CLE OUTLINE

California New Debt Collection & Creditor Compliance —
Why It Matters to You

Presenter: Regina M. Slowey, Esq.

I. Introduction and Program Objectives (2 Minutes)

A. Overview of California's expanding regulation of debt collection
B. Evolution of the Rosenthal Fair Debt Collection Practices Act
C. Impact on:
1. Creditors
2. Collection agencies
3. Debt buyers
4. Collection attorneys
5. Commercial finance providers

D. Why commercial collectors must pay attention

II. Legislative Background and Timeline (5 Minutes)

A. Overview of the Rosenthal Act
1. Original enactment
2. Consumer protection purpose
3. Expansion through legislation and case law

B. Senate Bill 1286
1. Legislative intent
2. Protection of small-business owners
3. Effective dates
4. Covered transactions

C. Assembly Bill 1521
1. Legislative response
2. Trade credit exclusion
3. Effective date
4. Practical impact on commercial collection activity

III. Determining Whether a Commercial Account Is Covered (10 Minutes)

A. Key Statutory Definitions

1. Debt collector
2. Debt collection
3. Debtor
4. Covered debt
5. Covered commercial debt
6. Covered commercial credit

B. Natural Person Requirement

1. Personal guarantors

2. Sole proprietors
3. Partnerships
4. Single-member LLC issues
5. Other individual liability scenarios

C. $500,000 Threshold

1. Aggregation rules
2. Determining transaction value
3. Original creditor versus debt buyer calculations

IV. Trade Credit Exemption Under AB 1521 (10 Minutes)

A. Statutory Definition of Trade Credit

1. Provider's primary business
2. Connection to goods or services

B. Examples of Exempt Trade Credit

1. Material suppliers
2. Wholesalers
3. Vendors
4. Service providers
5. Open-account transactions

C. Transactions Likely Still Covered

1. Commercial loans
2. Commercial lines of credit
3. Business credit cards
4. Equipment finance transactions
5. Merchant cash advances
6. Factoring arrangements
7. Captive finance company products

D. Practical Decision Tree

1. Consumer or commercial purpose?
2. Is a natural person involved?
3. Is trade credit excluded?
4. Does covered commercial debt remain?

V. Operational Compliance Challenges (15 Minutes)

A. Intake and File Review

1. Identifying California accounts
2. Identifying guarantors
3. Determining account classification
4. Documentation requirements

B. Communication Requirements

1. Application of Rosenthal standards
2. Written communications
3. Telephone communications

    4. Text messaging considerations

C. Dispute Handling

1. Validation requests
2. Identity theft claims
3. Investigation obligations
4. Documentation practices

D. Venue Considerations

1. Statutory venue requirements
2. Contractual venue provisions
3. Litigation strategy considerations

VI. Litigation and Enforcement Risks (5 Minutes)

A. Available Remedies

1. Actual damages
2. Statutory damages
3. Attorneys' fees
4. Costs

B. Significant Cases

1. *Young v. Midland Funding, LLC*
2. *De Alba v. Velocity Investments, LLC*
3. *Slenk v. Transworld Systems, Inc.*
4. Selected Rosenthal enforcement trends

C. Vicarious Liability

1. Creditor liability
2. Agency liability
3. Attorney conduct
4. Vendor management

VII. Compliance Overlap With Other Regulatory Schemes (5 Minutes)

A. Fair Debt Collection Practices Act

1. Rosenthal incorporation of FDCPA standards
2. Key operational differences

B. Fair Credit Reporting Act

1. Furnisher obligations
2. Dispute investigations
3. Identity theft allegations

C. Telephone Consumer Protection Act

1. Calls to guarantors
2. Mobile telephone communications
3. Text messaging risks
4. Practical compliance considerations

VIII. Emerging Trends and Future Developments (5 Minutes)

A. California enforcement priorities
B. Expansion of small-business protections nationally
C. Developments in:
   1. California
   2. New York
   3. Colorado
   4. New Jersey
   5. Massachusetts
   6. Illinois
   7. Washington
   8. Oregon
D. Anticipated litigation issues involving:
   1. Personal guarantors
   2. Merchant cash advances
   3. Commercial finance products
   4. Credit reporting disputes

IX. Practical Takeaways for Commercial Collectors (5 Minutes)

A. Not all commercial debt is exempt
B. Trade credit exclusion does not eliminate compliance risk
C. Personal guarantors create heightened exposure
D. California files require separate review procedures
E. Coverage status—not account labels—drives compliance obligations
F. Recommended operational and litigation best practices