

PHIL WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
SHANNON STEVENSON
Solicitor General
TANJA WHEELER
Chief Operating Officer



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000
Consumer Protection Section
Consumer Credit Unit

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FROM: Martha Fulford, Administrator of the Colorado Fair Debt Collection Practices Act

TO: Interested parties

RE: Administrator's interpretive opinion letter: Application of C.R.S. Section 5-6-111 to law firms

During the 2024 legislative session, the Colorado General Assembly passed HB24-1380, which amends the Colorado Fair Debt Collection Practices Act (CFDCPA) at C.R.S. Section 5-16-111. This amendment went into effect on August 6, 2024. As amended, the statute reads:

(1.5) A debt collector or collection agency that is not a creditor or debt buyer shall not be the named plaintiff in a legal action or take any legal action on a debt against a consumer unless the debt collector or collection agency:

(a) Ensures that the name of the original creditor or assignor and the name of the debt collector or collection agency are included in the case caption of the complaint, in that order; and

(b) Has a complete and effective assignment, including complete settlement authority and authority to resolve the litigation.

The Administrator received an inquiry as to the application of the amended statute C.R.S. Section 5-16-111(1.5) to a law firm representing a client in debt collection litigation.

C.R.S. Section 5-16-111(1.5) is limited in scope to "legal action" or the "tak[ing] of legal action" by collection agencies or debt collectors (who are not creditors or debt buyers) who are "the named plaintiff." The CFDCPA defines "collection agency" to include "an attorney-at-law who regularly engages in the Page 2 collection or attempted collection of debts in this state." C.R.S. Section 5-16- 103(3)(e)(I).

When a pleading is filed, the caption must include the filing attorney's name, address, telephone number, and attorney registration number. Colo. Rules of Civil Proc. Rule 10(d)(2)(III).

¹ This information is provided in addition to the names of the names parties, plaintiff(s) and defendant(s), in the case. Id. An attorney who appears in the caption of a pleading solely as the attorney of record, and who is not appearing pro se, is not a "named plaintiff" as anticipated in C.R.S. Section 5-16- 111(1.5).

The Administrator interprets C.R.S. Section 5-16-111(1.5) to apply to attorneys-at-law only if they are named as the plaintiff in the caption of the complaint. The Administrator does not interpret C.R.S. Section 5-16-111(1.5) to apply where the attorney-at-law is not a named plaintiff and instead is only involved in the litigation as the attorney representing a named plaintiff.

The CFDCPA provides protections for acts done or omitted in conformity with the Administrator's interpretation. C.R.S. Section 5-16-113(6).

THE ADMINISTRATOR OF THE
COLORADO FAIR DEBT COLLECTION
PRACTICES ACT

Martha Fulford

¹ Pro se parties are also required to include contact information, which is not required of parties. C.R.C.P. Rule 10(d)(2)(III)