

Credit Reporting & Repair for Survivors

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CSAJ's Webinar Series on Credit

Part I

Credit Reporting & Repair for Survivors

NOW!
1:00 – 2:30pm EST

Laura Russell, Esq

Part II

Credit Checks: An Illegitimate Barrier to Employment

Thursday, October 8th
1:30 – 3:00pm EST

Amy Traub, Demos

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Webinar Objectives

- After this webinar, you should be better able to:
 - Recognize credit-related economic abuse
 - Understand credit reports, credit scores, and their purpose
 - Protect survivors' future credit and identity
 - Dispute and rebuild survivors' credit reports
 - Understand credit reporting laws, rights, and new developments
 - Craft strategies to address credit-related challenges



Today We Will Cover:

- Reasons to check a credit report.
- Concerns for domestic violence survivors.
- What is a credit report and who are the industry players?
- How to get the report.
- How to read a credit report.
- How to dispute data on your credit report.
- How to rebuild your credit report safely.
- What debts is one liable for and why?
- How to separate credit from a former partner.



Poll

- How familiar are you with credit reports?
 - A. My web browser opens up to annualcreditreport.com
 - B. I pull my clients' credit reports on intake
 - C. Sometimes my clients' credit reports come up
 - D. I occasionally review my own credit report
 - E. What's that?



Recognizing Credit-Related Economic Abuse



Signs of credit-related abuse

- Are all debts in the survivor's name?
- Are there any signs of coerced debt? (e.g. fraud, manipulation, highest cost burdens on survivor, etc.)
- Has the survivor recently discovered consumer accounts in their name that they were not previously aware of?
- Does the survivor have access to enough money to pay bills/consumer debts? (e.g. control of own income, access to joint accounts)



For more, see CSAJ's
["Screening for Consumer Issues: A Tool for Advocates and Attorneys"](#)

Insights from You

What are some common experiences survivors face related to credit and/or debt?



Why Check the Credit Report?

- Financial Responsibility
- Safety Reasons



Financial Reasons

- A credit report is accessed (pulled) for nearly everything:
 - Credit cards and loans
 - Cell phone contracts
 - Apartment lease
 - Home mortgage
 - Utilities
 - Car insurance rates
 - Employment application process



Safety Reasons

- Identity theft
- Identifying security risks
 - Joint accounts
 - Current address/phone number
 - Impermissible “pulls”
 - Current Identity (whether current identity can be matched with a former identity)



Credit Abuse Tactics

- Most abusers will keep assets in their name and debts in the victim's name.
- Abusers will track whereabouts by accessing ATM usage, credit card usage, and banking habits.
- One can use keystroke software to obtain passwords.
- Abusers illegally obtain credit cards, via the Internet, in the victim's name.
- Abusers will keep assets in family members' names to ensure victim's have no access to the assets.
- Abusers frequently file false income tax returns, using victim's information.
- Abusers will give “allowances” as the only access to monies
- Coerced Debts: debts forced upon survivors by abusers under fraud or duress



Understanding Credit Reports



What Is A Credit Report

Consumer Report
15 U.S.C. §1681a(d)

The term “consumer report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for —

- (A) credit or insurance to be used primarily for personal, family, or household purposes;
- (B) employment purposes; or
- (C) any other purpose authorized under section [1681b](#) of this title.



Who are the Consumer Reporting Agencies?

- “Big Three”
 - Experian – www.Experian.com
 - Trans Union – www.TransUnion.com
 - Equifax – www.Equifax.com
- Mortgage
 - Innovis
- Employment
 - LexisNexis
 - HireRight
- Check Services – www.Telecheck.com www.Certegy.com
- Tenant Screening – www.Amrent.com www.RealPages.com
- Many locally based consumer reporting agencies



Score v. Report

- Report is the information
- Score is a number generated by a mathematical formula to determine a consumer’s statistical likelihood of default
- FICO is the frequently used scoring entity
 - Most major creditors use their own FICO formula to generate a score
- Other scoring companies exist (Vantage)



Impermissible Uses

- Litigation
- Investigative purposes (e.g., non-primary residence in Housing Court cases)
- Getting reports on consumer's spouse, relatives, etc.



Right to a See the Consumer's Consumer Report

- 15 U.S.C. §1681g
- One free copy of consumer file per year from any nationwide CRA
 - Consumer report v. Consumer file
- Identity theft
- Free file if adverse action
- Can also get free file if
 - Unemployed job seekers
 - Public benefits recipients



Protecting Survivors' Credit & Identity



Getting the Report Safely

- **Big Three**
 - Annualcreditreport.com
 - Pitfalls:
 - hard identifying questions
 - Mail in form
 - Have client call 1-877-322-8228
 - **Getting the report safely**
 - Use safe address
- **Other CRAs**
 - 15 U.S.C. § 1681g requires disclosure from all
 - Contact directly (mail or phone)



Safety Note: Contact Information

- Whatever address you provide will end up on the credit report!

Discussion: What creative strategies have you used to address this issue?



Strategies to Protect Contact Information

- Use DV organization address (public agencies, confidentiality issues still)
- Use family/friends who are already known to the abuser
- Use the legal services provider's address
- Have a second phone (such as Boost Mobile) that is difficult to trace
- Create a new email address
- Partner with financial institutions to do "soft pulls"



Accuracy Procedures Required

- 15 U.S.C. § 1681e(b). Follow reasonable procedures to assure maximum possible accuracy of the information in the consumer report.
- Would prohibit systematic problems caused by the manner in which the data is gathered, organized or presented
- Not strict liability; Balancing test
- CRA permitted to presume reliability of its source



Identity Theft

- How does it happen?
 - Abuser or other known person uses ID information
 - Stolen Information
 - Discarded Mail
 - Credit Card Receipts
 - Security Breaches
- What to do
 - ID Theft Report (police, post office, FTC, etc.)
 - Dispute charges w/ creditor
 - Fraud Alert/Security Freeze
- Merged account?



Blocking Requirements

- 15 U.S.C. § 1681c-2(a) requires CRAs to block ID theft related debts if they receive:
 - Proof of consumer's ID
 - Copy of an Identity Theft Report*
 - Consumer's identification of fraudulent information
 - Statement by consumer stating the information does not relate to any transaction by consumer
- CRAs can deny if:
 - Request is erroneous
 - Consumer makes material misrepresentation
 - Consumer acquired goods, services, or money from transaction



Common Errors and Problems

- Resold debts/changes in servicers
- Stale entries
- Re-aged debts
- Unidentifiable accounts
- Joint accounts
- Merged files
- Mortgage modifications
- Settled account



Disputing & Rebuilding Credit



Disputing Data on Credit Report

- www.MyFairCredit.com
- Dispute the data in writing (not by phone, email or online).
 - Certified mail, return receipt requested
 - Send the letter from the debtor
- Include:
 - full name
 - address
 - the Social Security Number
 - account number of the disputed item.
- Specify briefly the reason for the disagreement and include any supporting documentation.
- Credit reporting agencies have 30 days to respond.



Disputing Data with Creditors

- Use the same format used with the credit reporting agency, but the letter may come from a third party.
- Send the letter certified, return receipt requested.
- Request that they either prove the debt (validate) or remove it from the credit report.
- Not a requirement to send to the creditor. No private cause of action under FCRA. But RESPA, FDCPA, FCBA may apply.
- Send a carbon copy of any disputes to CRAs.



Rebuilding One's Credit Report Safely

- Obtain a secured credit card from a bank.
- Ask your landlord to report your current rent payments.
- Obtain a store charge card.
- Keep your credit balances low.
- Keep the amount of credit you can take out to 80% of your balance.
- Pay your bills on time.
- Having no credit is worse than having bad credit.



Rebuilding One's Credit Report Safely

- All personal information reported to a credit reporting agency will become part of one's credit report.
- Anyone who knows your name, address and social security number can ILLEGALLY access your credit report.
- Always obtain credit reports on-line, if possible, and give PO boxes or addresses abusers already know (such as a friend or relative).
- When applying for credit, use a PO box.
- Do not give phone numbers to creditors or agencies.
- Remember location can be discovered through area codes, zip codes, and access points (such as the landlord's report to the credit reporting agency).
- It may be better not to rebuild credit then to be located by an abuser.



New Developments

Credit Bureau Settlement



National Consumer Assistance Plan

- Settlement launched by the “Big Three” after an investigation by the New York Attorney General
 - Experian, Trans Union, Equifax
- Settlement will address
 - (1) accuracy of credit report data and
 - (2) impact of medical debt on credit scores
- Unfolds in a 3-phases over the course of three years and ninety days from March 9, 2015



Background of Settlement

- **Data Accuracy:** “Big Three” match data to consumer files through automated systems using algorithms.
 - ◆ **Problem:** Because the algorithms don’t require exact data matches, the system often mismatches files.
- **Medical Debt:** About 20% of credit reports contain at least one medical debt collection trade-line.
 - ◆ **Problem:** Medical debt is unique, because it
 - (1) often results from involuntary and necessary, unplanned services, and
 - (2) may go into collections due to delays or disputes with insurance payments



Settlement Terms

- Creditors may not report debts that do not arise from a contract to pay (e.g. certain fines, tickets, etc.)
- Creditors may not report medical debt until a 180-day waiting period passes to allow for resolution of insurance/billing issues
- CRAs must remove such data from credit reports, including medical debts that are being paid, or have been paid, by insurance.



Settlement Terms (cont.)

- CRAs may not require consumers to request a recent credit report before filing a dispute.
- Consumers may request a second free annual credit report after disputing an error.
- CRAs must create consumer complaint departments, including specialized groups to handle fraud, theft, and mismerged files.



Implications for Survivors

- **Benefits:**
 - Longer period for survivors to resolve insurance disputes and billing issues relating to medical debt
 - No requirement to request additional credit report prior to disputing fraudulent transactions (2nd free report *after* filing a dispute)
- **Problem Areas**
 - No mechanisms to handle disputes relating to coerced debt or domestic violence
 - Survivors must still provide current location and contact to creditors in order to dispute transactions



Strategies

- Contact your local attorney general to find out if they have signed on with the National Consumer Assistance Plan
- Remind survivors that they are entitled to a free annual credit report from each of the three CRAs
 - Inform survivors they're entitled to an additional free report after filing a dispute.
- Review credit reports with survivors to check for fraudulent and erroneous data
- Help prioritize debts (ease up on medical debts)
- Discuss which debts should be dealt with first and why (older v. newer, smaller amounts, aggressive creditors)
- Discuss income exemptions and "collection" proof strategies



Resources

- [New York Times article](#)
- [Full Settlement Agreement](#)
- CSAJ Factsheet, coming soon!



NATIONAL CONSUMER ASSISTANCE PLAN Fact Sheet for Advocates and Attorneys Working with Survivors of Domestic Violence

On March 9, 2015, the three national Credit Reporting Agencies (CRA's) – Experian, Equifax, and TransUnion – launched the National Consumer Assistance Plan in response to an investigation conducted by the Office of the Attorney General of the State of New York.¹ The investigation arose primarily from concerns regarding credit report accuracy and the effect of medical debt on consumer credit scores. The National Consumer Assistance Plan (the Plan) aims to improve data accuracy and quality, enhance the efficiency of procedures for resolving credit report errors, and increase education on consumers' rights. The Plan will launch in three phases over the course of three years and ninety days.² Several provisions may offer relief for domestic violence survivors who are facing credit issues as a result of coerced debt and economic abuse.

CREDIT ISSUES FACING SURVIVORS OF DOMESTIC VIOLENCE

Many survivors of domestic violence find themselves left with consumer debt and poor credit histories as the result of their partners' abuse. In particular, abusers may use the consumer credit system to control survivors through coerced debt.³ Coerced debt includes opening credit cards in the survivor's name, coercing survivors to take out loans or sign titles, and forcing survivors to pay for financial responsibilities (such as rent, mortgages, or car payments). By incurring debt in the survivor's name through fraud or force, the abuser asserts financial control in the relationship and undermines a survivor's ability to leave and establish an independent household.⁴ Credit scores are required to access everything from housing, utilities, insurance, and even employment, thus, coerced debt not only damages survivors' credit histories and scores, but creates long-term barriers to financial security and safety.⁵ Despite the distinct impact of coerced debt on the creditworthiness of survivors, the consumer credit system currently lacks any procedure for handling disputes related to domestic violence.⁶

Credit reporting procedures present unique challenges to survivors of domestic violence. Credit reports contain personal information (such as current address and place of employment), raising

¹Settlement Agreement, *In the Matter of the Investigation by Eric T. Schneiderman, Attorney General of the State of New York, of Experian Information Solutions, Inc., Equifax Information Services, LLC, and TransUnion LLC*, 8-B (March 9, 2015), <http://www.ag.ny.gov/pdfs/CRA%20Settlement%20Agreement%20030915%20Executed%208.15.pdf>

²*Id.* at 9.

³Agustín Llamas, *Coerced Debt: The Role of Consumer Credit in Domestic Violence*, 100 *Calif. L. Rev.* 951, 954 (2012).

⁴*Id.*

⁵*Id.* at 1000-01.

⁶*Id.* at 1007.

Questions so far?



Strategies to Address Credit-Related Challenges

Individual & Systems Level



Preventative Measures

- Choosing a billing address/ P.O. Box
- Security freezes
 - Some states have laws that requires CRAs to place freeze for free in cases of domestic violence or identity theft
- Fraud alerts
- If changing identities be thorough and consistent
 - CRAs will try to merge old and new identities



Various Debts

- Difference between married and non-married partners
- Difference between separate debts, joint debts, and authorized users on credit cards
- Difference between various types of debt



Married vs. Not married

- Debt Issues for married parties
 - All debts accumulated during a marriage may be considered marital debt and both parties may be liable regardless of whose name is on the debt.
 - Debts for necessary expenses (such as medical care) are the liability of both spouses.
- Debt Issues for non married parties
 - The account holder is the only one liable for the debt.
 - If one's former partner is an authorized user, the account holder only is liable for all charges.
 - There is no right of the creditor to sue only the former partner in the above scenario.



Joint Debtors and Authorized Users

- Joint Debtors are co-borrowers. They jointly sign the contract to borrow, or the creditor's contract.
- Authorized users are not co-borrowers. Authorized users are given access (such as by being given their own credit card) and are allowed to use the account.
- Account owners are liable for all the debts of the co-borrower and the authorized user.
- Creditors will go after an account owner and the account owner will then have to go after the co-borrower themselves.
- Creditors go after either co-borrower, or both, but will always go after the more solvent borrower.



Separating One's Credit from a Former Partner

First Conduct A Safety Analysis to Determine if Safe!

- Put a red flag on your credit report, which states the credit reporting agency may not release your credit report without authorization (via phone) from you.
- Cancel all joint credit cards.
- Cancel all authorized user accounts.
- If possible, cancel all credit cards that are known to the abuser.
- Review all utility contracts, cell phone contracts, insurance policies, and bank accounts.
- Review all beneficiaries.
- Change credit card companies and banks.
- Review your credit report regularly for inaccuracies and improper credit.
- Change all passwords to information not known to the abuser.



Scenario

Rebecca and her husband, Richard, are in the process of obtaining a divorce. Richard handled all of the finances for the family and did not keep Rebecca informed. Rebecca knows that her husband has opened accounts in her name, but is unsure of what was opened, when, or if he paid them off.

As part of the divorce settlement, Richard has agreed to assume responsibility for all of the debts.

Lately Rebecca has been lots of collection calls and letters.

Which of the following accounts is Rebecca responsible for?



OCWEN LOAN SVC CG LLC

12650 INGENUITY DR
ORLANDO, FL 32826
(800) 310-9229

Balance: \$260,000
Date Updated: 06/2010
High Balance: \$260,000
Past Due: >\$65,000<
Terms: \$1,603 for 360 months

Pay Status: >120 Days Past Due<
Account Type: Mortgage Account
Responsibility: Joint Account
Date Opened: 07/2005

Loan Type: Conventional Real Estate Mtg
Remark: Paying partial payment agreement
>Maximum delinquency of 120+ days in 03/2007 for \$4,811<

CHASE BANK USA NA # [REDACTED]

800 BROOKSIDE BLV
WESTERVILLE, OH 43081
(800) 436-7939

Balance: \$1,653
Date Updated: 03/2010
High Balance: \$1,653
Credit Limit: \$1,100
Past Due: >\$1,653<

Pay Status: >Charged Off as Bad Debt<
Account Type: Revolving Account
Responsibility: Authorized Account
Date Opened: 10/2004
Date Closed: 09/2008

Loan Type: Credit Card
Remark: Account closed by credit grantor
Estimated date that this item will be removed: 10/2012

DELL FINANCIAL SERVICES

1 DELL WAY PS2DF-2
ROUND ROCK, TX 78682
(800) 283-2210

Balance: \$1,718
Date Updated: 06/2010
High Balance: \$1,718
Credit Limit: \$1,500
Past Due: \$0

Pay Status: >Charged Off as Bad Debt<
Account Type: Revolving Account
Responsibility: Individual Account
Date Opened: 12/2005
Date Closed: 01/2008

Loan Type: Charge Account
Remark: >Profit and loss writeoff<



Answers:

- A. None of them
- B. All of them
- C. Ocwen and Dell



Rebecca has never heard of the Dell account before. She believes that Richard opened this account to purchase computers for his failed start-up business.

What is the **first** thing Rebecca should do?



Systems Advocacy to Address Credit-Related Needs of Survivors

- NY Attorney General
- Protections for survivors submitted to Consumer Financial Protection Bureau ([Complaint Database](#))
- [NYC Ban](#) on employer credit checks
- Engage in collaborative work to enhance credit for survivors (e.g. [CSAJ's Pilot Sites](#))



What systems advocacy have you done?

Or what would you like to see?



Final Questions?



Contact Information

CSAJ Offers Individualized Technical Assistance

- info@csaj.org
- www.csaj.org

Connect to Expert Advisors, Resources,
Organizational Strategies, Systems Change
Approaches, and more...

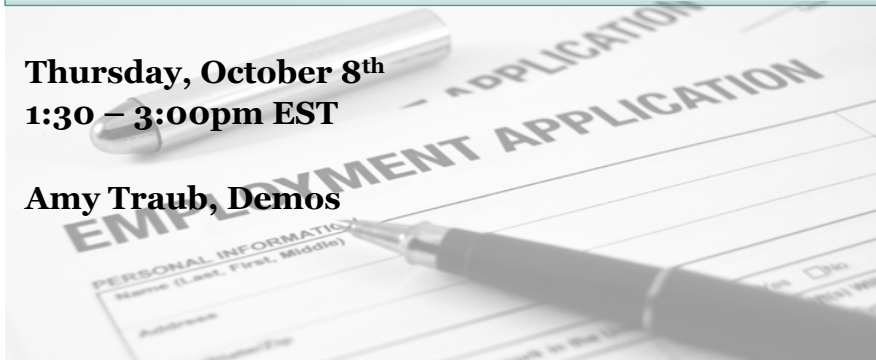


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