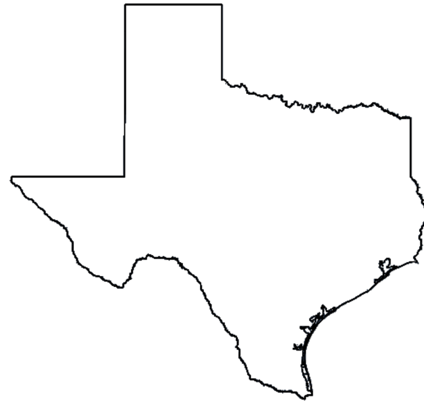
DEBT COLLECTION LAB

More Paper in Texas:

An Evaluation of Debt Documentation Reforms in Harris County Justice of the Peace Courts



By Abhay Aneja, Luis Faundez, Dalié Jiménez, Claire Johnson Raba, Prasad Krishnamurthy, Doug A. Lewis, and Manisha Padi

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EXECUTIVE SUMMARY

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] The glut of debt collection lawsuits has given rise to concerns among consumer advocates and defendants.

Defendants face significant losses from collections actions filed with inadequate documentation.[3] Without, 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 they do not owe. These debts 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.[4] 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."[5]

In 2013, Texas implemented Rules 508.2 and 508.3, reforming court rules that specified the documentation required by debt collectors to file and obtain judgments in state courts. The rules imposed additional burdens on third-party collectors, relative to original collectors. The dual aims of these rules were to protect debtors against abusive collection practices while simultaneously increasing efficiency of collection for debt collectors with full documentation. This report uses an event study design to causally infer the effect of the Texas rule changes as applicable to third-party collectors, relative to original creditors. We study court outcomes, based on a dataset of nearly 175,000 court cases filed in Harris County, Texas between 2010 and 2017.

We show that the Texas documentation rules had mixed impacts on court outcomes. We find that:

- The rules **did not significantly impact the number of debt collection filings**.
- The **fraction of defendants facing third-party debt collection actions that were represented by an attorney decreased relative to those facing original creditors** after the Texas rule change. This decrease was progressive and by 2017, the attorney representation rate for defendants sued by third-party creditors was 5 percentage

points lower relative to defendants sued by original creditors, which is approximately 62% of the average attorney representation rate during the period studied. The law may have influenced the availability or willingness of attorneys to represent these defendants, and that defendants may have been assisted by legal aid programs or self-help centers (this limited-scope assistance is not captured in court data).
- The Texas rules **did not significantly affect judgment amounts or time to judgment**. Third-party debt collectors and original creditors followed the same trends in judgment throughout the study period, despite third-party collectors being subject to additional evidentiary requirements after the passage of Rules 508.2 and 508.3.
- The rules did not have any significant effect on dismissal rates or the time to disposition.

Texas is one of several states that have enacted documentation reforms, although few laws are the same. This study presents a baseline of data against which to measure additional changes and to engage in further study. This study examines data available through court records, but more research, including an understanding of compliance with the state law changes, is needed to determine whether these laws have had their intended effect.

BACKGROUND

Lack of documentation originates in the structure of the collections industry, beginning with when original creditors sell consumer accounts to buyers with inadequate supporting documentation or fail to guarantee the accuracy of the information provided.[6] 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.[7] In 2015, Jiménez documented how purchase agreements frequently disclaimed warranties and representations about the accuracy of the information sold.[8] As debts are then transferred multiple times between buyers across the debt assembly line, spreadsheet files can accumulate errors and original documentation may be lost, making it increasingly difficult to guarantee the integrity of the information that buyers use in collections.[9]

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 are unlikely to have personal knowledge of the case.[10] 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 placement of judgment liens on property.[11]

Both federal and state regulations have attempted to improve defendants' experience with debt collection. However, additional documentation requirements have received pushback from debt collectors. Adding documentation requirements may be at odds with addressing systemic slowdowns in courts across the nation.[12] Making collection more costly can decrease the supply of credit[13] or push borrowers to lenders with more predatory practices.[14] Because documentation rules may impact the financial welfare of borrowers, courts should ensure that reforms meet the intended goals of improving outcomes for defendants.

History of the New Court Rules

In 2008, the Texas State Bar published a report developed by the Court Administration Task Force on the state of civil process in the state, with a focus on debt collection actions. The report called for reforms to "simplify the distinction between the justice of

the peace and small claims courts" using four core principles: efficiency, simplicity, flexibility, and excellence.[15] Under the "efficiency" and "simplicity" principles, the report recommended the Texas legislature consolidate justice of the peace and small claims courts into a single jurisdiction by repealing the state law that created Texas's then-small claims court and "authoriz[ing] the Texas Supreme Court to promulgate new rules for "justice courts to exercise jurisdiction over small claims."[16] The report suggested that small claims court judges should be permitted to provide assistance to litigants during trial and that the new rules should include relaxed standards for pleadings, discovery, and rules of evidence. These changes were implemented in 2011.[17]

Following the consolidation of the justice of the peace and small claims courts, the state Supreme Court authorized a Task Force for Rules in Small Claims Cases and Justice Court Proceedings in 2011.[18] This Task Force was composed of justices of the peace and practitioners involved in justice court administration. The Task Force explained that their goal was "to reward plaintiffs who have all the necessary proof with an expedient, predictable, inexpensive process, while also protecting defendants from many of the inherent problems in these suits, including an often disturbing lack of proof."[19]

The Task Force's recommended rules included several requirements that could help protect borrowers from illegitimate collections. They required third-party collectors to submit detailed documentation about the debt, as well as information about the full chain of title as the note passed from the original owner.[20] Moreover, in order for collectors to win a default judgment in cases where the defendant failed to appear, the Task Force rule required that third-party creditors provide an affidavit from the original creditor, tightening evidentiary standards that would otherwise allow third parties to swear to the recordkeeping quality of prior assignees.[21] Taken together, these rules would have significantly increased the chances that courts could distinguish legitimate from illegitimate collections even without the debtor appearing.

What the Rules Do

A debt collection case in Texas is initiated when a plaintiff files a petition with the court. A case may begin in civil court or in the Justice of the Peace Courts. During the study period, the jurisdictional amount for cases brought in the Justice of the Peace Courts was $10,000. That limit was increased to $20,000 in 2020, raising the stakes in these cases.[22] Cases up to the statutorily-authorized amount are filed in Justice Court, regardless of whether they are designated as small claims or civil matters.[23] Once a petition is filed, the court generates a summons, which is served on the defendant, along with the petition, either by personal service or by certified mail, return receipt requested.[24] Civil cases require litigants represented by an attorney to use e-filing, but

litigants without an attorney may file in person at the courthouse, or by mail.[25] Texas Rule of Civil Procedure 508.2 mandates that specific documentation be included in the petition.

A defendant has 14-20 days to answer, depending on where the case is filed. If the case is filed in Justice Court, a defendant must respond by the 14th day after service, using the court-mandated answer form.[26] If the case is filed in civil court, a defendant has until the "Monday next after the expiration of 20 days after the date of service thereof" to respond, and there is no required court form that must be used for the answer.[27] There is no cost to file an answer in either Justice Court or civil court. If a defendant does not answer by the deadline, the plaintiff may request that the court enter a default judgment against the defendant.[28] Texas Rule of Civil Procedure 508.3 requires that proof of the damages sought be included in the application for default judgment.

Within the Texas Justice Courts, a "Debt Claim Case" is designated as a "claim for the recovery of a debt, brought by an assignee of a claim, a debt collector or collection agency, or by a person or entity primarily engaged in the business of lending money at interest . . . for no more than $10,000 in damages."[29] A party may only serve discovery on an opposing party in a case filed in the Justice Courts by first filing a written motion with the court and only upon order of the court.[30] In cases where a defendant files a response, the court will set for either pre-trial hearing or for trial, and the case will proceed to trial.[31]

We study the final promulgated version of Rules 508.2 and 508.3, adopted in 2013. Rule 508.2 sets forth the information plaintiffs must allege in their petition for a debt claim suit.[32] According to the Task Force, the requirements were selected to help reduce mistaken identity cases and ensure the defendant has information about which debt is subject to the lawsuit. These requirements included the identity of the defendant and original creditor, credit information such as the date of origination, late payment, charge-off date and account, date and amount of last payment, interest claimed, and information concerning the plaintiffs and any assignment of the debt. The proposed Rule also required third-party debt collector plaintiffs to plead that they have complied with Texas's bonding requirements for third-party debt collectors, but the final rule as codified does not have this requirement.[33]

Rule 508.3 governs default judgment proceedings.[34] The new rule requires judges to "promptly render a default judgment" upon the plaintiff's proof of the amount of damages if the defendant does not file an answer or appear in the case, which eliminates the court's discretion in assessing the sufficiency of the petition.[35] The rule also allows plaintiffs to offer a sworn statement in lieu of in live testimony to establish evidence of

their damages, instead of requiring written documentation evidencing the debt. The new rule allows a representative from the debt buyer (such as an employee) to attach a sworn statement attesting to documents from a third-party that establishes the existence of a debtor's account and the plaintiff's damages. The final rule prohibits judges from rejecting a sworn statement "only because it is not made by the original creditor or because the documents attested to were created by a third-party."[36]

The Texas rule changes impacted both original and third-party debt collectors. All debt collectors now have systematic guidelines for documentation around the amount of debt being collected. The main difference between original and third-party collectors is that, according to Rule 508.2, third-party collectors need to swear

(A) that the debt claim has been transferred or assigned;
(B) the date of the transfer or assignment;
(C) [list] the name of any prior holders of the debt; and
(D) [list] the name or a description of the original creditor.

On the other hand, third-party creditors were given an advantage in obtaining default judgments in Rule 508.3, which stated that "a judge may not reject a sworn statement only because it is not made by the original creditor or because the documents attested to were created by a third-party and subsequently incorporated into and relied upon by the business of the plaintiff." Our aim is to test the impact of these differential burdens placed on third-party collectors.

Writing about debt collection laws in Texas, Professor Mary Spector and attorney Ann Baddour state that "the Texas rules appear to promote efficiency over consumer protection by keeping evidentiary burdens at a minimum, enabling non-attorney representation of corporate entities as a matter of course, and permitting expedited disposition without the need for a hearing."[37] Spector and Baddour find that collection litigation practices did not change markedly after implementation of the rules, with some suggestive evidence that consumer outcomes worsened.[38] Below, we proceed to test some of the predictions their work generated.

DATA AND METHODOLOGY

The Data

We obtained Texas court record data from January Advisors, a collaborator of the Debt Collection Lab. January Advisors scraped small claims and civil collection case data from the Justice of the Peace Courts in Harris County, Texas.[39] Harris County, which includes the city of Houston and its surrounding metro area, had a population of 4.7 million in 2020, comprising 16% of the total Texas population.[40] Our dataset spans 16 courthouses and includes 117,007 court records from January 4, 2010, through December 29, 2017, covering two types of cases: Small Claims and Debt Claims. During our study period, both types of claims were limited to $10,000 in damages, including attorney's fees.[41]

It would be ideal to conduct this study on all Justice of the Peace (JP) courts in Texas. Unfortunately, few counties in Texas collect or report the JP data in the level of detail as Harris County. And of course, there are other states like Connecticut and California that report far more than Harris County does (for example, answers, proofs of service, and satisfactions of judgment).[42] While Harris County only represents 16% of the total Texas population, we have no reason to believe that debt collectors in the county would behave and/or change their behavior in response to the new rules in a different way than debt collectors in the rest of the state or that the set of debt collectors participating in the county might be significantly different from debt collectors in the rest of the state.

Before the 2013 rule changes described above, Texas prohibited debt buyers and assignees of debt from using the Small Claims court.[43] Their only official recourse before the changes was to file in courts of record—district and county courts—which are more expensive and have additional procedural barriers. Rule 508 abolished small claims court and moved all cases to JP Courts where it created the "Debt Claims" category, which was then defined as "a claim for the recovery of a debt, brought by an assignee of a claim, a debt collector or collection agency, or a person or entity primarily engaged in the business of lending money at interest."[44] This is narrower than the typical definition of consumer debt—debts incurred for personal or household purposes, which would include auto loan deficiencies and medical debt claims brought by the original lender. These types of debts remain in the JP courts under the Small Claims Case category, which is why we include those cases here as well.[45]

Despite the pre-2013 prohibition, a review of our data (obtained from the court through a public portal)[46] reveals that about 28% of cases categorized as "Small Claims" and filed

before September 1, 2013 were filed by third-party collectors. A review of our data also reveals that 32.3% of all Small Claims cases filed after September 1, 2013, were filed by third-party debt collectors, rather than these cases being designated in the court's case management system as Debt Claims. Although the rules seem to imply that these assignees of debts (many of them registered with the Texas Secretary of State as such) would need to bring these cases as Debt Claims subject to the Debt Claims rules, there is no specific mandate that a case that meets the definition be brought as a "debt claim." Texas Rule of Civil Procedure 500.3 contains information about "Debt Claim Cases" as a definition, and there are some benefits to the plaintiff by designating a case as a Debt Claim, such as the ability to have default judgment entered without a hearing, in addition to heightened documentation requirements.[47]. We note that our findings show that almost one-third of Small Claims cases were filed by third-party debt collectors after the Debt Claims category became available, rather than being designated as Debt Claims Cases. However, this is still a small amount of the total cases filed in our study, because Small Claims cases comprise only 1.78% of the total. It is our position that the law applies to cases that meet the requirements to be a Debt Claim Case regardless of whether the plaintiff selects this category at the time of electronic filing.

Statistical Methodology

Texas' state law change imposes higher burdens on third-party debt collectors, which allows us to estimate the causal effect of additional documentation rules through a difference-in-differences (DiD) approach. To evaluate the law, we focus on debt collection cases and court-related outcomes such as attorney representation, time to judgment, judgment amount, and number of filings.

Like our similar studies in California and Connecticut, we are most interested in high-volume filers. We therefore filtered our data to debt collection cases where the plaintiff had filed at least 20 cases in any one year during the study period. We then classified each of these plaintiffs as either original creditors or third-party debt collectors.

To classify plaintiffs, we scraped the Texas Secretary of State database for its list of licensed debt collectors.[48] After normalizing both lists, we matched small claims and civil court plaintiff names with the list from the Secretary of State. Those who matched were classified as third-party creditors. We then searched the cleaned and normalized plaintiff names for key words indicating they were an original creditor. The list was generated from the data itself. Some examples: bank, banking, medical, dental, hospital, title loans, and the names of large creditors in the data such as Citibank, Capital One, Aaron's Inc.[49] We iterated through the list until 87% of cases were classified as either original or third-party creditors.

We excluded any case where the defendant was a business, determined by searching for words such as LLC, Inc, Corp, Co, and LP, in the defendant's name. We excluded subrogation lawsuits brought by insurance companies. Insurance subrogation claims arise from contracts between insured and insurers, in which a third party may be sued to recover amounts paid out. When a person found at fault is uninsured—or underinsured—an insurance company which has paid out pursuant to a policy with its insured may in turn sue the person it believes to be actually at fault. In these cases, the person sued does not have a contractual relationship with the insurance company suing them. They are being sued to collect amounts paid out by an insurer to their insured, and the claim against the defendant is called an insurance subrogation claim. These claims differ from contract consumer debt because the origination of the claim was a tort rather than a contract dispute, and the claim to recover is authorized by a statute that allows insurance companies to seek recovery for subrogation claims.[50] We exclude these claims because the defendant did not receive goods, services, or credit that would qualify these amounts as a consumer debt under any state or federal definition of the term.[51]

Finally, we created binary variables to test the presence or absence of events in court records, including defendant participation in the case, representation by counsel, case disposition (including tracking entry of judgment and dismissal), and time to judgment.We identified and selected these variables from the broader data set and renamed the variable names to standardized names used by the Debt Collection Lab.

The DiD methodology compares outcomes (e.g. number of filings) of parties more affected by the new rules, in this case filings by a third-party, to outcomes of parties less affected by the rules, in this case filings by the original creditor, before and after the new rules went into effect in 2013. To account for compositional shifts in plaintiffs over time 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 the deviations from the average outcome of third-party plaintiffs to the deviations from the average outcome of original creditor plaintiffs and takes the difference between these before and after 2013. If there was no significant difference in the periods before the introduction of the rule, the outcomes were on parallel trends that we assume would have continued after 2013 if there had been no legal change. If this assumption holds, the difference-in-differences estimate is an unbiased, causal quantification of the effect of Texas' third-party documentation requirements on outcomes. To validate our assumptions and generate our estimates, we plot event study graphs that estimate differences in each period and check for parallel trends.

RESULTS

We study the impact of the Texas' law change on several outcomes including attorney representation, time to judgment, judgment amount, dismissal rate, time to disposition, and number of filings. Attorney representation is a dummy variable equal to one if the defendant was represented by an attorney, zero otherwise. Time to judgment measures the number of weeks elapsed from the day of the debt collection filing to the day a judgment was issued. Judgment amount is a continuous variable measured in dollars. To study the effects of the rule on the dismissal rate, we created a dummy variable equal to one if the case was dismissed, zero otherwise. Time to disposition measures the number of weeks elapsed from the day the case was filed to the date of disposition, which includes not only judgments but also cases which were settled or otherwise dismissed without an entry of judgment. Finally, to study changes in the number of filings, we aggregate filings by creditor in each courthouse in a given quarter.

Table 1 shows the means and standard deviations for all the outcomes studied. Between 2010 and 2017 there were almost 5,500 filings per quarter per court on average. Approximately 51.3% of the filings corresponded to filings by third-party plaintiffs. In only 8% of the cases, the defendants were represented by an attorney. Defendants sued by a third-party plaintiff were 4.4 percentage points more likely to be represented by an attorney than those sued by the original creditors. The average judgment amount was $1,723. The average time to judgment was 49 weeks (about 11 and a half months). This time was significantly greater for cases filed by third-party plaintiffs than those filed by original creditors, 52.5 weeks versus 45.2 weeks respectively. Even though there were minor differences in the proportion of cases dismissed by type of plaintiff, averaging 39% of the cases, the time to get a disposition varied significantly by plaintiff type. A disposition includes both judgments and dismissals, which may include settlement agreements with payments over time. Cases filed by third-party plaintiffs got a disposition after 60 weeks on average, while it only took original creditors 49 weeks to get a disposition.

Table 1 - Summary Statistics Whole Period (2010-2017)

	Total	Original Creditor	Third-party	Difference
Average Filings per Quarter	5,495	2,674	2,820	-145
	(1,889)	(1,218)	(1,015)	(213)
Attorney Representation Rate	0.081	0.058	0.102	-0.044*
	(0.011)	(0.009)	(0.017)	(0.003)
Judgment Amount ($)	1,723	1,746	1,728	18
	(372)	(447)	(341)	(54)
Time to Judgment (Weeks)	49.2	45.2	52.5	-7.3*
	(8.7)	(7.9)	(10.9)	(1.2)
Dismissal Rate	0.390	0.400	0.383	0.017
	(0.067)	(0.094)	(0.046)	(0.012)
Time to Disposition (Weeks)	54.9	48.6	60.1	-11.5*
	(8.1)	(6.5)	(11.9)	(2.1)

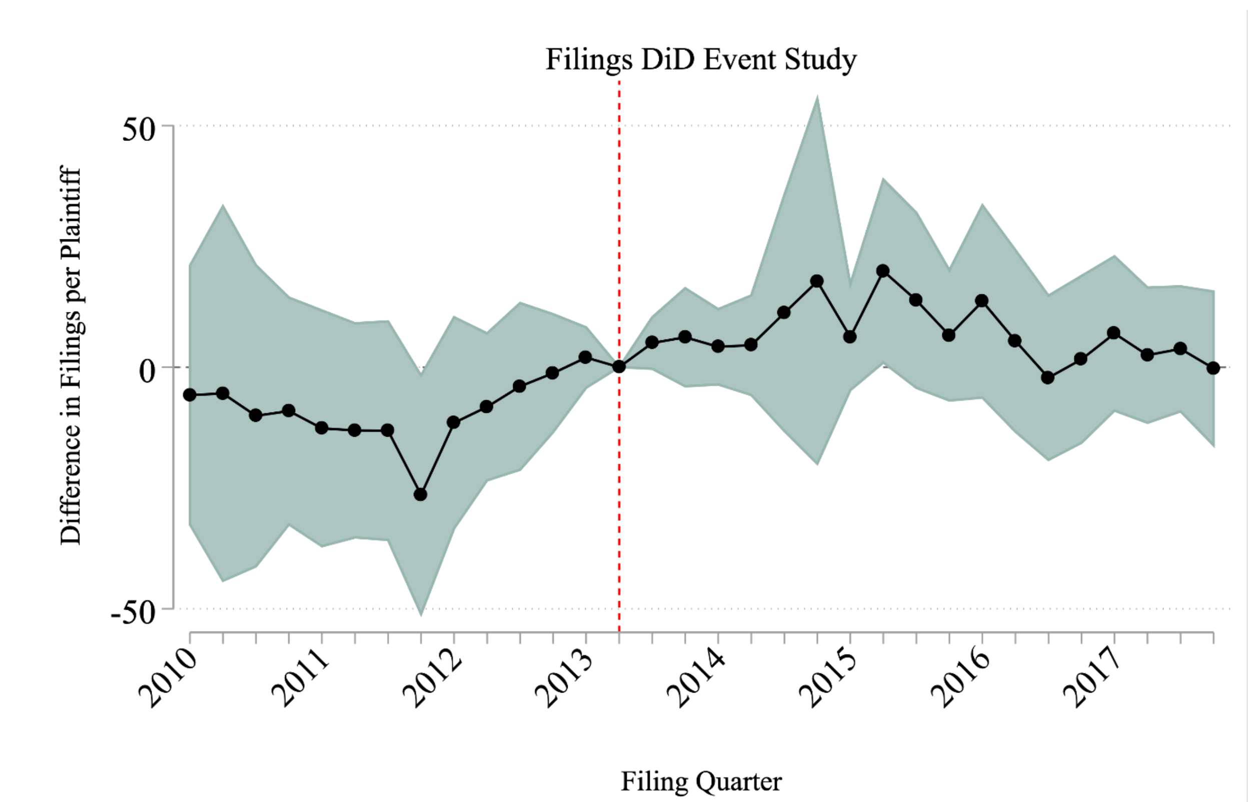
Notes: Standard Deviations in parenthesis. One percent of filings during the period were by plaintiffs who initiated fewer than 20 cases per year and so were not categorized as original creditors or third-parties and excluded from the analysis.

*Indicates that the difference between Original Creditor and Third-party is statistically significant at 95% confidence level.

No Significant Difference in Filings

We find no evidence that the new court rules influenced filings by third-party plaintiffs. To study the impact of documentation changes in Texas on the number of filings, we aggregate the case level data to number filed by each plaintiff in each 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 before September 2013. Similarly, there is no evidence of a statistically significant differential in filings after the law went into effect, which means that the difference in filing rates between the two types of creditors is within the margin of error. Though the point estimates seem to increase after the law is implemented, the estimates are imprecise with large confidence intervals, leading to the conclusion that no significant change occurred.

Figure 1 - Event Study for Filings



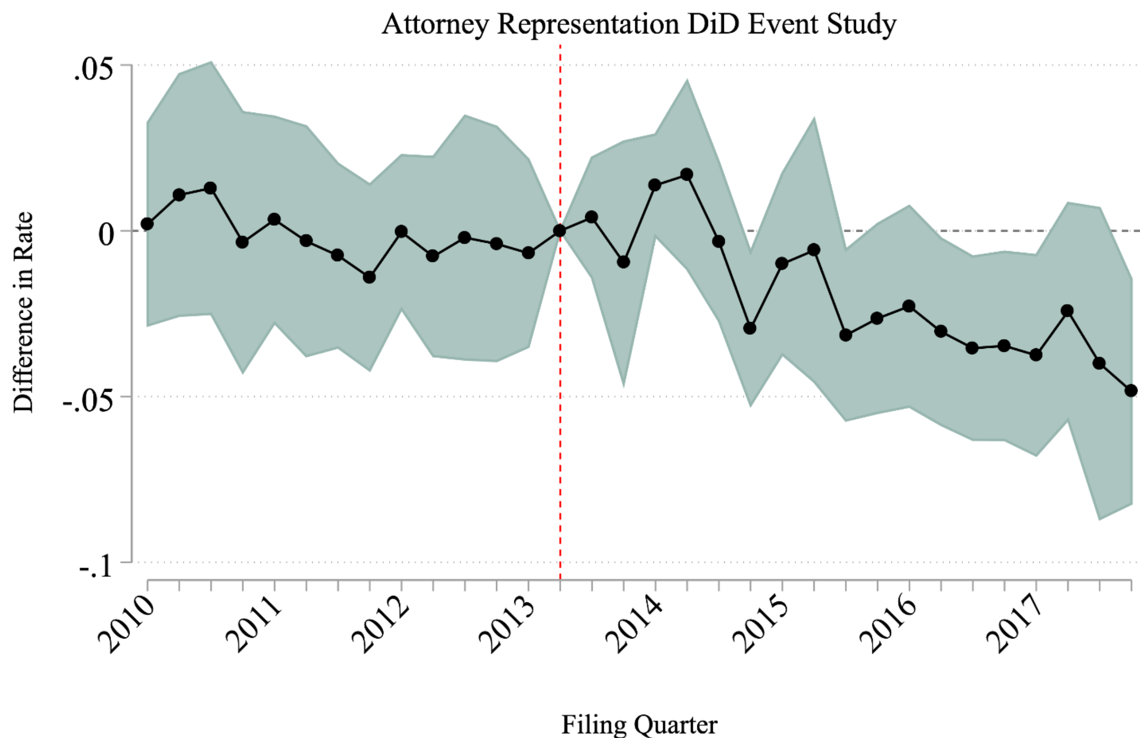
Note: each estimate represents the difference in the number of filings per plaintiff between third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the superior court rule went into effect (Q2 2013). Shaded area represents 95% confidence intervals.

Less Attorney Representation After Change

We find evidence that the new court rules led to lower rates of attorney representation in cases involving third-party creditors relative to cases involving original creditors. In our view, the potential effect of the court rules on attorney representation is ambiguous. On the one hand, more 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, more documentation could also lead defendants to think that an attorney is less likely to help them with their case.

Figure 2 depicts the findings for attorney representation. This picture shows evidence of the decrease in attorney representation after the law went into effect in 2013. There is no evidence of third-party and original creditor cases being on different trends prior to the legal change, since point estimates before 2013 are statistically equivalent to zero and flat. As soon as the law was implemented in 2013, there was no significant change, but about 4 quarters later, attorney representation rates dropped in third-party creditor cases, relative to original creditor cases. By 2017, defendants sued by third-party plaintiffs were approximately 5 percentage points less likely to be represented by an attorney than defendants sued by original creditors.

Figure 2 - Event Study for Attorney Representation

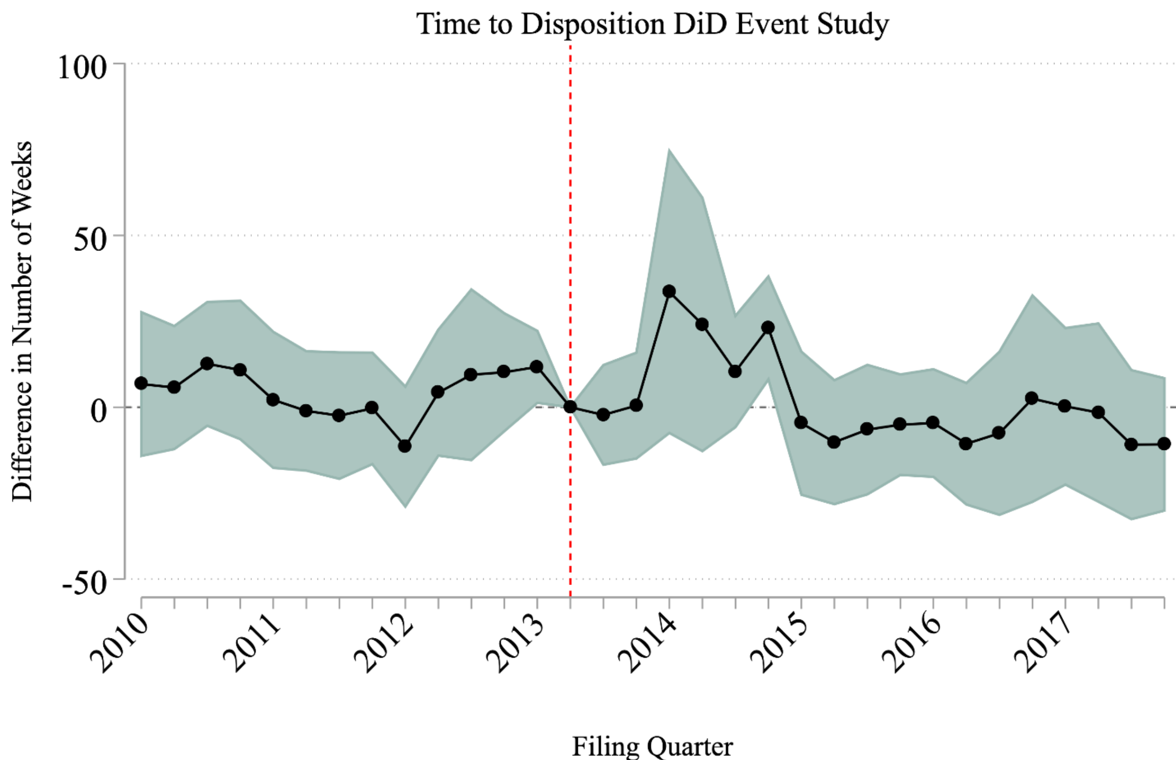


Note: each estimate represents the difference in the proportion of cases in which the defendant was represented by an attorney between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the superior court rule went into effect (Q2 2013). Shaded area represents 95% confidence intervals.

No Long-Lasting Effect on Time to Disposition

We find no evidence of a lasting effect of the new court rules on time to disposition. As shown in Table 1, there is almost a 12-week average difference between cases filed by third-party plaintiffs and those filed by the original creditors. That difference was not significantly affected by the new documentatation requirements that went into effect in 2013, as depicted in Figure 3. Although there is an increase in the point estimates a couple of quarters after the 2013 rule implementation, those estimates are imprecise making them indistinguishable from zero in a statistical sense.

Figure 3 - Event Study for Time to Disposition, by weeks

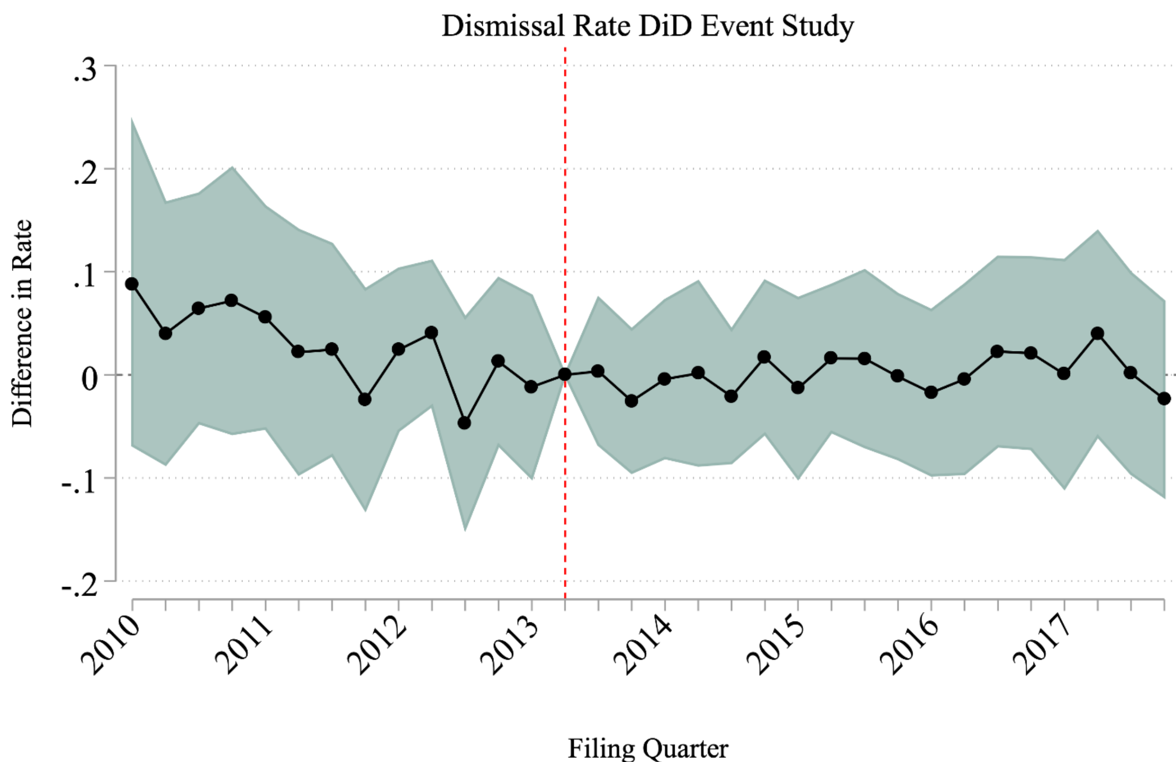


Note: each estimate represents the difference in the number of weeks it took to obtain a judgment between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the superior court rule went into effect (Q2 2013). Shaded area represents 95% confidence intervals.

No Significant Effect on Dismissal Rates

We find no evidence that the new court rules affected the rate at which cases involving third-party creditors were dismissed relative to cases involving original creditors. Figure 4 shows that the documentation rule introduced in 2013 had no effect on dismissal rates. After 2013, cases filed by third-party plaintiffs were dismissed at similar rates than cases filed by original creditors. Similarly, there is no evidence of third-party and original creditor cases being dismissed at differential rates prior to the legal change, since point estimates before 2013 are not statistically different from zero.

Figure 4 - Event Study for Dismissal Rates

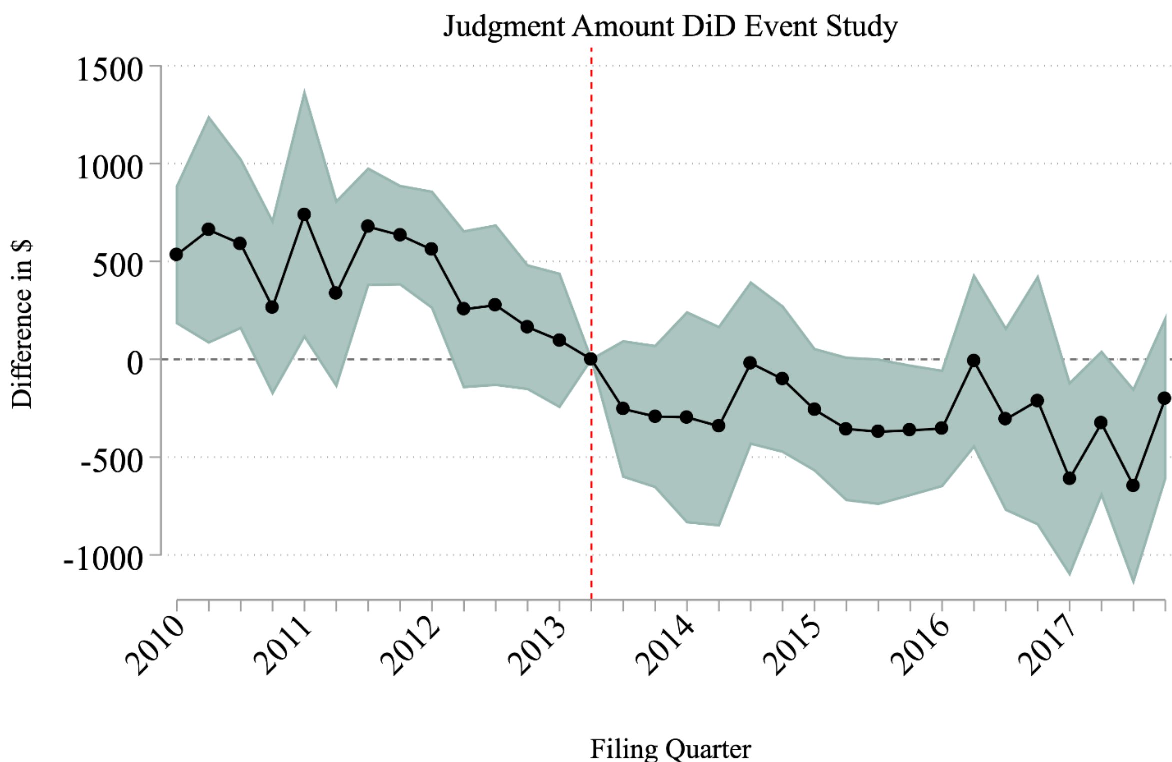


Note: each estimate represents the difference in the proportion of cases that were dismissed between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just before the superior court rule went into effect (Q2 2013). Shaded area represents 95% confidence intervals.

No Significant Effect on Judgment Amount

We find no evidence of a significant effect of the 2013 court rules on the judgment amounts. Figure 5 shows that the judgment amount for third-party plaintiffs was systematically higher than that of original creditors in the quarters before August 2013; however, there was a downward differential trend. Because the difference between third-party and original creditors started high and began to decrease before there was any change in the Texas law, the interpretation of the decrease prior to 2013 is a pre-existing trend rather than anything related to debt documentation. That downward trend continued after the law went into effect in 2013 for approximately 2 quarters to stabilize there after until the end of period analyzed in this report; however, this difference in judgment amount was not statistically different from zero. These results are not consistent with a valid and significant difference-in-differences result, and we cannot reject the hypothesis that the law left judgment amount unaffected.

Figure 5 - Event Study for Judgment Amount



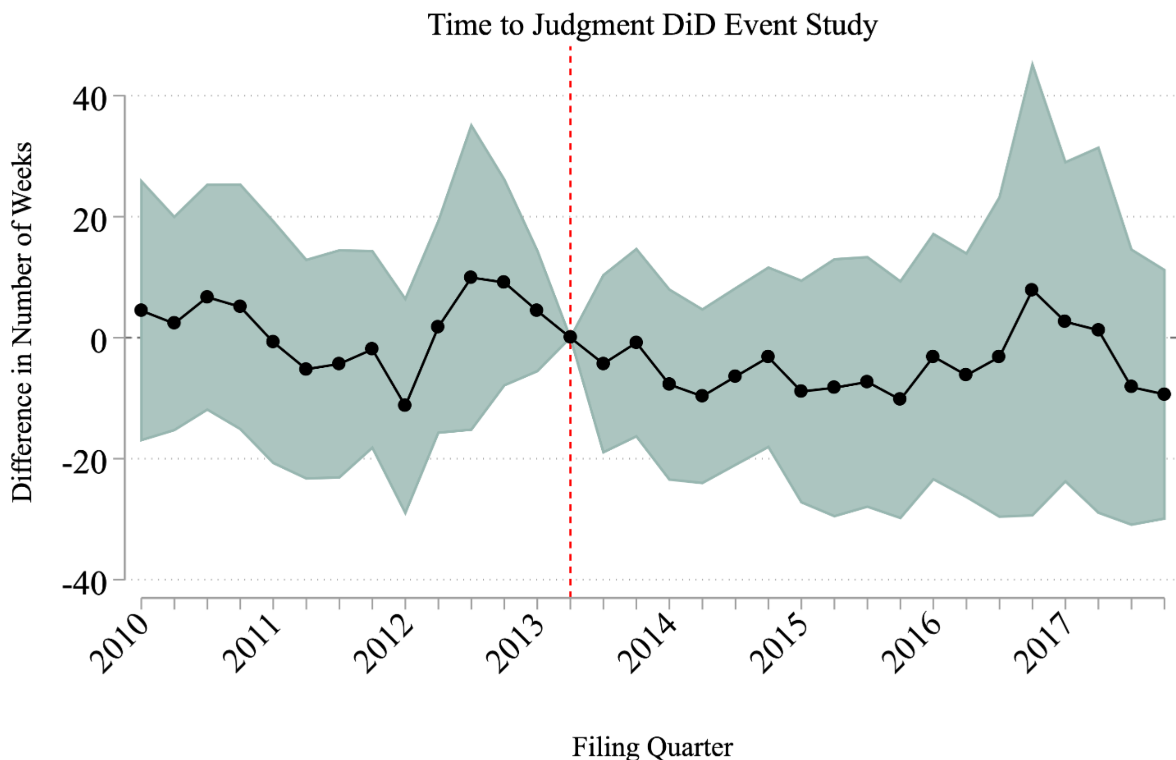
Note: each estimate represents the difference in the judgment amount between filings by third-party creditors and original creditors in a given quarter compared to the same difference in the quarter just

before the superior court rule went into effect (Q2 2013). Shaded area represents 95% confidence intervals.

No Significant Difference in Time to Judgment

We do not find evidence that the new court rules affected the time it took for third-party plaintiffs to obtain a judgment. Figure 6 depicts the average difference in time to judgment between cases filed by third-party plaintiffs and cases filed by original creditors. The first thing to note is that there were no differential trends before August 2013. After that there was no statistically significant differential change in the time it took third-party plaintiffs and original creditors to get a judgment. Third-party collector documentation requirements in Texas had no statistically significant impact on cases' time to judgment.

Figure 6 - 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 superior court rule went into effect (Q2 2013). Shaded area represents 95% confidence intervals.

DISCUSSION AND OBSERVATIONS

When Texas adopted court Rules 508.2 and 508.3, there were two key aspects to the rule's design that likely influenced its impact. First, the rules targeted all debts, including those by original creditors who typically have higher quality documentation as well as third-party debt collectors who often have or disclose less pertinent information. Baseline requirements that applied to all collectors included disclosing the date of origination, late payment, charge-off date and account, date and amount of last payment, and interest claimed on a debt. Such a change may itself have impacted collector behavior, since it imposes a cost on all collectors filing collection actions with the court. Assessing the impact of those documentation requirements empirically, however, is challenging because there is no natural comparison group facing otherwise identical requirements. Simply comparing outcomes in all cases before and after the rule adoption would not assess the causal effect of the rules, since any such comparison would also capture differences in time driven by long running trends in debt collection suits. Therefore, this analysis does not aim to assess the effect of *all* pertinent documentation rules Texas implemented. Instead, we study the impact of additional burdens placed on third-party debt collectors, allowing us to compare third-party and original creditors within the state, before and after the rule. Though this limits the scope of our analysis, rules that discipline the behavior of third-party collectors are of key interest to state and federal policymakers and our approach narrowly targets these actors.

Our results suggest that combining the twin aims of improving documentation and streamlining the process of obtaining a judgment may have resulted in a net neutral effect of the rule changes on a variety of key outcomes.

Second, the Texas rules were intended to serve two different, and potentially conflicting, goals. On one hand, they were intended to improve defendant outcomes by increasing the accuracy of debt documentation. On the other hand, they were meant to streamline the process of obtaining a judgment for debt collectors that had legitimate claims. Our results suggest that combining these two aims may have resulted in a net neutral effect of the rule changes on a variety of key outcomes. The primary causal effect of the rules was to decrease the fraction of cases where a defendant was represented by an attorney. There were no significant changes to the number of filings, judgment amount, time to judgment, dismissal rates, or time to disposition.

In the language of hypothesis testing, we cannot reject the hypothesis that the number of filings, value in controversy, judgment amount, and time to judgment were unaffected by the policy change. Nevertheless, these results could be disguising interesting effects.

The issue could be the statistical power of our study. Since we are studying just one county within Texas, it may be the case that with additional data, we would observe a significant effect on one of these outcomes. We hope to be able to expand this study in the future. Nonetheless, we may be seeing a true null effect, but one that is driven by cross-cutting impacts. For example, the aspects of the Texas rules that required third-party collectors to attest to the debt's legitimate purchase may have the effect of lowering filings, due to the higher costs it imposes. At the same time, the aspect of the rules that allowed judges to award a default judgment even if no evidence was provided by the original creditor may have increased filings, due to the ease of collection when a debtor does not appear. Taken together, these effects would appear to a researcher as a null result. Further work is needed to better understand the detailed impacts of these rules.

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.

- *Abhay Aneja is Assistant Professor of Law at Berkeley Law.*
- *Luis Faundez is a Postdoctoral Scholar at Berkeley Law.*
- *Dalié Jiménez is Professor of Law at the University of California, Irvine, and co-principal investigator at the Debt Collection Lab.*
- *Claire Johnson Raba is Assistant Professor of Law at the University of Illinois Chicago, and co-principal investigator at the Debt Collection Lab.*
- *Prasad Krishnamurthy is Professor of Law at Berkeley Law.*
- *Doug A. Lewis is a recent graduate of Berkeley Law.*
- *Manisha Padi is Assistant Professor of Law at Berkeley Law.*

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[28] Tex. R. Civ. P. 525(b) permits the court to render judgment for the plaintiff without a hearing as long as the plaintiff has provided all documentation required.
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[33] Tex. Fin. Code Sec. 392.101 requires a third-party debt collector in Texas to obtain a surety bond in the amount of $10,000.
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[48] "Section 392.101 of the Texas Finance Code prohibits a third-party debt collector or credit bureau from engaging in debt collection in Texas unless the third-party debt collector or credit bureau has obtained a surety bond and filed a copy of the bond with the Office of the Secretary of State." Texas Secretary of State, Debt Collector Search, https://direct.sos.state.tx.us/debtcollectors/dcsearch.asp.

[49] One note is that three Capital One entities (Capital One Auto Finance Inc., Capital One Bank, and Capital One Services LLC) had registered with the Texas Secretary of State in June 2003, May 2000, and April, 2011, respectively. Presumably this was because they were collecting on some debts that were originated by another. Neither Capital One Auto Finance nor Capital One Services appear on our data. Because Capital One Bank canceled their debt collector registration on June 12, 2010, we decided to treat all Capital One entities as original creditors in our analysis.
[50] Texas insurance subrogation law is found at Sec. 462.255 of the Texas Insurance Code.
[51] The federal Fair Debt Collection Practices Act defines consumer debt as “any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes.” 15 U.S.C. 1692a(5). Here, the insurance company does not have a contractual relationship with the consumer but seeks to recovery on a statutory basis for its insured. *Cf. Campbell v. Douglas Knights & Assocs.*, No. 21-cv-01667-JCS, 2021 U.S. Dist. LEXIS 84499, at *14-16 (N.D. Cal. May 3, 2021) (holding that subrogation claim was not a debt under the FDCPA).