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Hon. Carl Kruger
Chair, Senate Standing Committee on Finance
New York State Senate
Legislative Office Building 913
Albany, NY 12247

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Re: S.4398-A/A.7558-A – Consumer Credit Fairness Act

Dear Senator Kruger:

I am writing to you on behalf of the Civil Court and Consumer Affairs Committees of the Association of the Bar of the City of New York (the “Association”) to urge you to place the Consumer Credit Fairness Act (CCFA), S.4398-A/A.7558-A, on the Finance Committee agenda as soon as possible so that this important bill may reach the Senate floor for a vote.

As fully set forth in our memoranda in support (copy attached), the CCFA is critical to stemming the tide of abusive debt collection lawsuits that continue to cause economic and emotional injury to thousands of New Yorkers and unduly burden our court system. The bill will go a long way towards a commonsense goal that all New Yorkers deserve: making sure that people who get sued by debt collectors and debt buyers (1) know they have been sued, (2) know why they have been sued, and (3) have a full and fair opportunity to respond. While a worthwhile goal in all litigation, this is a particularly important in these cases because the vast majority of defendants are unrepresented and, ultimately, the subject of default judgments.

Opposition to the bill focuses on a decreased statute of limitations and the purported increased burden of enhanced pleading requirements. As to the former, on April 29, 2010, the Court of Appeals confirmed that a three-year statute of limitations applies to many of the debt collection lawsuits filed in New York courts (*see Portfolio Recovery Associates v. King*). As to the latter, it is our view that the pleading requirements are not unduly burdensome and, in fact, are necessary to fill gaps in the law which have been exploited over and over again by debt collector-plaintiffs. We are not the only ones to see this: judges are speaking out¹, legislators have taken notice and introduced corrective legislation, and the Attorney General has filed lawsuits.

The CCFA deserves a full and public airing in Albany. Please help us start this process by placing it on the Finance Committee agenda as soon as possible.

Thank you for your consideration.

Sincerely,

Janet Ray Kalson
Janet Ray Kalson

¹ “Like the Land of Oz, run by a Wizard who no one has ever seen . . . the Land of Credit Cards permits consumers to be bound by agreements they never sign, agreements they may never have received, subject to change without notice and the laws of a state other than those existing where they reside.” *In New York, Some Judges Are Now Skeptical About Debt Collectors’ Claims*, NY Times, May 7, 2010 (quoting Judge Phillip S. Straniere)