

Paying to Plead: Finding Unfairness and Abusive Practices in California Debt Collection Cases

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Background

- ▶ When borrower misses several payments to creditor, creditor can send borrower to debt collector
- ▶ Either original creditor or debt collector will open a case against the borrower
- ▶ These cases can be below 10k or above 10k
 - Interestingly, these values overlap with the values that go to small claims courts ($\leq 6,500$ for businesses)
 - 83.5% of cases requested $\leq \$10k$, 72% of cases sought $\leq \$7k$
 - However, instead of sending these cases to small claims counts, creditors send them to Civil Court
 - Debtor's burden of proof is more onerous in Civil Court than in small claims court
 - Civil Court rules against the defendant by default when there is no response
 - Defendant can only win the case if they respond

Limited Prior Research on Debt Collection Case Response Rates

- ▶ Prior work focuses on:
 1. The number of judgements of default*
 2. How prevalent 3rd party debt collectors are in the data

*Note: case outcomes include dismissal, judgement, or no disposition. Author's cannot see which side won in a judgement but they can infer maximum potential borrower wins. No disposition typically means pending.

- ▶ This paper expands on these studies by:
 - Extracting information from the docket as well as documents filed during the case
 - Normalizing variable names across counties to create consistent chronology of case
 - Chronology shows not only the judgment but the timeline prior to judgment

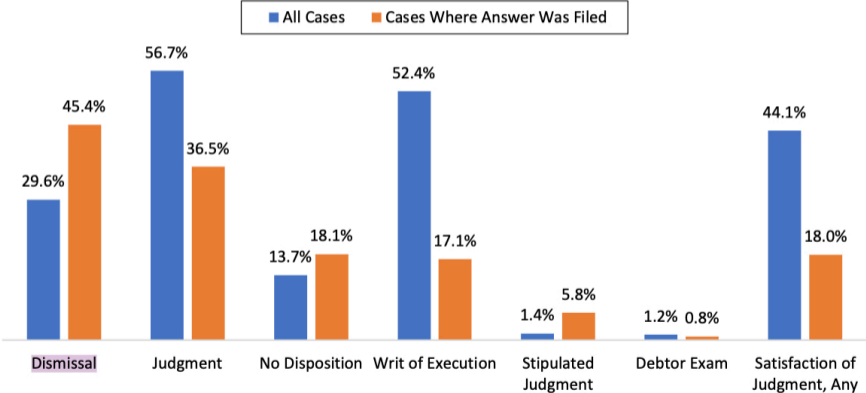
Contribution - Analysis of Response Rates

- ▶ Case chronology reveals whether defendant responds
 - Analyzing the response rates is a breakthrough of the paper
 - Authors uncover correlation between responses and outcomes of the cases
 - Response is correlated with better outcomes: more dismissals and fewer “writ of executions”
– court order instructing sheriff or official to take possession of property owned by the debtor
 - Only 9% of defendants respond \Rightarrow revealed preference argument that fees are prohibitively expensive
- ▶ Authors use dataset to extended our knowledge of debt collectors
 - Plaintiffs likely take advantage of Civil Court rather than small claims court due to the \geq \$225 fee to respond – decreasing defendant responses
 - Third party debt collectors sued more frequently than original creditors for amounts \leq \$4k

Case Outcomes With and Without Response Filed

Figure 10 -Comparing Case Outcomes Where an Answer Was Filed.

In the 11-year study period, an answer or other responsive pleading was filed in 8% of cases.



Main Comments

1. In analysis of correlation between response rates and court outcomes, can run regression analysis to control for borrower characteristics
 - Merge on borrower level characteristics at the MSA or zip code level like unemployment, credit score, income, college education
2. How does borrower response rate vary across the fraction of dollar amount owed?
 - Are response rates higher for larger dollar amounts owed because there is more at stake?
 - Can also control for borrower characteristics here.
3. Authors argue that plaintiffs exploit the states' law of requiring a "fee to reply" on low debt values.
 - Use an across state analysis to establish this, i.e. are there law suits which could occur in more than one state and are manipulated to be in CA?
 - Test relative response rates between states with no fee versus those with fees
 - For example, there are only fees to plead in 7 states, and there is variation in these fees

Thank you!