

**Group Legal Services Association
Solo, Small Firm, and General Practice Section
2016 Joint Spring Meeting
May 11-14, 2016, Key West, Florida**

**Fair Debt Collection Practices Act
And
Telephone Consumer Protection Act**

**Friday, May 13
8:00 am – 9:00 am
Salon A-2**

Presenter: Stuart Price, Price Law Group, Encino, CA

Stuart Price



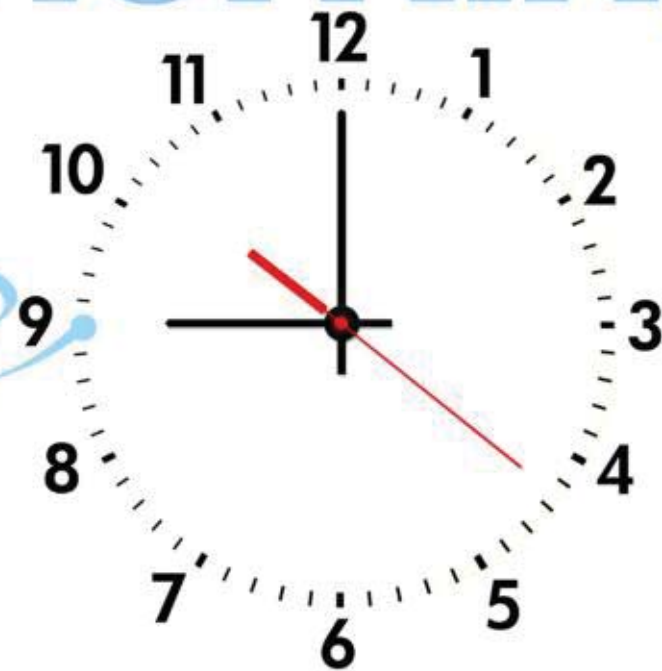
Stuart Price received his J.D. from the University of California at Los Angeles and his B.A. in Computer Science from Brandeis University. Stuart is a member of the State Bar of California along with a variety of bar associations, real estate associations, and construction/insurance related associations. Stuart is also admitted in several Federal District Courts including the Northern and Western Districts of New York and the Eastern District of Michigan. Stuart served as the Chairman of the Individual & Consumer Bankruptcy Sub-Committee of the Los Angeles County Bar Association. He has also served as an arbitrator with the Beverly Hills Bar Association, and as a *judge pro tem* in the Los Angeles Superior Court. He has been a guest lecturer in Bankruptcy at Merit College and speaks to a variety of groups (realtors, attorneys and consumers alike) on a variety of legal topics.

In 1991 Stuart founded Price Law Group, a premier debt resolution/consumer advocacy law firm, with offices throughout the country. Over the years Price Law Group expanded its practice areas to include insurance claim/bad faith representation and real estate. Stuart received his real estate broker's license which allows him to be sensitive to the needs of Real Estate professionals as he handles loss mitigation-related real estate transactions.

Stuart served on the Executive Board of Directors for Junior Achievement of Southern California and the National Association of Hispanic Real Estate Professionals – Los Angeles.

Stuart likes to spend his time with his family, in the kitchen, in yoga, and in nature.

Good morning

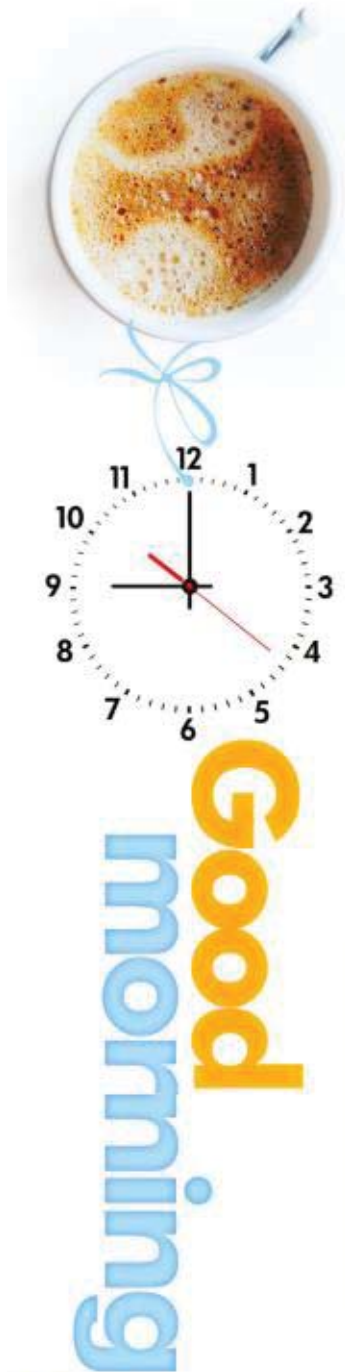


FDCPA
TCPA

Stuart Price

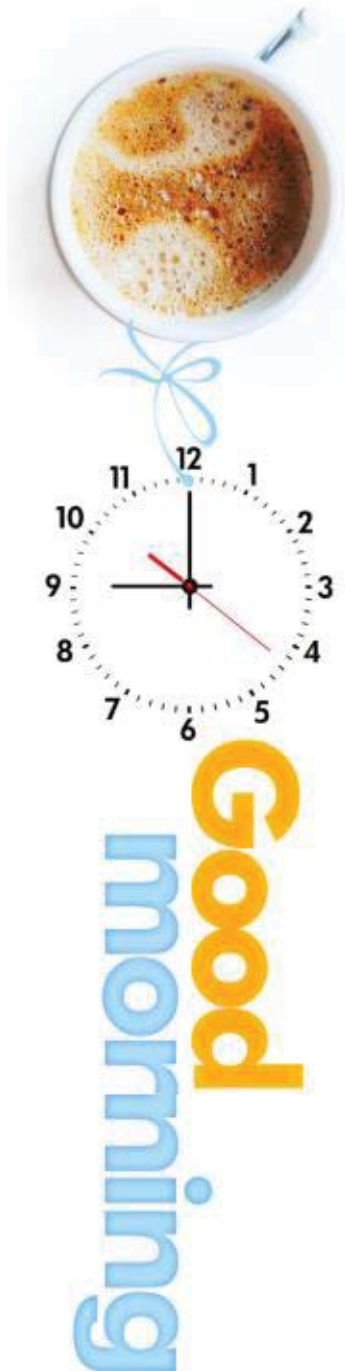
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GLSA – Florida Keys – May 2016



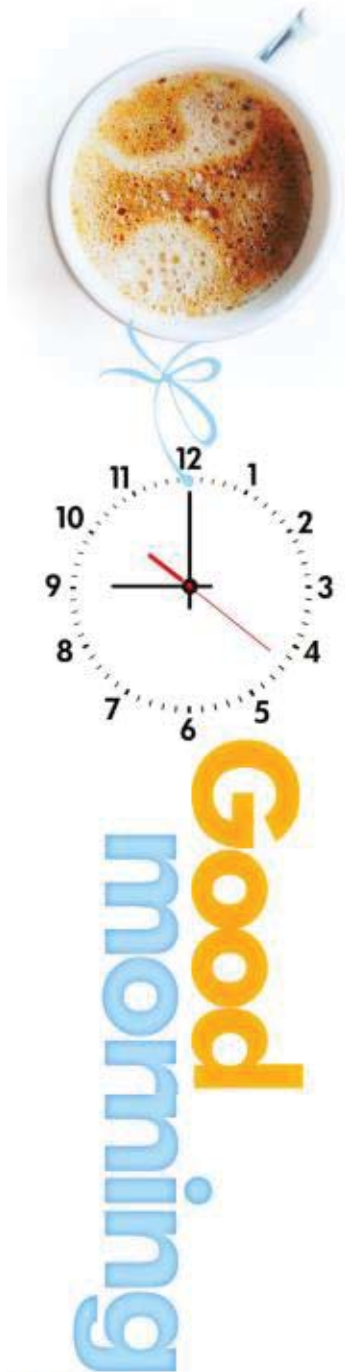
FDCPA

- Third party collectors only
 - Includes Collection Attorneys
 - Includes Debt Buyers
- Consumer Debt Only
- Federal Law
 - Okay to file in Federal Court
 - Okay to add State claims
- Most provisions – strict liability



FDCPA – Typical Violations

- Excessive Calls
- Threats
 - Including lawsuits
- Third Party Disclosure
- Invalid Debt
- After Hours (before 8am or after 9pm)
- Calls to work (after warning)
- Attorney representation

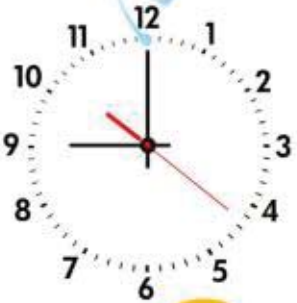


FDCPA - Validation

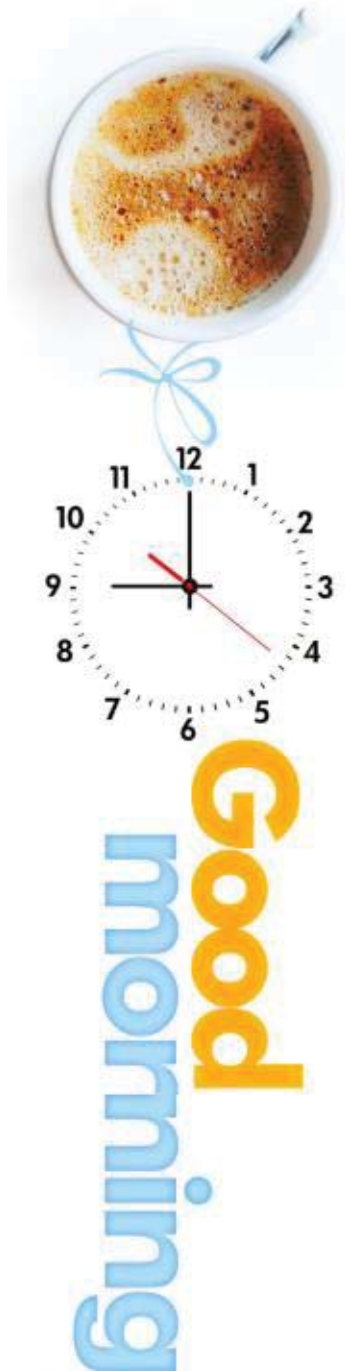
- Must send 1692(g) letter within 5 days of first attempt to collect.
- Must have specific language regarding Validation and regarding Dispute
- 30 day window – don't mess this up!
- No ability to COLLECT until debt is validated
- No time limit
 - State laws may be better; New York

FDCPA – Attempt to Collect a Debt

- Calls
- Letters
- Filing of a lawsuit
- Reporting on a credit report

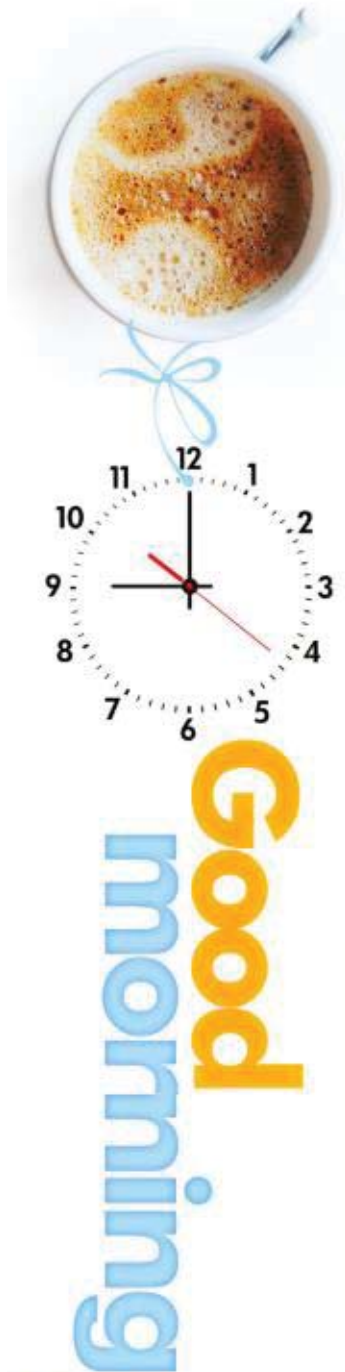


Good
morning



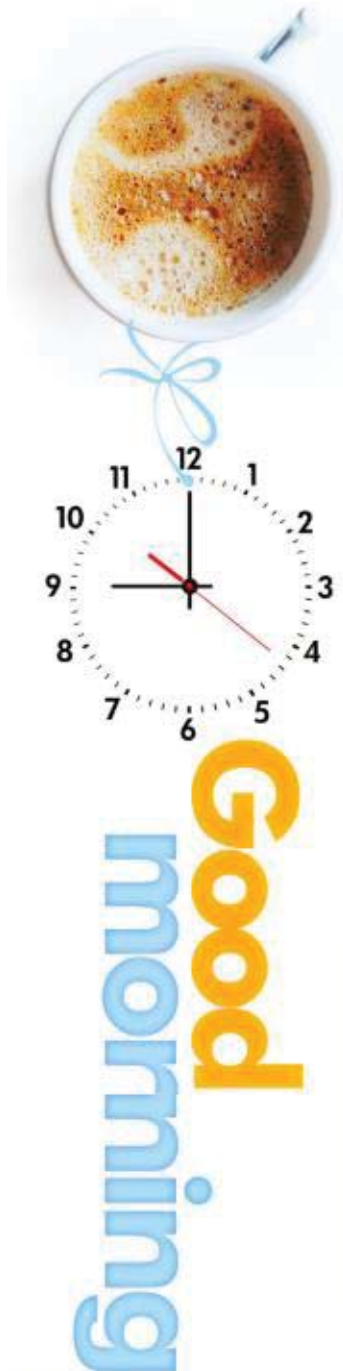
FDCPA - Damages

- Attorney's Fees
- Statutory
 - Typically \$1000
 - Some state laws will increase this
- Actual
 - Emotional
 - Loss of Job
 - Inability to get credit



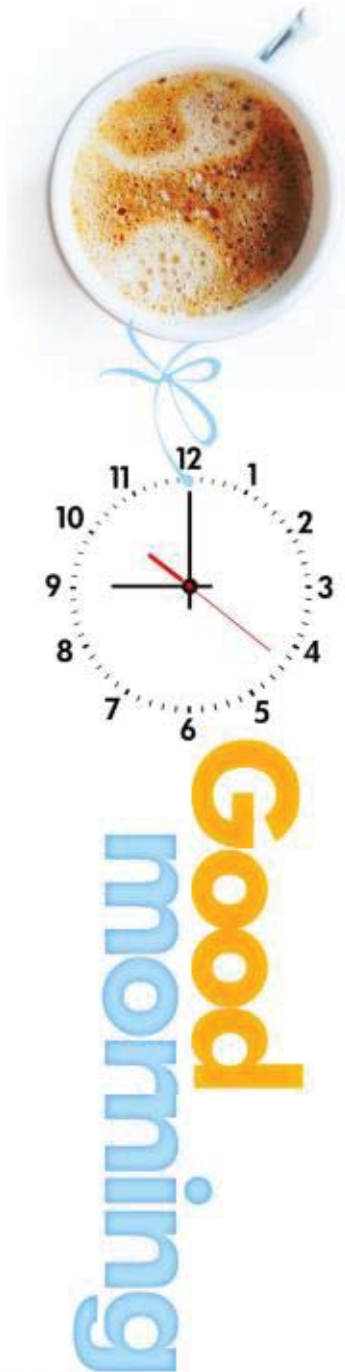
TCPA

- Not a collection statute!
 - Applies to telemarketers
 - Applies to 3rd party debt collectors
 - Applies to ORIGINAL CREDITORS!
- If collection – any debt – not restricted to consumer debt
- Federal Law
 - Okay to file in Federal Court
 - Okay to add State claims
- Most provisions – strict liability



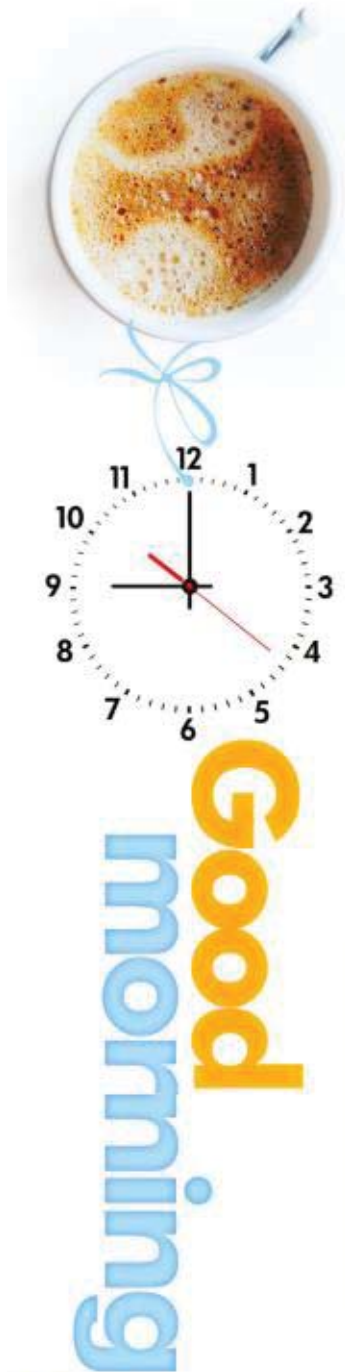
TCPA – What is it?

- Junk Faxes
- SMS messages
- Phones – CELL phones only*
 - Actually cell phone number – not a forwarded land line
- No one may call your cell phone:
 - With a auto-dialer
 - With a pre-recorded messaged
 - Without EXPRESS CONSENT
 - Applies to telemarketers



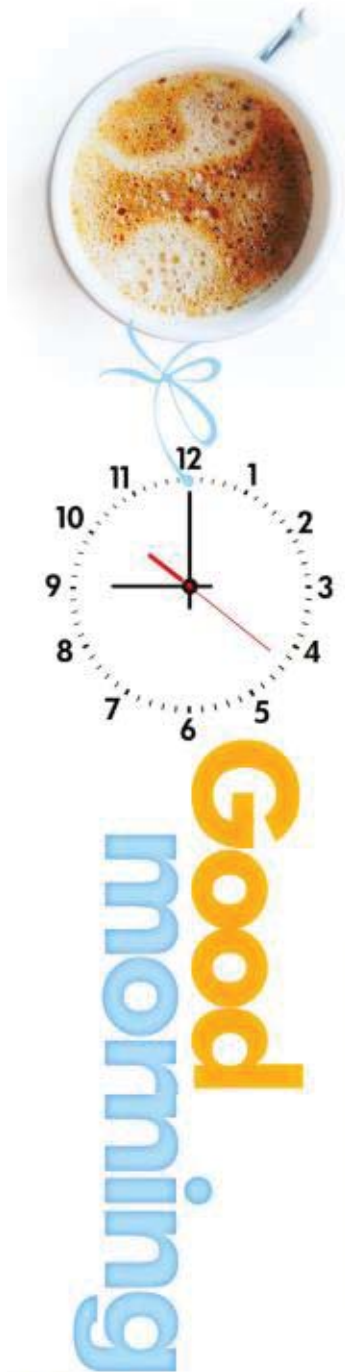
TCPA – Express Consent

- Opt in language for most situations
- Collections: number provided by debtor to creditor = consent is given
 - Collectors/debt buyers stand in the same shoes as original creditor
 - New cell numbers not provided to caller do not count – no “skip tracing”



TCPA –Consent Revocation

- Consent can always be revoked!
 - Written is always good
 - Oral revocation good in most jurisdictions
 - Bankruptcy
- Practice Tip: Keep great call logs!



TCPA – Damages

- No Actual Damages
- No Attorney's Fees
- \$500 - \$1500
 - Per Call Post-Revocation
- Practice Tip – try to combine both TCPA and FDCPA actions



Slide Title



Good
morning

Enjoy the rest of event in Key West!

Stuart Price

Price Law Group

800.884.6000

Taking cases Nationwide