

**Inside this issue:**

The Utah Association of Collectors Host Fundraiser 1

Sharpen Your Judgment 1

Collection FAQ 2

ACA Fastfax - Discussing Medical Debt Under FDCPA & HIPAA 2

Sharpen Your Judgment - The Decision 2

Vital to America's Economic Health 3

Meet Paula Wilson 3

The Eight-Step Telephone Collection Process 3

Monthly Recipe - Happy Roast Chicken 4



## The Utah Association of Collectors Host Fundraiser

In January, Utah Association of Collectors (UAC) members were able to join together to help someone who has supported our cause in the collection industry.

The UAC held a fundraiser luncheon for of Senator Stephen Sandstrom. Representative Sandstrom has been a member of the Utah House of Representatives for 6 years and is now running for Utah's 4th District Congressional seat. Attendees were able to meet Rep. Sandstrom and talk about issues that the collection industry faces.

Representative Sandstrom has shown support for the collection industry and small business by sponsoring and sup-

porting legislation that is important to both.

More specifically, he has sponsored the legislation to clarify the addition of collection fees which has helped agencies and their clients avoid nuisance lawsuits that were occurring prior to that legislation.

He has also worked on (and continues to work on) legislation clarifying that if a debt is a family expense as determined by Utah law then the parent who did not signed the contract is liable for the terms of the contract including collection fees, attorney fees, interest, etc.

This helps our clients because when a non-working parent is the one to take children for

treatment they sign the contract agreeing to these terms, but since they are not working, we can't recover the fees or costs from them. This would give us the ability to recover that money from the working spouse in the case of family expense debts.

We appreciate all the support Representative Sandstrom has shown for our industry and we're glad to be able to help him out in return.

For a look at how the collection industry effects the U.S. economy see the article featured on page 3. "Vital to America's Economic Health".

## Sharpen Your Judgment

This feature describes a recent legal conflict and lets you judge the outcome.

- Fax regarding verification of a consumer's employment considered a "communication"?

A debt collector faxed an employment verification letter to the consumer's place of employment upon the employer's request. The verification letter aimed to determine the consumer's eligibility for wage garnishment in relation to a debt owed by the consumer. The form displayed the debt collector's name, logo, address, phone number, and an ID number that represented the debt collector's internal account number for the customer.

The consumer alleged the debt collector violated the FDCPA by engaging in abusive and threatening debt collection practices and third-party disclosure.

Who won the case?

- Make your decision, then turn to Page 2 for the court's ruling.



**“Our calls are monitored and recorded.”**

## Client FAQ

**Am I allowed to add a collection fee on to the account in order to recover more of the money owed to me?**

Collection fees can usually be added if State Law does not prohibit it and if you have a contract signed by the customer agreeing to pay collection fees. The law in Utah states that you can add the same amount you are charged by the collection agency, not to exceed 40%. You must have a contract signed by the customer agreeing to those terms.

**Once the account is in collections, how much information should I give the customer when they call me?**

If a customer contacts you after they have been assigned to our office for collection, refer them to our office. It is common for customers to try and go back to the original creditor in an effort to avoid dealing with the agency.

**If a customer says that a collection representative treated them badly, is there a way to verify that?**

Our calls are monitored and recorded. In many cases we will be able to email you the phone call. If there are privacy or HIPAA issues, we may not be able to provide the recording to you, however, a manager will review the call and give you a report regarding the actions of the representative.

*“The liability of a spouse will vary according to state law.”*

### ACA Fastfax - Who Debt Collectors Can Discuss Medical Debt Under the FDCPA & HIPAA?

The Privacy Rule and the FDCPA do not conflict in regards to communication with a spouse/guardian. An entity that is subject to the FDCPA and the Privacy Rule (or that must act consistent with the Privacy Rule as a BA of the CE) can comply with both laws because the Privacy Rule permits an entity to exercise discretion when disclosing information about one individual to another.

For the purposes of § 805 of the FDCPA, the term “consumer” also includes the consumer’s spouse, parent (if the consumer is a minor), guardian, executor, or administrator.<sup>6</sup> The terms “guardian, executor or administrator” are not defined in the Act. The definition of such terms is generally a matter of state law and may vary from state to state.<sup>7</sup> Additionally, a debt collector should ensure communicating

with a spouse that is not liable for the debt is permitted under state law.

The FDCPA defines a consumer (the responsible party) as “any natural person obligated or allegedly obligated to pay any debt.” Thus, a consumer’s spouse may constitute a consumer if the spouse is legally obligated to pay for the consumer’s debt. The liability of a spouse will vary according to state law.

Read the complete Fastfax [here](#).



**Judge the outcome from page 1**

## Sharpen Your Judgment - THE DECISION

The district court found the debt collector’s verification letter was not a “communication” under the FDCPA and therefore did not violate the Act’s prohibition against communicating with third parties.

As a result, the district court awarded \$4,543 in costs to the debt collector, pursuant to Federal Rule of Civil Procedure 54(d), which allows the court to award costs to a defendant if

the court finds the plaintiff brought the case in bad faith and for the purpose of harassment.

The consumer appealed.

The Tenth Circuit agreed with the district court’s holding that the fax was not a “communication” under the FDCPA. To constitute a third-party communication, the fax in question must’ve indicated it was in connection with the collection of a debt. However

the fax did not reference a debt, was aimed only at verifying employment and could not be construed to imply a debt.

Accordingly, the Tenth Circuit affirmed the judgment of the district court.

*Marx v. Gen. Revenue Corp., No. 10-1363, 2011 WL 6396478, – F. 3d – (10th Cir. Dec. 21, 2011).*

[www.acainternational.org](http://www.acainternational.org)

## Vital to America’s Economic Health

The U.S. economy is built on the premise that those who provide credit, goods and services have the expectation of being repaid.

For instance, recovering consumer debts helps...

- organizations survive (pay bills, payroll, etc.)
- prevent layoffs
- keep credit, goods and services available
- reduce the need for tax increases to cover government budget shortfalls

Third-party debt collectors are engaged in their local communities as valued civic leaders, employers, volunteers, philanthropists and taxpayers.

To measure the various impacts of third-party debt collection on the national and state economies, ACA International commissioned global advisory firm

Ernst & Young to conduct a survey in Fall 2011. [www.acainternational.org](http://www.acainternational.org)

### Impact of Third-Party Debt Collection

#### Returning Assets

Gross Amount Recovered	\$54.9 B
Commissions / Fees	\$10.3 B
Net Amount Collected	\$44.6 B

#### Providing American Jobs

Direct Jobs	148,272
Direct Payroll	\$5 B
Direct & Indirect Jobs	302,000
Direct & Indirect Payroll	\$10 B

#### Paying Taxes

Direct State / Local Taxes	\$509 M
Direct Federal Taxes	\$495 M
Total State / Local Tax Impact	\$1 B
Total Federal Tax Impact	\$970 M

#### Giving Back

Charitable Contributions	\$85.2 M
Employee Volunteer Hours	652,300

Source: Ernst & Young, 2011 – [www.acainternational.org/impact](http://www.acainternational.org/impact)



See the impact of third-party debt collection on the U.S. economy

## Meet Paula Wilson

Paula Wilson handles our electronic placements. With over 5 years of commitment to Express, she is an important asset to our company. Here is a little about her.

“When I started working for Express, it was only suppose to be for a short time to help with expenses of the house. When do things ever go as you planned? I have been here 5 years now and I have learned a lot. In the beginning, I worked in the clerical department doing

data entry. After a short time, I was trained on handling bankruptcies. After being at ERS for 6 months, I had the opportunity to take over electronic downloads. Talk about pressure! At first I was very nervous because there is quite a bit to remember and every client is different. I have been doing downloads since and still learn something new every day. Express is a great place to work and everyone is great to work with. Everyone looks out

for each other and you don't see that very often. Outside of Express, I enjoy spending time with my family. My husband and I are on the school board at Viewmont High where my son and daughter attend. My son plays football in the junior league and my daughter loves drawing and of course, boys. Our kids keep us busy and soon we will be celebrating 15 years this May.”



“When do things ever go as planned?”

## The Eight-Step Telephone Collection Process

Did you know that there is a process whenever we are on a collection call?

Our collectors adhere to the steps of this process known as The Eight-Step Collection Process. This process is extremely important because your voice is the main way you will communicate in order to achieve the desired result.

A single phone call has so many dimensions, depending on the situation, a collector may use all eight steps or repeat one or two several times before the call is complete and payment in full (PIF) is obtained.

We will go over each step of this process in detail throughout the coming months so keep an eye out on this section to learn more!



“Your voice is the main way you will communicate..”

1 Identify the consumer	2 Identify yourself	3 Request payment in full	4 Psychological pause	5 Determine the problem	6 Determine the solution	7 Close the deal	8 Update the consumer's file
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Dispute Department - [disputes@expressrecovery.com](mailto:disputes@expressrecovery.com)

Check Verification Services - [checks@expressrecovery.com](mailto:checks@expressrecovery.com)

Electronic Placements:

Initial - [mcamp@expressrecovery.com](mailto:mcamp@expressrecovery.com)

Subsequent - [epd@expressrecovery.com](mailto:epd@expressrecovery.com)

**Monthly Recipe - Happy Roast Chicken**

Prep Time: 5 min. Cook Time: 1 Hr 15 Min Ready In: 1 Hr 35 Min

**Ingredients:**

- 1/2 c. dry white wine
- 2 lemons, cut in half
- 6 large cloves garlic
- 1 (4 lb) whole chicken
- 1 1/2 tsp cold butter
- 2 T Dijon mustard
- Salt and pepper to taste



**Directions:**

1. Preheat oven to 425 degrees F (220 degrees C). Pour the wine into a 10 inch cast iron skillet; set aside
2. Place the lemon halves and garlic cloves into the cavity of the chicken. Slide half of the butter underneath the skin of each breast. Rub the chicken all over with the Dijon mustard, then season to taste with salt and pepper. Place into the cast-iron skillet.
3. Bake the chicken in the preheated oven for 15 minutes, then reduce the heat to 350 degrees F (175 degrees C), and continue baking until no longer pink at the bone and the juices run clear, about 1 hour more. An instant-read thermometer inserted into the thickest part of the thigh, near the bone should read 180 degrees F (82 degrees C). Remove the chicken from the oven, cover with a double sheet of aluminum foil, and allow to rest in a warm area for 15 minutes before slicing.

**Suggestions:**

Use the remaining roast chicken drippings for this yummy broccoli side dish.

**Ingredients:**

- 1/4 c roast chicken drippings
- 1 head broccoli, cut into florets
- 2 cloves garlic, chopped

**Directions:**

1. After roasting a chicken, remove it from the roasting pan and place on a serving tray to rest. Leave the oven on. Pour off excess drippings from the roasting pan, leaving just enough to coat the broccoli. Toss broccoli and garlic in the drippings until coated and place in the still hot oven. Roast for 5-8 minutes, until tender.

[www.allrecipes.com](http://www.allrecipes.com)