

## **MORTGAGE SERVICERS CAN BE DEBT COLLECTORS UNDER ROSENTHAL ACT**

On March 13, a California appellate court [held](#) that a mortgage servicer that engages in debt collection activities may be considered a “debt collector” under California’s Rosenthal Fair Debt Collection Practices Act (Rosenthal Act). The decision results from a class action lawsuit alleging that the mortgage servicer made hundreds of phone calls demanding mortgage payments that had already been paid or were not yet due, including making calls at inconvenient times throughout the day and using threats of negative credit reporting and foreclosure. The class action suit alleged that the mortgage servicer’s activity violated the Rosenthal Act and the California’s Unfair Competition Law. The trial court sustained the mortgage servicer’s demurrer to the plaintiff’s complaint, concluding that servicing a mortgage is not a form of collecting consumer debts. In reversing the trial court’s decision, the appellate court held that, although the language in the Rosenthal Act was ambiguous with regard to mortgage debt servicing, it should be “construed broadly in favor of protecting the public,” and thus mortgage lenders and mortgage servicers can be considered “debt collectors” within the law’s purview. The appellate court acknowledged a split among California federal courts on the issue.