“Thank you, Mr. Chairman. I really thank the committee for giving this legislation full consideration. I would like to thank my friend, the Gentleman from Texas, Mr. Gonzalez, for his leadership on this issue as well. We have worked in a bipartisan fashion across the aisle to bring this bill forward to the committee today.

“By amending the Fair Debt Collection Practices Act, known as the FDCPA, to exclude law firms and licensed attorneys engaged in litigation activities from the definition of “debt collector,” we are restoring traditional state court regulation and oversight of the legal profession.

“I’m proud that the American Bar Association—the ABA—has endorsed this bill, and I would actually like to ask unanimous consent to submit their letter of support into the record, Mr. Chairman.

“For hundreds of years, attorneys have been regulated and disciplined primarily by state supreme courts that license them and by state court judges—not by the federal agencies or Congress. During that time, the courts have developed extensive admission requirements, ethical codes, and disciplinary rules that empower courts and judges to punish any attorney who engages in misconduct, and this system has been effective in protecting all parties and the general public.

“Unfortunately, the 1986 amendments to the Fair Debt Collection Practices Act, though perhaps well-intentioned, have usurped the proper role of the courts in regulating and overseeing attorneys and the legal profession and have caused other unintended consequences that have been recognized by the courts, state legislators, the legal community, and consumer protection advocates across the country. This bill aims to put attorneys representing both sides on equal footing, while also protecting the practice of law from multiple overlapping standards.

“I would like to note, Mr. Chairman and Members of the Committee, 17 states already have these FDCPA-type statutes at the state level exempting attorneys either outright or when they are engaging in litigation activities from the definition of debt collector. These are states such as California, Nevada, Texas, Pennsylvania, Ohio, Connecticut, Minnesota, Colorado, New Mexico, Rhode Island, Massachusetts, Tennessee, North Carolina, my state of West Virginia, Indiana, Hawaii, and Illinois. They already have them at the state level.

“The application of the Fair Debt Collections Practices Act to the practice of law has resulted in harm to main street businesses that rely on their local and regional attorneys to assist them in getting their receivables paid. Creditors’ rights attorneys will continue to struggle in their efforts to advocate for these small business clients unless the threat of liability is removed from this statute.
“To be clear, this is not a wholesale exemption of creditor attorneys from the Fair Debt Collections Practices Act. To the contrary, attorneys will still be subject to the FDCPA for all their non-lawyer activities which are not part of the practice of law, such as making phone calls and sending demand letters.

“Finally, I would like to point out that for many years, the Federal Trade Commission has recommended that the Fair Debt Collection Practices Act be clarified to exempt creditor lawyers engaged in litigation. From 1998 through 2006—a period that spanned both Republican and Democratic Administrations—the FTC submitted annual reports to Congress that urged us to reexamine and amend the Act to exempt attorneys who “pursue debtors solely through litigation (or similar ‘legal’ practices).” This longstanding recommendation by one of our nation’s premier consumer protection agencies underscores the common sense, non-partisan nature of this bill.

“And again, as I mentioned, the support of the American Bar Association and other groups on this legislation, I know that we are interested in keeping efficient on time, and so Mr. Chairman I would just like to urge all members of the committee to support the bill. And I will yield my time back to the Chair.”