

Debt Collector Settles DA Letterhead Suit for \$1 Million

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A debt collection company could have been liable for up to \$4.55 million for using district attorney letterhead in demand letters to extract fees from bad check writers.



SAN FRANCISCO (CN) — A debt collector accused of using government seals and letterheads to trick people into paying unwarranted fees will pay \$1.1 million to settle a lawsuit under the terms of a deal tentatively approved by a federal judge Wednesday.

Debt collector Victim Services Inc. and its affiliated companies announced the deal in January after more than six years of litigation. The companies' insurer will cover the \$1.1 million settlement award, which includes the plaintiffs' attorney fees and settlement administration costs.

Four California residents [filed a class action](#) against Victim Services Inc. and its affiliates in December 2014, claiming the company used threats of criminal prosecution to obtain fees of about \$200 each as part of a state-sanctioned bad check diversion program.

Class members are expected to receive \$535,000 in actual damages under the agreement after attorneys' fees and other costs are deducted. That amounts to 11.75% of the \$4.55 million in actual damages the plaintiffs could have won if they prevailed at trial.

In a [motion for preliminary settlement approval](#) filed in January, lawyers for the plaintiff class described the deal as the best option when compared to the risk of losing at trial.

"While plaintiffs hoped to recover more for class members, the risk of no recovery is substantial regardless of whether plaintiffs prevail on their claims," plaintiffs' lawyers wrote in the court filing. "Courts have found settlements with similar or even lower recoveries to be fair and adequate when the risks of continued litigation are significant."

In his [decision](#) Wednesday, U.S. District Judge Vince Chhabria deemed the settlement "fundamentally fair, adequate, and reasonable based on the relative strengths and weaknesses of the classes' claims and risks to the classes of continuing through trial."

In a [previous ruling](#), Chhabria found nothing improper about the companies' use of prosecutors' seals and letterheads in demand letters because county district attorneys had hired the company to administer their bad check diversion programs. That program allows bad check writers to avoid prosecution if they pay restitution and take financial responsibility classes.

However, the judge denied Victim Services' motion for summary judgment on claims that it charged illegal and excessive fees. The plaintiffs say Victim Services charged people accused of writing bad checks \$185 for financial responsibility classes, \$10 debit/credit card fees, \$25 class rescheduling fees and \$10 late fees.

A state law that authorized California's bad check diversion program allows district attorneys to collect "processing fees" of up to \$50 and "bank charge" fees up to \$15. It also lets courts require convicted bad check writers to cover the full or partial cost of financial responsibility classes based on their ability to pay.

Further litigation and a potential trial would have determined if those charges were "reasonably proportionate" to services provided by Victim Services and if the fees were authorized through a legal mechanism, such as approval by a county board of supervisors.

Victim Services and its affiliates paid a \$50,000 fine and agreed to stop using prosecutors' seals and letterheads in its demand letters as part of a 2015 settlement with the Consumer Financial Protection Bureau.

The judge previously [rejected arguments](#) that the 2015 agreement absolved the company of liability for "wrongfully" taking money from suspected bad check writers. Chhabria also certified a class of people who received demand letters from Dec. 1, 2013, to May 7, 2015, the period in which the company used prosecutors' seals and letterheads in its collection letters.

Both parties entered into settlement talks mediated by U.S. Magistrate Judge Laurel Beeler this past November and accepted a settlement offer proposed by Beeler at the end of that month.

In their motion for preliminary settlement approval, attorneys for the plaintiff class noted the protracted and challenging nature of the litigation, which went on more than six years before a settlement motion was filed in court on Jan. 29.

"It is a bit of a cliché for counsel to characterize litigation as 'prolonged' and 'hard fought' when they seek approval of a class settlement, but that characterization is truly appropriate in this case," the attorneys stated in their filing.

Lawyers for the plaintiff class seek \$275,000 in attorneys' fees and \$135,000 in litigation costs. If approved, the request would deduct a total of \$410,000 in legal fees and costs from the settlement award. Three named plaintiffs are also requesting awards of \$3,000 each for prosecuting the case.

The price tag for notifying class members about the deal and administering claims and payout processes is estimated at \$106,000.

After deducting those costs, class members would receive \$575,000 in total compensation, out of which \$20,000 in statutory damages under the Fair Debt Collection Practices Act will be distributed equally among all class members. The remaining \$535,000 in actual damages will be doled out in proportion to the amount of fees each class member paid to Victims Services and its affiliates.

The deadline to file claims or objections for the settlement is July 9.

A video-conference hearing on a motion for final approval of the settlement is scheduled for Aug. 5.

Class attorney Michael Ram of Morgan & Morgan and Victims Services Inc. attorney Michael Taitelman of Freedman & Taitelman did not immediately return emails and phone calls requesting comment Wednesday.