affect attorney representation. As reported in Table 2, attorney representation rates vary significantly according to the amount in controversy and by creditor type. The higher the amount owed, the more likely defendants are to have legal counsel, especially among those sued by third-party creditors. If the CFDBPA affected the distribution of the amount owed by defendants differentially by creditor type, then in turn attorney representation rates could also be differentially affected. However, we find no evidence that the law changes the distribution of the amount owed, as discussed earlier.

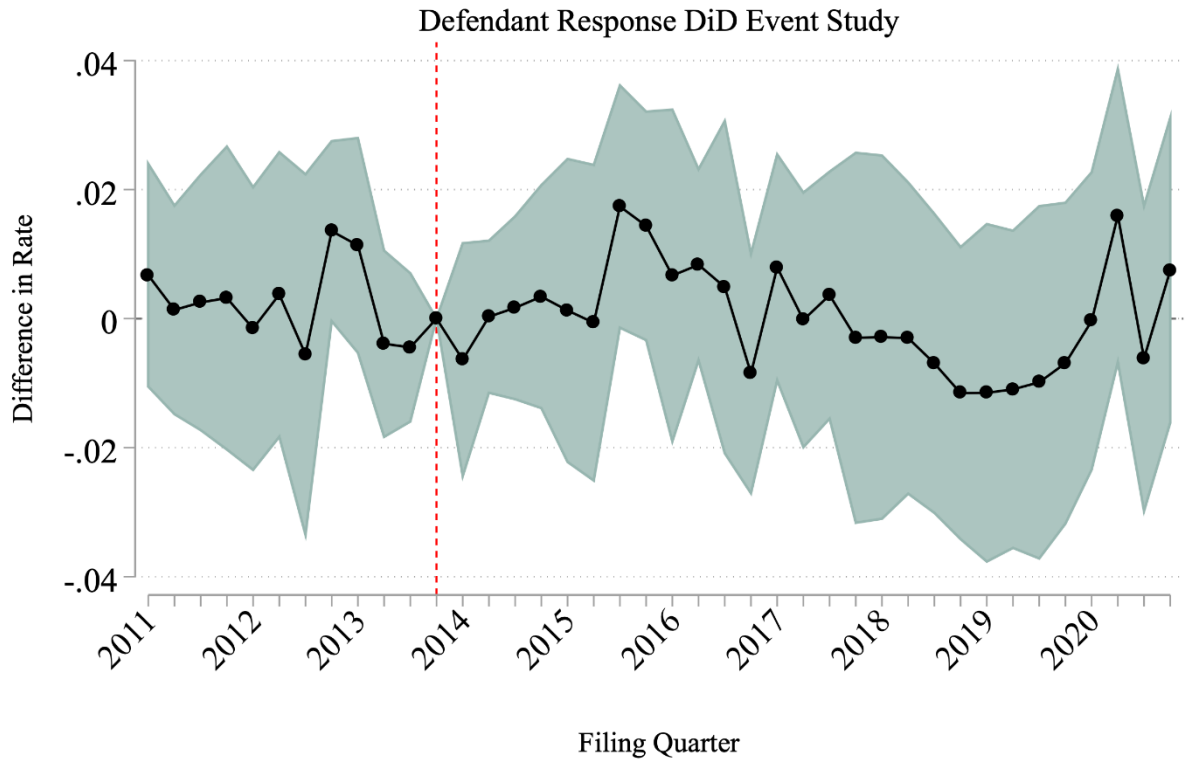
Table 2 - Attorney Representation Rates by Amount in Controversy and Creditor Type, 2011-2020

	Original Creditor	**Third Party**
Amount in Controversy < $10,000	30.36%	21.95%
Amount in Controversy $10,000-$25,000	34.77%	35.6%
Amount in Controversy > $25,000	44.55%	46.33%

Defendants Respond at Similar Rates After Law Change

We find no evidence that the CFDBPA affected the response rate of defendants in cases involving third-party creditors. The CFDBPA requires debt buyers to provide documentation of the debtor's agreement to the debt in the form of a contract or a document provided to the debtor while the account was still active. The complaint needs to include more allegations than is required of original creditors. Plaintiffs may also be more selective in the types of cases they bring, since they should only bring cases where they have the documentation available. In *Pay to Plead*, Jiménez and Raba document the low response rate in California and argue that it is likely influenced by California's burdensome and costly process to respond to a lawsuit. Defendants must pay a minimum of $225 to respond or complete an onerous fee waiver application and have it granted by a judge.[57]

Figure 6 – Event Study of Defendant's Response to the Lawsuit (via an answer or general denial)



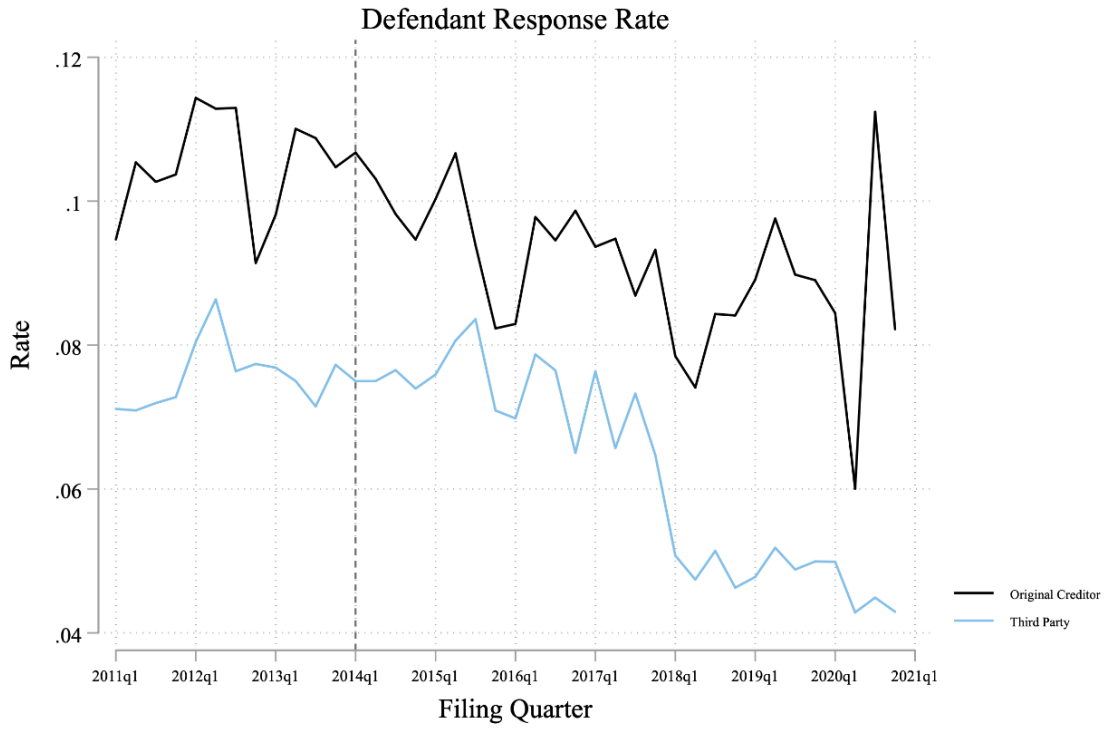
Note: Each estimate represents the difference in the proportion of cases in which the defendant responded to the lawsuit between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the CFDBPA went into effect (Q4 2013). Shaded area represents 95% confidence intervals.

If the CFDBPA led to better documentation, then defendants could respond at greater rates if they believe the complaint is legitimate. On the other hand, if defendants believe the debt is legitimate, but they have no grounds to contest it, they may be less likely to respond. The overall effect of the law is theoretically ambiguous. To empirically test the effect of the CFDBPA we generate a defendant response variable equal to one if the defendant filed a response, zero otherwise.

We find that the low consumer response rate to debt collection suits in California was not affected by the passage of the new legislation, as shown in Figure 6. Figure 6 also shows that there were no differential trends in response rates before 2014.

Figure 7 displays the raw defendant response rates by creditor type. As Johnson Raba and Jiménez found in *Pay to Plead*, California has low response rates that have been decreasing over time.[58] This low rate is at least somewhat likely due to the high cost to respond (minimum of $225). By way of example, Connecticut, a state that does not charge defendants a fee to plead, has a response rate of 16% over a similar period.[59] But as also shown in Figure 7, the rate is also different by type of creditor, with those sued by third-party creditors responding at lower rates than those sued by original creditors.

Figure 7 – Response Rates by Creditor Type (raw numbers)



Additionally, the response rates vary according to the amount in controversy, as shown in Table 3. Consumers sued by original creditors are always more likely to respond to the

lawsuit than those sued by third-party creditors, regardless of the amount owed. Interestingly, the relationship between response rates and amount owed is not necessarily linear. The peak in response rates in our sample is among those defendants sued for amounts between $10,000 and $25,000. If the amount in controversy is larger than $25,000, defendants are actually less likely to respond to the lawsuit than when the amount in controversy is between $10,000 and $25,000; however, they are still more likely to respond than when the amount in controversy is below $10,000.

Table 3 - Defendant Response Rates by Amount in Controversy and Creditor Type, 2011-2020

	Original Creditor	Third Party
Amount in Controversy < $10,000	9.13%	7.66%
Amount in Controversy $10,000-$25,000	14.6%	11.49%
Amount in Controversy > $25,000	12.06%	10.38%

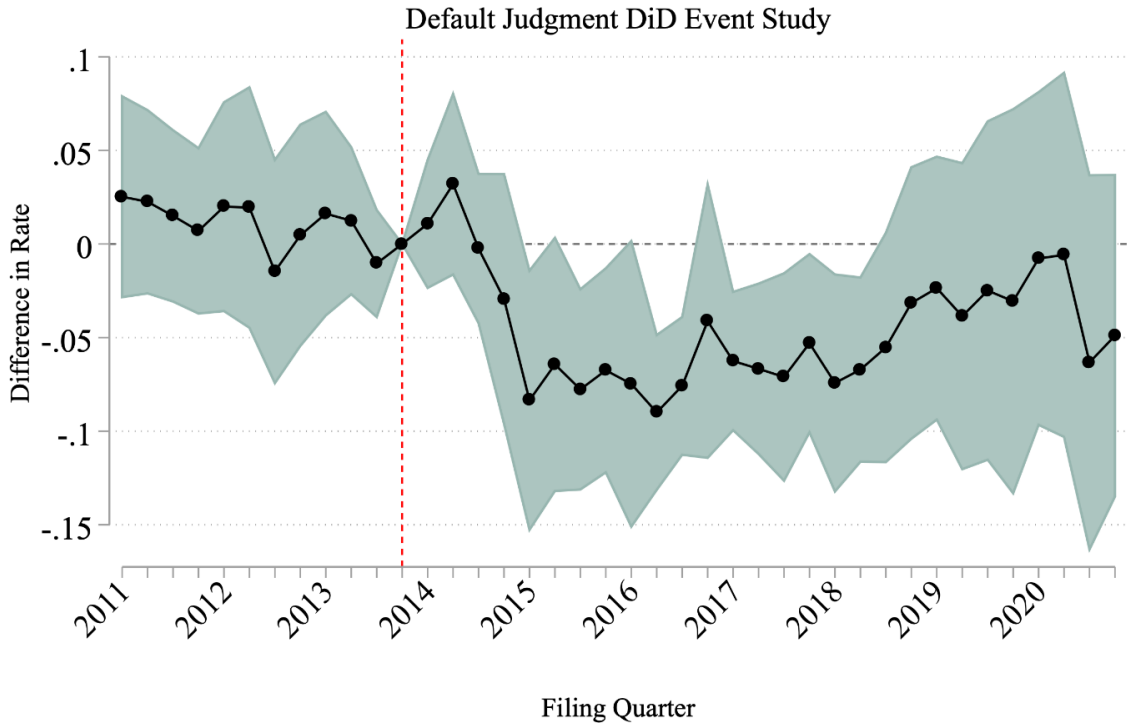
Fewer Default Judgments among Third-Party Creditor Lawsuits

We find that the CFDBPA led to a decline in default judgments for cases involving third-party creditors. The CFDBPA requires third-party creditors seeking a default judgment to provide additional documentation including business records and a sworn declaration of the records' authenticity.

We analyze how the CFDBPA impacted the proportion of cases ending up in a default judgment by creating a variable equal to one if there was a default judgment for the case, zero otherwise. Default judgment is a variable created from events in the court docket that showed a judgment was entered as the disposition in a case where a proof of service was filed, and where the defendant did not file an answer, general denial, or other responsive pleading. We predict that the additional documentation requirements should lower the rate of default judgments.

As shown in Figure 8, the rate at which third-party creditors were able to obtain default judgments fell after the passage of the CFDBPA. This effect appeared approximately one year after the CFDBPA went into effect and lasted for over three and a half years. During this time, third-party creditors were approximately 7 percentage points on average less likely to obtain a default judgment than original creditor plaintiffs compared to just before the CFDBPA went into effect. This figure is about 14% of the average default judgement rate of 49%. After 2019, the difference in the proportion of cases ending up in a default judgment between third-party creditors and original creditor plaintiffs was on average the same as it was before the extra documentation was required. The absence of differential trends prior to 2014 allows us to interpret this result as a causal effect of the CFDBPA.

Figure 8 - Event Study of Default Judgment



Note: Each estimate represents the difference in the proportion of cases in which a default judgment was obtained between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the CFDBPA went into effect (Q4 2013). Shaded area represents 95% confidence intervals.

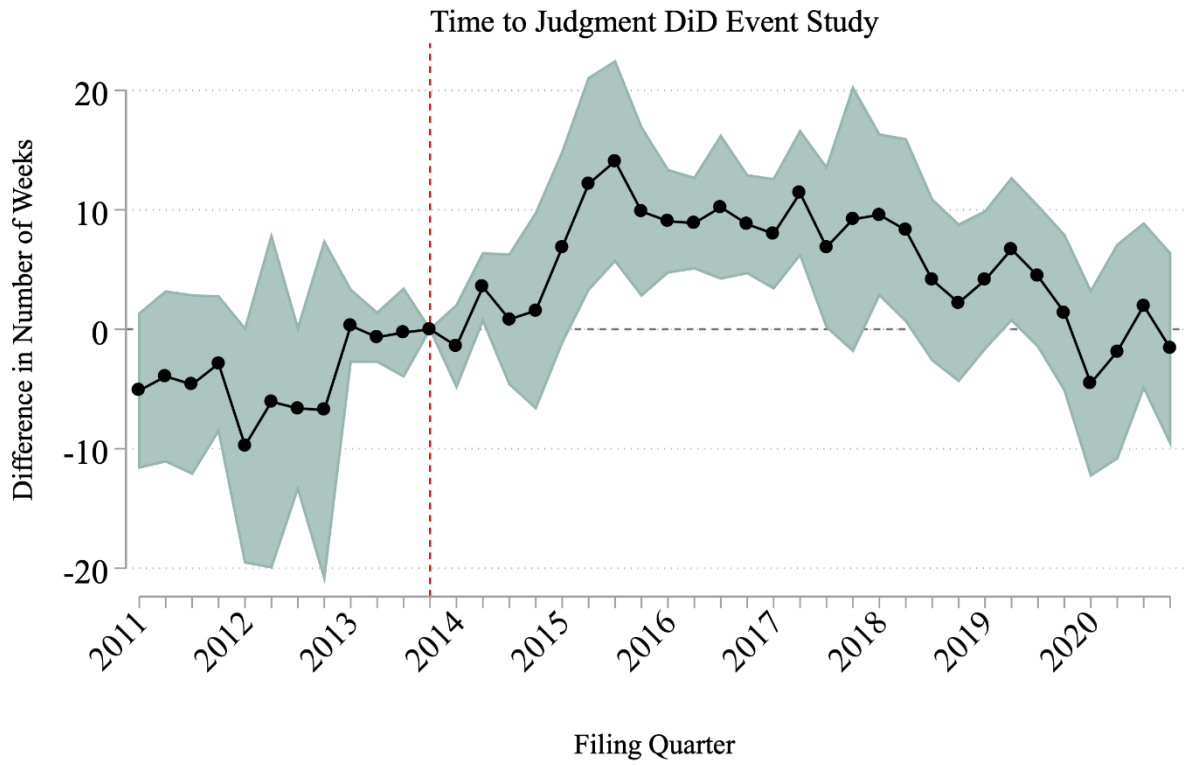
Cases Filed by Third Party Plaintiffs Take Longer to Get to Judgment

We find that after the CFDBPA, the difference in the time it took for a case to terminate in a judgment between cases filed by third-party and original creditors increased by 10 weeks. The CFDBPA requires debt buyers to file additional documentation prior to obtaining a default judgment. We predict that these additional documentation requirements would result in a longer time between filing and judgment for third-party creditors. We measure time to judgment as the number of weeks elapsed from the day of the debt collection case filing to the day a judgment is issued.

Figure 9 depicts the average difference in time to judgment between cases filed by third-party plaintiffs and cases filed by original creditors. There were no differential trends before 2014. After 2014 there was an increase in the time it took third-party plaintiffs to get a judgment. The increase was almost immediately after the law went into effect and averaged 10 weeks for almost three years. This increase is 24% of the average time to judgment of 42 weeks. After 2018, this differential decreased, and by 2020 there was no significant difference in the

time it took to get a judgment between third-party and original creditor filings, relative to the passage of the CFDBPA.

Figure 9 – Event Study for Time to Judgment



Note: Each estimate represents the difference in the number of weeks it took to get a judgment between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the CFDBPA went into effect (Q4 2013). Shaded area represents 95% confidence intervals.

Writs of Execution: Inconclusive

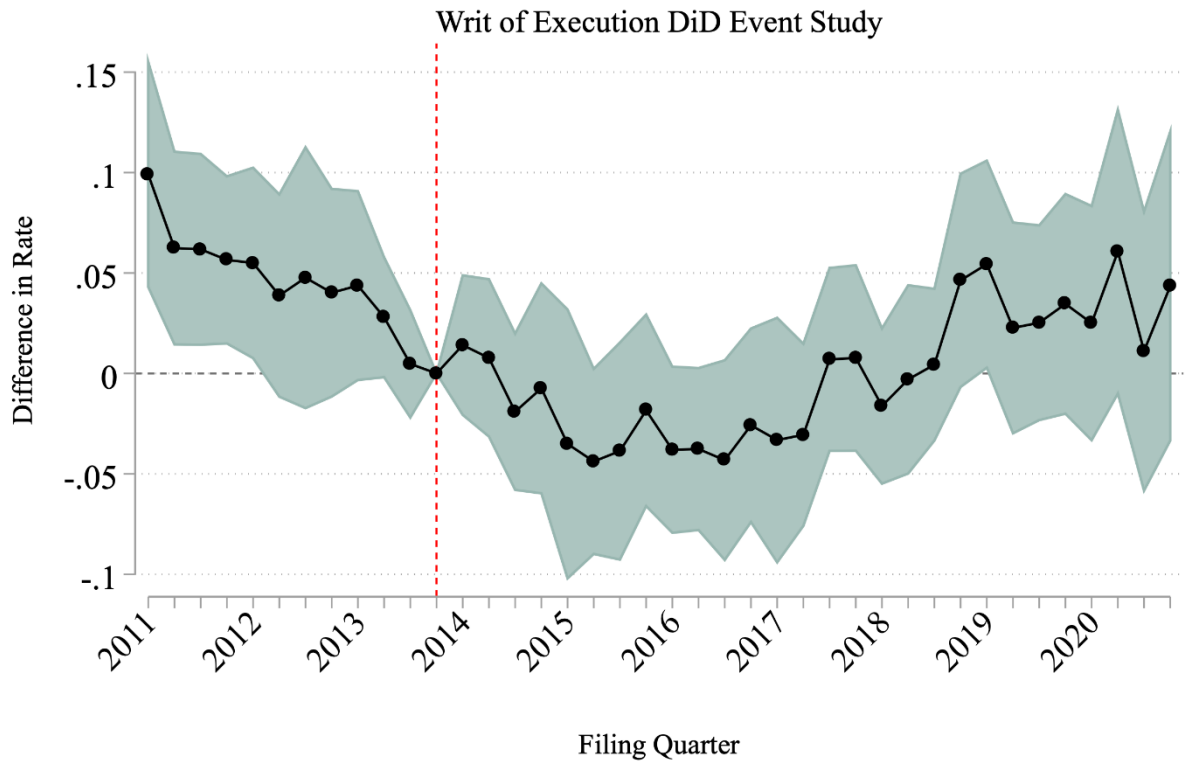
We find no evidence that the CFDBPA increased the rate at which third-party creditors obtained writs of execution. Writs of execution are filed by judgment creditors to collect the amount awarded by the court in an order of judgment. An application for a writ is filed with the court by the judgment creditor and the court issues the writ, which can then be submitted to a sheriff's office for a bank levy or wage garnishment order or used to generate an abstract of judgment so that a creditor may record a lien against real property owned by the debtor. The writ of execution shows how frequently a creditor attempts to collect on a debt, and our data identifies the rate at which writs of execution appeared in the docket of cases in which a judgment had been entered, by quarter.

The intended effect of CFDBPA was to increase the quality of documentation filed with the court by third-party creditors. Better documentation might enable such creditors to obtain

more judgments and writs of execution to satisfy those judgments. On the other hand, cases with better documentation may be more likely to settle. As a result, the effect of the CFDBPA on writs of execution for third-party creditors is ambiguous. To measure writs of execution, we create a variable equal to one if a writ of execution was filed in the case, zero otherwise.

Figure 10 shows that the parallel trend assumption prior to the CFDBPA is not satisfied. The difference between rate at which third and first party plaintiffs filed writs of execution among cases in which judgment was entered was declining before 2014. This downward trend continued after the law went into effect in 2014 before stabilizing and reversing itself. The presence of this pre-existing trend makes it difficult to draw any inferences concerning the effect of the CFDBPA on differences in filing rates for writs of execution.

Figure 10 – Event Study for Writ of Execution Filing



Note: Each estimate represents the difference in the proportion of cases in which a writ of execution was filed between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the CFDBPA went into effect (Q4 2013). Shaded area represents 95% confidence intervals.

Survey Responses

Very few court officers or administrators have responded to our survey so far (13 as of May 29, 2024). Most respondents had worked for the California courts for more than ten years and more than half stated that they "personally [saw] filings or litigants in debt collection lawsuits in their day-to-day job" either because litigants appear before them or because they work on the case management database. Below we display responses to our major questions.

All but one of the eight people who answered the question responded that they were aware of the CFDBPA. To the follow-up question of what they thought was required after the law changed, respondents said the following:

- "Requires a court judgment not a clerk judgment."
- "They have to aver ownership"
- "Better documentation"
- "There needs to be verifiable support for the relief being sought"
- "Admissible evidence of debt ownership"
- "Ownership of the debt must be validated."

Two people said that they thought documentary requirements were not helpful and explained the following:

- "Streamlined and foreshortened procedures may reduce the ability of litigants to learn about/participate in court proceedings" [Authors' note: respondent may be referring to other changes enacted by courts or the legislature] (undisclosed role, 3-5 years of experience).
- "Not sure how additional requirements, which make the filing/processing of cases more complex and time-consuming help to make the system more efficient." (undisclosed role, more than 10 years of experience).

Just three respondents disclosed that they personally oversee fee waiver hearings or assist litigants with fee waiver applications. All respondents were asked, however, "How do you think the fee waiver process impacts consumer participation in debt collection cases?" These were the responses:

- "No [sic.]. California fee waiver process is clear and precise. Less than 1% of applications are denied." (case management court administrator, less than 1 year of experience)

- “I think the process is complex and hard to understand, so yes, there is an impact on litigants/respondents” (case management court administrator, more than 10 years of experience)
- “Our court provides free services via our self-help center to assist litigants with this process. They can access these services in person, by phone, or via Zoom.” (Chief Financial Officer, more than 10 years)
- “Not great” (clerk, 3-5 years of experience in role)
- “The fee waiver process eliminates first appearance fees and improves a consumer/defendant's ability to file a responsive pleading and participate in the case.” (Commissioner, 5-10 years working in California courts)
- “Complexity and confusion reduce participation.” (Judge, 3-5 years' experience).

In response to a question asking respondents to rank whether default judgments against consumer defendants a problem in the court was they worked in, the majority of respondents (7) responded that they were “neutral” on the topic or that it was “slightly an issue” or “not an issue.” One responded that it was “moderately an issue” and two that it was a “pressing issue.”

When asked about whether the rate of unrepresented litigants was an issue, the answers flipped: most respondents (5) thought it was an issue, with four responding that it was a “pressing” issue. Three were neutral and two stated that it was “slightly an issue.”

Most respondents (7) also thought that debt collection case filing volume had increased in the last ten years and that the rate of default judgments had also increased (5).

When asked whether the rate of default judgments was something the court should be more or less concerned about, six respondents stated that the court should be more concerned and four stated that this was “not an issue.”

Respondents were asked what more could be done to improve outcomes for pro se litigants in debt collection lawsuits, with the following responses:

- “Provide more resources for pro se litigants to help them defend against these suits” (Court Executive Officer, more than 10 years of experience).
- “Ensure that service is proper. ensure that the court has a means to contact the litigants via cell phone message or email, robust self-help resources and guides” (Judge, 3-5 years of experience).
- “More lawyers” (Commissioner, more than 10 years of experience).

Discussion and Observations

California reforms were intended to respond to concerns about robo-signing and other shortcuts being taken by third-party debt collectors. In excluding original creditors from the coverage of the Fair Debt Buying Practices Act, state legislators sought to regulate, revise, and shed light on the practices of the debt buying industry. California's law was implemented in three parts – in 2014, the first part of the law was passed, placing requirements on debt buyers to aver ownership and list prior assignees in both the complaint and at application for a default judgment. The law also transferred responsibility to the judge to enter default judgment, rather than a court clerk. In 2016, the law was amended to provide additional time to set aside a default judgment based on a defendant assertion of non-service, extending this time from 2 to 6 years.[60] Finally, the Judicial Council of California, the statewide administrative office of the courts, created a specific form in 2018 for the request for entry of judgment that must be used by all third-party debt buyers covered by the law.

Like other state legislative and court rules-based changes that imposed documentation requirements in debt collection cases, California's law imposed duties on debt buyers and created a private right of action that allows consumers to bring an action against an entity that fails to comply. State enforcement agencies with mandates to protect consumers may also use the law to bring actions against debt buyers that violate the law. In California, these include the Office of the Attorney General, county District Attorney's Offices, City Attorney's Offices with consumer protection units, and the newly created state-wide Department of Financial Protection and Innovation (DFPI). Regardless of who brings an action to enforce, the impetus falls on the consumer – or their attorney – to identify a failure to comply with the law and file a complaint with an enforcement agency or initiate an action to enforce the law through a lawsuit or cross-complaint filed in state court.

Case Filing Rates and Amount in Controversy Are Unaffected by Debt Documentation Requirement Law Change

As the law change impacts only third-party debt buyers, we compare outcomes for first and third-party creditors to identify whether the new documentation requirements changed the behavior of plaintiffs or defendants. We did not find a statistically significant difference in the rate of filings after the change in documentation requirements. Figure 1 depicts the average difference in filings between third-party plaintiffs and original creditors by quarter, where the difference in the last quarter of 2013 is set to zero. Relative to this baseline, there is no evidence of a statistically significant difference in the number of cases filed by third- and first-party plaintiffs after 2013. There is some evidence that the difference in filings between first and third-party plaintiffs increased prior to 2014 and then reverted to its previous level, but

overall, we do not find a causal relationship between filing rates and the documentation requirements imposed on third-party debt buyers in California.

The amount sought in a case is not information that California courts keep in the docket-level data. To identify the value pled by the plaintiff in the complaint or the amount requested or granted in an application for judgment, we would have to examine the documents filed in the case.[61] Nevertheless, we can categorize the amount in controversy into ranges based on the filing fee amount paid by the plaintiff when the case is initiated. Accordingly, we analyzed amount in controversy of less than $10,000, between $10,000 and $25,000, and cases over $25,000. Overall, 80.8% of cases were valued at less than $10,000, while 88.3% of third-party debt collector cases fell into this value range (Table 1). We analyzed the effect of the documentation requirement law change on case values and found no statistically significant effect Although we observe a change in amount in controversy immediately after the law took effect, this was a short-lived change. We observe an increase in the rate of filing of low-value cases within the year after the law went into effect, accompanied by a decrease in the proportion of cases between $10,000 and $25,000 during the same period, but this trend does not persist in the years that follow. Accordingly, we find no overall or lasting trends that reflect statistically significant differences in case value between cases filed by third-party plaintiffs and those filed by original creditors.

Attorney Representation Rates Decrease After Debt Documentation Law Change

California consumer defendants, unlike in many other states where they may simply appear in court or file an answer at no cost, must file an answer or general denial and pay a filing fee of $225-$435, unless they apply for and are granted a fee waiver. As our data show in Table 1, the response rate in California debt cases during the study period was low, with 8% overall response rate, and only 6.7% response rate in cases filed by third-party debt buyers. The rate of response for original creditor cases was 9.5%. We observed whether the change in the law causally impacted the rate at which these consumers who responded to a lawsuit had attorney representation.

We analyzed the difference between original creditor and third-party debt collector case rate of attorney representation—and analyzed the change in this rate difference in our event study reported in Figure 5. This analysis was based on the subset of consumers who responded to the case. Accordingly, unlike in other studies, where we report an attorney representation rate of 4-10% depending on the county and creditor type, we observe differences in the attorney representation rate only among the 8% of consumers who responded to debt collection lawsuits between 2011-2020 (n=183,989). The rate of consumer response over time for third-party debt buyers and original creditors is shown in Figure 7.

In the average case where a defendant responded to the lawsuit, 30.4% were represented by counsel at least at some point during the process (Table 1). This rate differed by whether the case was brought by an original creditor (34.6% were represented) or a third-party creditor (only 24.7% were represented). In Figure 5, we observe the changes in the difference between these two rates of representation. The event study analysis shows strong evidence of a decrease in attorney representation and a corollary increase in self-representation.

The graph also shows that there were no differential trends in attorney representation rates before 2014 between the original creditor and third-party debt buyer cases. There is a delay of approximately 2 years after the law takes effect in the change of representation rates. This is evidence in favor of a causal relationship between a decrease in attorney representation rates among people who responded to debt collection lawsuits and the law change.

Additional study, and external data, are needed to better understand these patterns. The decrease in defendant attorney representation rates in cases filed by third-party debt collectors may be due to more people choosing to represent themselves under the new law, or it may be due to co-concurrent external factors such as a decrease in legal aid and private attorneys available to take these cases after the law changed. The rate change may also be due to legal aid and self-help centers providing more assistance through unbundled services where consumers are assisted with paperwork instead of receiving full attorney representation. These findings are contrary to an expectation that the enforceable private rights of action against third-party debt buyers would motivate private attorneys and legal aid programs to take more of these cases in compliance with the documentation requirements. These findings reflect concerns about relying on private enforcement to ensure compliance with documentation requirements as unrepresented consumers are less likely to understand their rights and raise claims under the new law.

To ensure robust findings, we repeated this analysis against the full set of data and found that the causal relationship between decreasing attorney representation rates and third-party cases after the implementation of the new law is also reflected in analysis of the full data set, including consumers who did not respond to a lawsuit (analysis on file with authors). These findings suggest correlations between legislative changes to protect consumer defendants and rates of attorney representation, indicating a negative outcome for consumers, as case outcomes are generally better for represented consumers, and a negative outcome for enforcement of the law, as attorneys are likely to be in a better position to identify violations and bring actions to ensure compliance by third-party debt collector plaintiffs.

Consumer Response Rates Unchanged by Debt Documentation Requirements

As discussed here and in our other work based on this data set, there are economic and procedural barriers that make it more difficult for consumers to respond to a debt collection lawsuit in California than in other states.[62] A consumer must locate the correct form, fill it out, file it with the court, and pay an answer fee or obtain a fee waiver. The debt documentation requirement law changes are not targeted at these barriers to participation in a debt case, so while they are intended to reduce default judgments in California, to make a large difference in consumer behavior, a law change would need to incentivize consumers to respond. Here, the law is intended to increase the duties of the debt buyer filer, rather than remove barriers for the consumer defendants.

The data and analysis show that these changes did not affect the likelihood of a defendant responding to the lawsuit. The low consumer response rate to debt collection suits in California was not affected by the passage of the new legislation, as shown in Figure 6, which compares the consumer response rate in third-party debt collection cases to that in original creditor claims. We observe a small increase in the difference in response rates between original creditor and third-party debt buyer suits around 2 years after the law went into effect, but this change is not sustained over time, and is only reflected for a few quarters, indicating no long-term impact on filing rates of the law change. We also observe no differential trends in response rates before 2014.

Default Judgment, Writs of Execution, and Time to Judgment

Third-party creditors obtained default judgments at a lower rate for five years after the passage of the CFDBPA. In an effect appearing approximately one year after the CFDBPA went into effect and lasting for over three-and-a-half years, third-party creditors were approximately 7 percentage points on average less likely to obtain a default judgment than original creditor plaintiffs compared to just before the CFDBPA went into effect. We observe this difference as a decline of about 14% from the average default judgement rate of 49%, among all cases filed. In this analysis, the default judgment average is taken from all cases in the sample and includes cases that were dismissed for non-service. As we observe no differential trends prior to 2014, we interpret this result as a causal effect of the CFDBPA. This trend continues for about five years, after which we see a rebound in the rate of default judgments entered for third-party debt buyers. After 2019, the difference in the proportion of cases between third-party creditors and original creditor plaintiffs ending in a default judgment was on average the same as it was before the extra documentation was required.

State court debt collection lawsuits in California generally request less than $25,000 on a matter for money damages, which California classifies as limited civil filings. Our data show that more than 95% of all types of cases fall into this category. California's Trial Court Delay Reduction Act, codified at Standard 2.2(f)(2)(A) expects that courts will dispose of 90% of matters in limited civil jurisdiction within 12 months. This is much longer than the 30 days allotted for disposition of eviction or the 75-day goal for disposition of 90% of small claims matters. Time to judgment varies in debt collection lawsuits depending on whether the plaintiff seeks a default judgment, requested when a defendant fails to the respond to the case, or if the defendant answers and the case is litigated on the merits to judgment or resolved through dispositive motion, which results in entry of judgment after motion. We analyze in Figure 9 the average time to any type of judgment for all cases filed, regardless of whether a defendant has answered. We hypothesized that additional burdens on third-party plaintiffs to prove up the case at default may result in additional time between the filing of the case and the entry of an order of judgment, and that we might see a shorter time to judgment for the original creditors that are permitted to use the old methods of requests for entry of default judgment, requesting only that a court clerk sign off on their application.

Overall, we find an average of 46 weeks elapsed between the filing of the complaint that initiates the case and the entry of judgment in the time period before the CFDBPA became effective. Figure 9 shows the average difference in time to judgment between the two types of creditors – the original creditors and the third-party debt collectors covered by the new law. The Figure 9 event study shows no differential trends between the original creditors and third-party debt collector plaintiffs in the years right before the new law was effective.

After the law took effect, we see a clear and significant increase in the time it took third-party plaintiffs to get a judgment, relative to first-party plaintiffs. The increase was almost immediately after the law went into effect and averaged 10 weeks for almost three years, resulting in a time to judgment for third-party debt buyer cases post-CFDBA that on average exceeds a full year. This heightened difference between original and third-party creditors diminished over time and eventually returned to its 2014 level. These findings show that time to judgment varies over time, and that the implementation of debt documentation laws may lead to a longer time before judgment is entered, giving the consumer defendant more time to attempt to resolve the case through settlement negotiations.

A writ of execution is a court order directed to an officer of the court to take some action to enable a party to get paid on a judgment. Prior to our analysis, we thought we might see that the rate of granted writs of execution would be affected by the new law because the creditor plaintiffs would have more documentation to prove the debt and that information is disclosed to consumers as well as the court in filings, thus driving settlement agreements for consumers who have the means to pay. We also thought that it was possible the writ of

execution rate may have increased because of a change in the composition of cases that were brought to court—if a creditor has more information about the debt and the consumer, the creditor may be more likely to have information on bank accounts or employment, thus resulting in more writs of execution.

Figure 10 shows that the difference in the rate at which first and third-party creditors sought writs of execution was declining before the implementation of the new documentation law. In other words, there was a pre-existing trend in this difference, which violates the parallel trend assumption that is necessary for causal inference. After the implementation of the law in 2014, the pre-trend continues down for approximately 7 quarters. The trend then reverses and the difference in rates is constant toward the end of the sample period. This pre-existing trend makes it hard to draw inferences about the effect of the law on rates of filing of writs of execution. Overall, our findings were inconclusive as to whether the documentation law impacted filing rates for writs of execution.

CONCLUSION

Our analysis suggests that debt collection documentation requirements in California did not significantly impact filing rates for third-party debt buyer claims, nor did they affect the value of cases filed, with most of the cases filed in California to collect a consumer debt coming in under $10,000. Our findings suggest that the new law negatively impacted attorney representation rates for consumer defendants and, at least at first, reduced the rate at which a default judgment was entered against consumers in cases brought by third-party debt buyers. Additional study is needed on the relationship between attorneys, consumer defendants, and consumer debt documentation laws. We did not find a significant and lasting impact of the CFDBA on the behavior of third-party debt buyer plaintiffs. The increase in time to judgment for third party creditors that we did observe eventually returned to their 2014 level. Overall, our findings indicate that documentation laws may have created more work for third-party debt buyers in requiring that they attached documentation to complaints and applications for entry of default judgment, but viewed over time the business of debt collection in California courts has been business as usual, despite the best intentions of advocates and legislators.

The Debt Collection Lab

The Debt Collection Lab uses arts and different storytelling traditions to interrogate, transform, and spread new dignifying narratives for debt justice. The Debt Collection Lab is an interdisciplinary collaboration of researchers led by Frederick F. Wherry, the Townsend Martin, Class of 1917 Professor of Sociology at Princeton. The Debt Collection Lab conducts research on debt collection in state courts and collects and reports data on the Debt Collection Lawsuit Tracker to monitor regular updates to the number of debt cases being filed across the United States.

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Research Assistance and Special Thanks

Research Assistance:

- Nancy Montalbano, University of Illinois Chicago
- David Nahmias, the Berkeley Center for Consumer Law & Economic Justice, and Sarah Simone Poser DiMagno, Ali Mohamed Husein Nanji, Areya A. Behrouzian, and Bhavya Sukhavasi.

Peer Reviewers: Thanks to two anonymous reviewers
Data and Fact Check: The Pew Charitable Trusts Staff
Civil court data vendor: UniCourt
Cover image generated with DALL·E 3
Appendix A: Casey Chiappetta

Support for this project was provided by The Pew Charitable Trusts and the Student Borrower Protection Center (SBPC). The views expressed herein are those of the author(s) and do not necessarily reflect the views of The Pew Charitable Trusts or the SBPC.

ENDNOTES

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[20] *Id.*
[21] Cal. Civ. Code §§ 1788.52, 1788.58 & 1788.60.
[22] Cal. Civ. Code §§ 1788.52.
[23] *Id.*
[24] "For a revolving credit account, the most recent monthly statement recording a purchase transaction, last payment, or balance transfer shall be deemed sufficient to satisfy this requirement." Cal. Civ. Code §§ 1788.58 & 1788.52.
[25] Cal. Civ. Code §§ 1788.58.
[26] Cal. Civ. Code §§ 1788.56.
[27] Cal. Civ. Code §§ 1788.60.
[28] Cal. Civ. Code §§ 1788.50.
[29] 1788.30(a). The California Office of the Attorney General can also enforce the Fair Debt Buying Practices Act and accepts complaints from consumers regarding unlawful conduct that may then form the basis of enforcement actions. California Office of the Attorney General. "Debt Collectors." Accessed July 2, 2024. https://oag.ca.gov/consumers/general/debt-collectors.

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[31] Judicial Council of California. "Report to the Judicial Council: For Business Meeting on September 14–15, 2017," August 25, 2017. https://www.courts.ca.gov/documents/rupro-20170830-materials.pdf [https://perma.cc/WKW5-EDYP].
[32] *Id.*
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[34] CIV-105, *supra* note 33; California Rules of Court Rule 3.1800. https://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_1800.
[35] The Judicial Council stated it could not impose such a requirement because the statute does not mandate an explicit sworn declaration for compliance with Civ. Code § 1788.16, reasoning that explicitly sworn declaration requirements applied only in two unrelated instances. Report to the Judicial Council, *supra* note 31.
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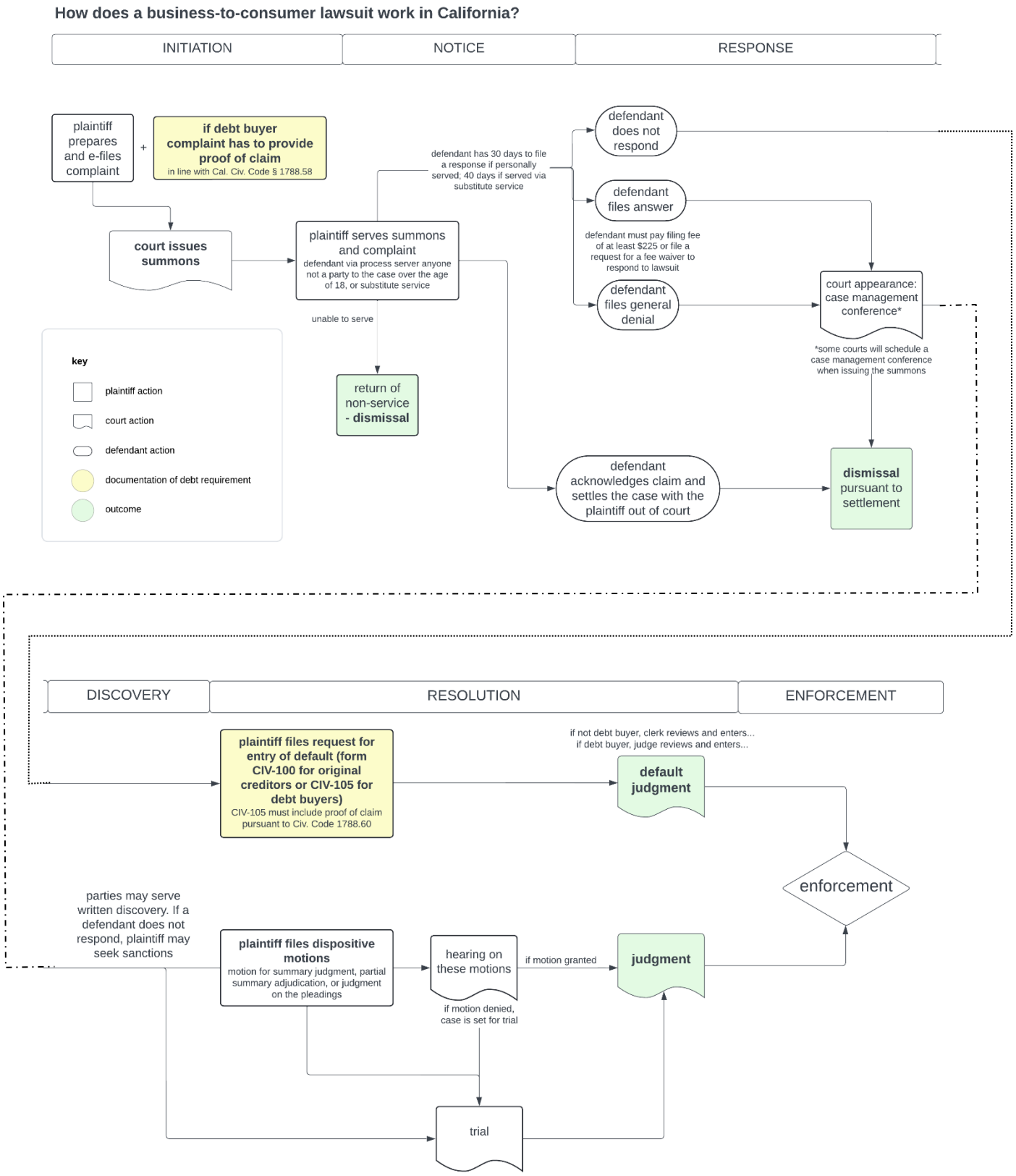
[47] Fonseca, *supra* note 46.
[48] Barnard, Julia et al., The State of Debt Collection in California after the Fair Debt Buyer Protection Act*, supra* note 18.
[49] *Id*.
[50] For a more detailed description of the data, see Johnson Raba, Claire and Jiménez, Dalié, *Pay to Plead: Finding Unfairness and Abusive Practices in California Debt Collection Cases*, (Apr. 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4611756 (forthcoming 2024 Review of Banking & Financial Law).
[51] We used R for data analysis and cleaning and Stata for causal inference analysis.
[52] Fedaseyeu, *supra* note 45; Romeo and Sandler, *supra* note 46; Fonseca, *supra* note 46.
[53] Jiménez, Dalié. "Decreasing Supply to the Assembly Line of Debt Collection Litigation," Harvard Law Review Forum 378-79, no. 135 (2022). We have heard reports that legal aid attorneys may advise judgment-proof clients to default in some jurisdictions, but
[54] Limited assistance programs are critically important, but they unfortunately rarely leave any sort of record on the court dockets, making them difficult to study. For a randomized control trial doing just that, see Greiner, D. James, Cassandra Wolos Pattanayak, and Jonathan Hennessy. "The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future." Harvard Law Review 126 (2013): 901-989. For more on limited assistance programs, see Rhode, Deborah L., Kevin Eaton, and Anna Porto. "Access to Justice through Limited Legal Assistance." Northwestern Journal of Human Rights 16, no. 1 (2018): 1-21.
[55] The figure for unknown representation is not pictured but it is not significantly different. On file with authors.
[56]
[57] Johnson Raba & Jiménez, *Pay to Plead*, *supra* note 50.
[58] *Id.*

[59] Aneja, Abhay, Julia Byeon, Jacqueline Cope, Dalié Jiménez, Claire Johnson Raba, Prasad Krishnamurthy, and Manisha Padi, "More Paper in Connecticut: An Evaluation of Documentation Reforms in State Court." The Debt Collection Lab, July 2024. https://debtcollectionlab.org/research/.
[60] Cal. Civ. Code § 1788.61(a)(2)(A).
[61] In *Pay to Plead*, Johnson Raba and Jiménez sampled three counties and reviewed 12,348 documents in which creditors sought an entry of judgment. They found that most plaintiffs sought less than $7,000. *Pay to Plead*, *supra* note 50 at 12, 26-28.
[62] *Id.*

APPENDIX A – LAWSUITS IN CALIFORNIA CIVIL COURTS



APPENDIX B – STAKEHOLDER SURVEY QUESTIONS

Debt Reform Evaluation Survey Script
(Logic Flow for Qualtrics)

Intro: Thank you for choosing to participate in this research study! The purpose of this research study is to evaluate state law changes about debt collection lawsuits. This survey collects opinions and perspectives of court personnel, including judges and court administrators. The survey is completely anonymous.

This study is being conducted by researchers at the Universities of California, Irvine and Berkeley Schools of Law, and the University of Illinois Chicago School of Law. It is funded by the Pew Charitable Trusts' Civil Court Modernization Project.

By clicking "I Agree" below, you consent that you provide informed consent to the following:

You are being asked to participate in a research study. Your participation in this research study is voluntary. You are being asked to participate in this research study because you are either a judge or court administrator. A maximum of 300 subjects will be enrolled in this study. This study is being done to evaluate state law changes about debt collection lawsuits. During the study, you will be asked to respond to online questions. The survey will take 5-10 minutes to complete. There are not any direct benefits to you from the study, and there are no anticipated risks to the study.

Your answers will remain anonymous, and we will not ask for your name or other identifying information.

- Button: I AGREE
- Button: I do not agree. (kickout)

First, we are going to ask some demographic questions. Please answer to the best of your knowledge:

- (all pulldowns should have an option for "other")

1. What is your job title?
    a. pulldown select multiple: judge, commissioner, judge pro tem, court administrator, court clerk, self help desk attorney, research attorney, other
        i. If other, please specify:
2. How long have you held this role?
    a. pulldown select one/range: <1, 1-3, 3-5, 5-10, >10
3. Did you hold a previous court personnel role for a court in the same state? OBJ
    a. Y/N
        i. If Y, what was your most recent previous role?
            1. short text
        ii. If Y, how long have you worked total for courts in this state, including your previous position or positions? OBJ
            1.: <1, 1-3, 3-5, 5-10, >10
4. Did you hold a previous court personnel role in a different state?
    a. Y/N
        i. If Y, what was your most recent previous role?
5. What is your gender?
    a. M/F/NB/Other
6. What is your race?

a. A/B/H/W/Other
    i. If other, please specify.
7. What is your age?
    a. Pulldown range: [less than 35, 35-49, 50-61, 62 or older]

Now, we are going to ask a few questions to gauge your experiences, through your employment with **the court you currently work for**, about debt collection lawsuits:

1. Do you personally see filings or litigants in debt collection lawsuits in your day-to-day job?
    a. Y/N
        i. If Y, how:
            1. Pulldown: I see litigants: they appear before me in court, I work in the case management database, I provide help to self-represented litigants, other
            2. If other, please specify (text):

2. Do you supervise or are regularly in conversation with employees who personally work with case management or litigants in debt collection lawsuits in your day-to-day job?
    a. Y/N
        i. If Y, how:
            1. Pulldown: My colleagues work directly with litigants: they appear before my colleagues in court, colleagues work with the court case management system, colleagues provide self-help to litigants, other

3. If Y to either 1 or 2, please comment on your perception of how legal representation affects consumer outcomes in debt cases? [long text]

3. In your jurisdiction, what do you think is the average amount sought by plaintiffs who sue an individual to collect a debt from them :
    a. Range <1000, 1k-3.5k, 3.5-5, 5k-10k, 10k-25k, over 25k, "don't know"
4. For California Only: Do you personally oversee fee waiver hearings, or assist litigants with fee waiver applications?
    a. If Y:
        i. In your opinion, how often are litigants well prepared for fee waiver hearings? [pulldown: always, usually, sometimes, rarely or never]
        ii. What can litigants do differently to be better prepared for fee waiver hearings? [long text]
        iii. How do you think the fee waiver process impacts consumer participation in debt collection cases? [long text]
        iv. How do you think court filing fees for defendants impacts consumer participation in debt collection cases? [long text]

Data show that between 2010-2020 [x] percent of people sued in debt collection lawsuits in **state** were unrepresented by an attorney, and [x] percent of cases ended in default judgment, in favor of the creditor plaintiff.

1. How would you rank default judgments against consumer defendants as a problem for the court you work in?
    a. 1 (not an issue) – 5 (a pressing issue)
2. How would you rank the rate of unrepresented litigants in debt collection cases as a problem for court users:
    a. 1 (not an issue) – 5 (a pressing issue)
3. Do you think that the number of debt collection cases in your court has increased or decreased over the last ten years? (or in the time you have worked for the court)

a. Increased / decreased / I don't know

4. Based on your perception, do you think that the rate of default judgments in debt collection cases in your court has increased or decreased over the last ten years? (or in the time you have worked for the court)
    a. Increased / decreased / I don't know
5. Is the rate of default judgment in debt collection cases something that you think the (or your?) should court be more or less concerned about?
    a. More/less
        i. If more, what do you think the court can do to improve outcomes for pro se litigants in debt collection lawsuits? (long text)
        ii. If less, why do you think this? What could courts do differently? (long text)
6. In **state**, the [legislature | court] enacted a [law | rule] that requires debt collectors to submit additional documents in support of an application for default judgment.
    a. Are you aware that this change took place?
        i. Y/N
            1. Y – Please briefly describe your understanding of the additional requirements placed on plaintiffs in debt collection lawsuits through the reform in **state**.
            2. Y – How helpful do you think these requirements are to achieve the following goals?
                a. Increase litigation participation by pro se defendants: 1-5
                b. Decrease inaccuracies in default judgments: 1-5
                c. Increase court oversight in cases brought by companies against individuals: 1-5
                d. Streamline case disposition and docket management: 1-5
            3. (If 1 to any of the above) – Why do you feel that documentary requirements are not helpful for [x]?

In debt collection lawsuits, most of the plaintiffs are businesses represented by lawyers while defendants are usually unrepresented. With this in mind, please indicate whether you agree with the following statements. 1 means you do not agree and 5 means you strongly agree.

ii. Having to file documents to get a default judgment places an unfair burden on plaintiffs.
iii. Requiring documents filed to obtain a default judgment levels the playing field for defendants.
iv. Documentation requirements impose unnecessary steps on the court for case disposition.
v. Documentation requirements impose steps at odds with the discovery process.

Would you be willing to talk with us further about your responses? You can remain anonymous and sign up for a short phone call to discuss your answers. We are particularly interested in hearing from respondents who work directly with debt collection lawsuits or litigants.

Add your first name and phone number here to receive a call back!

- Short text

That's it! Thank you so much for your time.

- EXIT