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Receivables Management Association International White Paper

# THE IMPACT OF THE RECEIVABLES MANAGEMENT CERTIFICATION PROGRAM ON LITIGATION



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## EXECUTIVE SUMMARY

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A before-and-after analysis of lawsuits filed against businesses certified through the Receivables Management Association International (RMAI) Receivables Management Certification Program (RMCP) found that after certification, litigation against RMAI's certified businesses, as an average, decreased by 20.8% in the seven-year span from 2012 to 2018. Looking at a breakdown of the litigation by areas of law, the lawsuits filed against violations to the Fair Debt Collection Practices Act (FDCPA), the Fair Credit Reporting Act (FCRA), and the Telephone Consumer Protection Act (TCPA) experienced similar declines after certification.

However, during the same time horizon, litigation activity involving companies in the overall accounts receivables industry increased by 3.1%. Lawsuits with FDCPA, FCRA, and TCPA violations experienced a 3.5% decrease, 13.5% increase, and a 26.7% increase, respectively.

## CONCLUSIONS

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Consumer protection is the primary goal of the RMCP. Because the program's standards meet, exceed, or are unprecedented in existing state and federal regulations, consumers are assured stronger and more stringent protections when dealing with RMCP certified businesses.

The correlation between the RMCP and a statistically significant decrease in lawsuits, as well as decreases in specific actions (FDCPA, FCRA, and TCPA) for certified businesses after earning their certification designation, demonstrates the effect of the program's high standards and focus on accountability.



## INTRODUCTION

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### Receivables Management Certification Program

The Receivables Management Certification Program (RMCP) was launched in 2013 with a mission to “provide enhanced consumer protections through rigorous and uniform industry standards of best practice.”<sup>1</sup> An RMCP designation represents a high standard of conducting business with a consumer-centric approach. Both individuals and businesses are able to earn RMCP designations. Individuals may earn the Certified Receivables Compliance Professional (CRCP) designation whereas businesses qualify for either the Certified Receivables Business (CRB) or Certified Receivables Vendor (CRV) designations.

The Certified Receivables Business (CRB) designation is the focus of this paper. The CRB is comprised of four series of standards – one series which all businesses must comply with and three series that are applicable to specific business models:

- Series A (for all companies: debt buyers, collection law firms, and collection agencies),
- Series B (for debt buyers only),
- Series C (for collection law firms only), and
- Series D (for collection agencies only).

These certification standards meet, exceed, or are unprecedented by any state or federal requirements, establishing the foundation of a gold standard in compliance and operations in the receivables industry.<sup>2</sup> Both individual and business certifications require passing a criminal background check, individuals must complete biennial continuing education requirements, and businesses are not only subject to high compliance standards but are also required to complete recurring independent third-party compliance audits to demonstrate their conformance to those standards.<sup>3</sup>

### Receivables Management Certification Program (RMCP) and its Relationship to Litigation

RMCP benefits both consumers and the business community. A network of trust is created from the conduct of certified businesses when a certified designation is granted to a business. The comprehensive guidelines put forth by the RMCP ensure industry best practices by providing policies and procedures to follow, resulting in a more compliant company.

Following the standards outlined in the certification program, businesses create detailed policies and procedures, to ensure compliance in both consumer interactions and operational management. Examples include the creation and maintenance of data security policies, complaint management, employee training programs, vendor management, data and document requirements by asset classes, and more.<sup>4</sup>

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<sup>1</sup> “Receivables Management Certification Program.” RMAI. 2019. <https://rmainl.org/certification>

<sup>2</sup> “Receivables Management Certification Program: Program Overview.” RMAI. March 2019, page 2. Version 7.0. <https://rmainl.org/wp-content/uploads/2019/02/RMA-Certification-Fact-Sheet-v7.0-20190301.pdf>

<sup>3</sup> Ibid, page 1.

<sup>4</sup> Ibid, pages 2-5.



**Table 1. Industry Litigation Percentage Increases and Decreases**

Year	FDCPA	FCRA	TCPA	Total	% Incr/Decr
2012	11,360	2,234	1,137	14,731	
2013	10,570	2,371	2,208	15,149	2.8%
2014	10,130	2,469	3,011	15,610	3.0%
2015	11,439	3,656	3,548	18,643	19.4%
2016	10,048	3,826	4,639	18,513	-0.7%
2017	9,767	4,343	4,380	18,490	-0.1%
2018	9,008	4,531	3,803	17,342	-6.2%
				<b>AVERAGE % CHANGE between 2012-2018</b>	<b>3.1%</b>

Source: WebRecon Grid Summary

RMCP certification requires significant capital and business resources to ensure compliance. However, statistics show that the cost of compliance is offset by even higher savings associated with reduced litigation expenditures. The ability to reduce risk, by ensuring full compliance with state, federal, and higher certification standards, benefits both the consumers who are assured professional and ethical behavior in the collection of debt, as well as the businesses whose revenues are not spent defending litigation.

The financial services industry is no stranger to litigation. Table 1 illustrates the overall financial services industry’s litigation trends. The Grid Summary tool on WebRecon was used to find the percentage increase/decrease in the number of lawsuits filed in the industry between the years 2012 and 2018. Litigation is categorized by lawsuits filed under the Fair Debt Collection Practices Act (FDCPA), the Fair Credit Reporting Act (FCRA), and the Telephone Consumer Protection Act (TCPA). The industry overall, on average, experienced a 3.1% increase in litigation between 2012 and 2018.

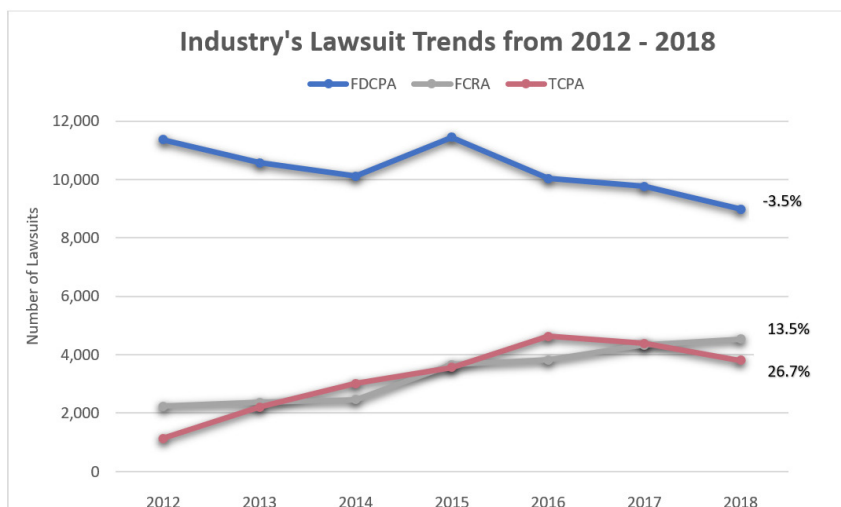
**Table 2. Specific Litigation Areas: Percentage Increases and Decreases**

YEAR	FDCPA	% Incr/Decr	FCRA	% Incr/Decr	TCPA	% Incr/Decr
2012	11,360		2,234		1,137	
2013	10,570	-7.0%	2,371	6.1%	2,208	94.2%
2014	10,130	-4.2%	2,469	4.1%	3,011	36.4%
2015	11,439	12.9%	3,656	48.1%	3,548	17.8%
2016	10,048	-12.2%	3,826	4.6%	4,639	30.7%
2017	9,767	-2.8%	4,343	13.5%	4,380	-5.6%
2018	9,008	-7.8%	4,531	4.3%	3,803	-13.2%
<b>AVERAGE % CHANGE BETWEEN 2012-2018</b>		<b>-3.5%</b>		<b>13.5%</b>		<b>26.7%</b>

Source: WebRecon Grid Summary

When separately analyzing the statistics associated with each of the aforementioned laws, it provides invaluable insight into litigation trends impacting the receivables industry. The litigation trends of the FDCPA, FCRA, and TCPA are shown over time in Figure 1. On average in the industry between 2012 and 2018, lawsuits with FDCPA, FCRA, and TCPA violations experienced a 3.5% decrease, 13.5% increase, and a 26.7% increase, respectively. Year-over-year percentage changes in the three areas of law are outlined in Table 2.

**Figure 1. Specific Litigation Areas: Percentage Change Over Time**



Source: WebRecon Grid Summary



## BEFORE-AND-AFTER LITIGATION ANALYSIS

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### Purpose

The purpose of the following before-and-after analysis is to explore how RMCP influences the litigation trends of a receivables management business after earning a certification designation. The date range between January 1, 2012 to December 31, 2018 was the timeline for the analysis. A before-and-after certification analysis of the amount of litigation filed against a business that was certified some time in the seven-year span was conducted on a sample (N=74) of current RMCP certified businesses.

### Methods

RMCP certified business litigation data was extracted from WebRecon, LLC. WebRecon is a litigation monitoring database that contains a multitude of different tools associated with monitoring lawsuits filed, company litigation trends, CFPB complaints, and other litigation reports.<sup>5</sup>

WebRecon's Vendor Monitoring tool was used to extract litigation data for the current 134 RMCP certified businesses (downloaded on Feb 1, 2019).<sup>6</sup> Of the 134 certified businesses compiled on WebRecon's watchlist, reports for litigation were found for ninety-two (92) certified businesses. Only businesses that were in operation for the entirety of the seven-year span between 2012 and 2018 were analyzed; those who started their businesses after 2012 were excluded, resulting in a remaining eighty-three (83) certified businesses.

### Audit

To ensure that the business's "year of certification" was in fact an accurate indicator of when the business initiated and followed policies of best practice consistent with the RMCP's gold standard, a control variable was introduced: businesses were included in the analysis only if an audit had been performed. Audits are required to be conducted on certified businesses at the midpoint of their three-year certification cycle. Successfully completing an audit with little or no deficiencies allows for the assumption that the certified business is following the guidelines and requirements of the RMCP, thus ensuring that best practices are conducted in their daily operations. After excluding businesses that have not yet completed an audit, the final sample size of RMAI's certified businesses used for this analysis was seventy-four (N=74).

### Analysis

The analysis looks at a yearly average of lawsuits for each of the certified businesses. The certified business's year of certification was utilized as the point of comparison: from 2012 to the year of certification was defined as "Before Certification" and from the year after certification to 2018 was defined as the "After Certification" (four companies that were certified in 2018 were excluded from the analysis due to the absence of an After Certification data point). A per-year average of litigation within both the Before and After timespans was calculated to create two distinct values of data comparison. The percentage increase/decrease between the

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<sup>5</sup> "About." WebRecon, LLC. 2017. <https://webrecon.com/about/>

<sup>6</sup> <https://www.webrecon.net>



Before Certification average and the After Certification average was then calculated as the percent change. The final percentage change for all seventy-four (74) certified businesses was the percentage decrease between the Before Certification and After Certification average.

Lawsuits Broken Down by FDCPA, FCRA, and TCPA

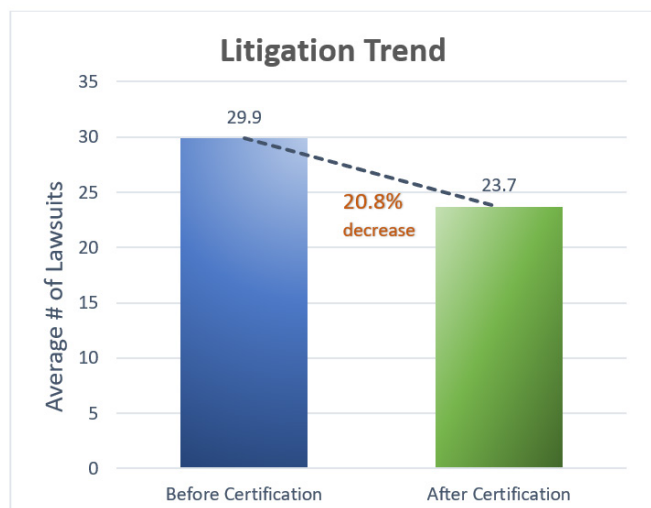
To look further than overall litigation trends, the analysis also looks at the three primary areas of law which are heavily litigated in the industry.<sup>7</sup> Therefore, the litigation analysis also includes the trends of the FDCPA, FCRA, and TCPA lawsuits before and after certification for the sample of RMCP certified businesses. These percentage changes were calculated the same way as above: a Before Certification average and After Certification average was calculated in relation to the specific action, and the resulting average percentage change for each action was calculated using the two data points.

**Results**

Overall Litigation Trend

Of the seventy-four (74) certified businesses, on average, litigation filed against certified businesses decreased by 20.8% after the company was certified (see Figure 2). There was an annual average of 29.9 lawsuits before certification, and an annual average of 23.7 after certification. The percentage change from the Before to After Certification averages results in a decrease of 20.8% for litigation After Certification.

Figure 2. Before-After Certification: Average Litigation for the Sample of Certified Businesses (N=74) Between 2012-2018



*Litigation activity involving companies in the overall accounts receivables industry increased by 3.1% while RMAI Certified Businesses decreased by 20.8%*



Litigation Trend by Areas of Law

When taking a closer look at the decrease in litigation After Certification for the RMCP certified businesses, similar trends in FDCPA, FCRA, and TCPA lawsuits were also found. Figure 3 illustrates the decreases in litigation from each of the three areas of law. Lawsuits for FDCPA violations decreased by 20.2%; lawsuits for FCRA violations decreased by 18%; and lawsuits for TCPA violations decreased by 19.3%.

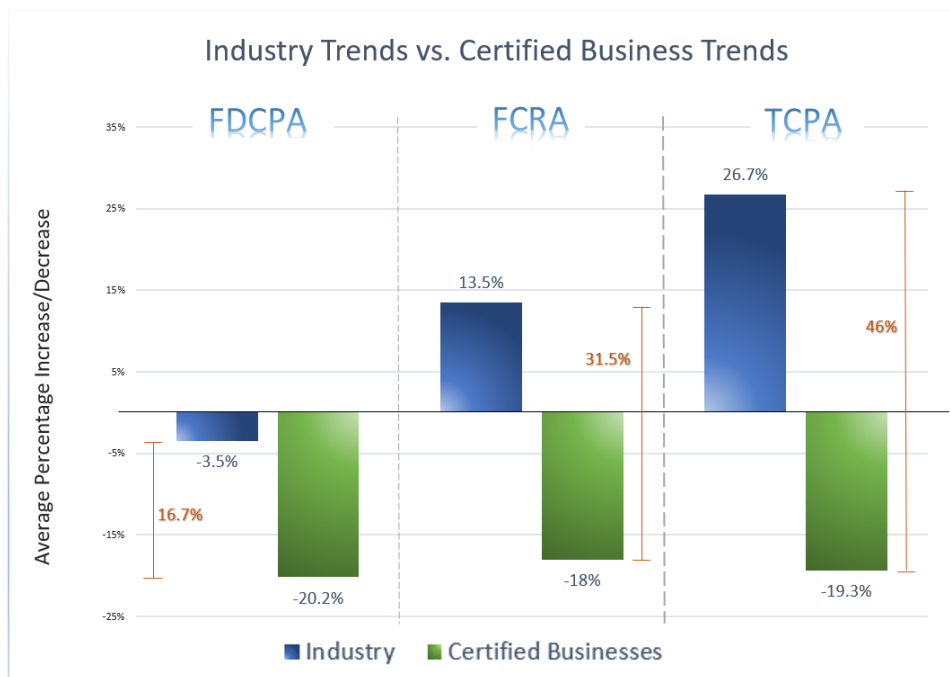
<sup>7</sup> [https://www.webrecon.net/clients/stats/grid\\_summary](https://www.webrecon.net/clients/stats/grid_summary)



When comparing the litigation trends of these three areas of law, between RMCP certified businesses and the industry, the differences in percentage change over the seven-year span between 2012 to 2018 warrants attention. Figure 4 illustrates the difference in industry trends and certified business trends, broken down into the three areas of laws. Looking at the percentage increases and decreases of both industry and RMCP certified businesses, the overall difference in percentage change between the two populations is considerable.

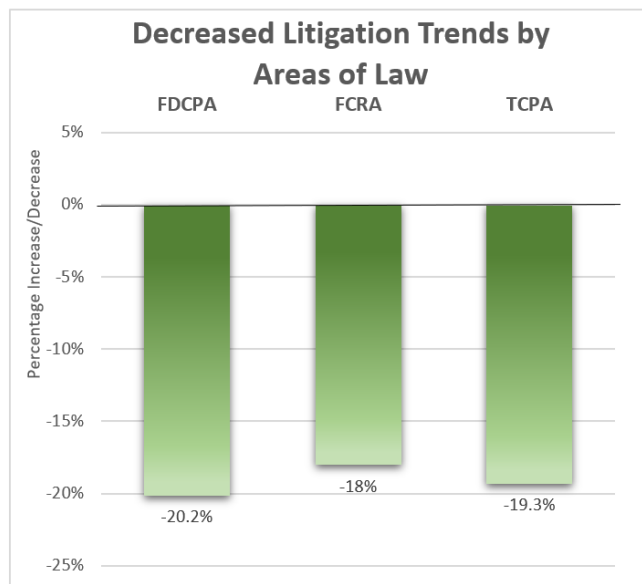
While FDCPA lawsuits, on average, decreased by 3.5% from 2012 to 2018, FDCPA lawsuits against RMCP certified businesses decreased by 20.2%—16.7% more than the industry average—when comparing the Before and After Certification point for the certified businesses. Similar differences can be seen for the FCRA and TCPA lawsuits; certified businesses experienced a 31.5% greater decrease than the industry in FCRA lawsuits and a 46% greater decrease than the industry in TCPA lawsuits. Figure 4 illustrates both industry trends and certified business trends independently; the orange brackets then indicate the difference in percentage change for the FDCPA, FCRA, and TCPA between the two populations.

Figure 4. Before-After Certification: Average Litigation for the Sample of Certified Businesses (N=74) Between 2012-2018



Sources: WebRecon Vendor Monitoring and Grid Summary Litigation report

Figure 3. Litigation Trends of the Certified Businesses (N=74) by Areas of Law



Source: WebRecon Vendor Monitoring Litigation report

### Findings

Consumer protection is the primary goal of the RMCP. Because the program’s standards meet, exceed, or are unprecedented by existing state and federal regulations,<sup>8</sup> consumers are assured stronger and more stringent protections and regulations when dealing with RMCP certified businesses. Consumers benefit greatly from the structured standards of best practices put forth by the RMCP, in that companies exhibit compliant conduct and professionalism when performing related business. Decreases in litigation indicate consumers are

<sup>8</sup> “Receivables Management Certification Program: Program Overview.” RMAI, page 2.





experiencing more professional and fair conduct in their interactions with RMCP certified businesses.

Between 2012-2018, litigation activity involving companies in the accounts receivables industry increased by 3.1%, with similar trends when broken down by FDCPA, FCRA, and TCPA lawsuits. With this upward trend of litigation in the industry, it is important to consider factors that may lead to decreased litigation. A decrease in litigation not only lowers the overhead costs associated with lawsuits, but also allows companies to focus on the primary purpose of their businesses rather than with litigation and its expense.

Trends in litigation may be due to a variety of factors: increased or decreased business, change in the size of accounts in collection, increased regulation, monitoring and procedures, and a dynamic economy and market, as well as a host of other reasons.

Conducting the Before-and-After Certification analysis provided an analytical perspective on reasoning for decreased litigation. Evidence from a significant sample of certified businesses shows the influence of certification. The correlation between RMAI's Receivables Management Certification Program and a 20.8% decrease in lawsuits, as well as decreases in specific actions (FDCPA, FCRA, and TCPA) for certified businesses after earning their certification designation, promotes the effectiveness of the program's high standards and focus on accountability.

## ABOUT RMAI

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Receivables Management Association International (RMAI) is the nonprofit trade association that represents the interests of more than 500 companies that support the purchase of performing and nonperforming receivables on the secondary market. RMAI's Receivables Management Certification Program and its Code of Ethics set the global standard within the receivables industry due to its rigorous uniform industry standards of best practice which focus on the protection of the consumer. RMAI provides its members with extensive networking, educational, and business development opportunities in asset classes that span numerous industries. RMAI continually sets the standard in the receivables management industry through its highly effective grassroots advocacy, conferences, committees, task forces, publications, webinars, teleconferences, and breaking news alerts. Founded in 1997, Receivables Management Association International is headquartered in Sacramento, California.

## CONTACT

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