

Hinshaw Client Success: Indiana Court Dismisses Debtor's One-Penny FDCPA Case

Indiana federal court (Southern District) holds \$0.01 rounding error in settlement offer was immaterial and did not violate §1692e of the FDCPA

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In a well-reasoned decision, a federal court in Indiana granted Hinshaw client Financial Business and Consumer Solutions, Inc.'s (FBCS) motion to dismiss, finding that a rounding error that created a \$0.01 difference in the amount of a settlement offer did not amount to a material violation of the Fair Debt Collection Practices Act (FDCPA).

In 2019, FBCS sent plaintiff Freeman a letter offering a 35% discount on her unpaid cell phone debt. The letter outlined three settlement options [in summary]:

- Make a single payment of \$350.84
- Make a down-payment of \$70.17, followed by a \$280.67 payment 30 days later
- Make three payments of \$116.95

Freeman responded by filing suit under Sections 1692e and 1692e(10) of the FDCPA. She alleged that she was confused as to the amounts of the reduced offer and the full balance of her debt and cited the fact that the third settlement option equaled \$350.85 and not \$350.84 (a one cent difference).

The court ruled that the letter was not reasonably susceptible to a deceptive or misleading interpretation and therefore not materially false. "Put another way," the court stated, "materiality is dependent upon whether the misstatement would mislead the unsophisticated consumer. The court aligned itself with other courts that have held that the term "unsophisticated consumer" is not equivalent to the "least sophisticated consumer."

In both a victory for the accounts receivables industry, and common sense, the court said plaintiff relied "too heavily" on the strict liability of the FDCPA. "A reasonable person with the most basic, rudimentary knowledge of

the financial world, but with the ability to make logical deductions and inferences, would recognize the numbers FBCS provided were the result of rounding and were immaterial.”

FBCS was represented by Dave Schultz, Carlos Ortiz, and Jennifer Kalas.

The ruling was covered by ACA in “[One Cent Rounding Difference in Settlement Offer Did Not Violate the FDCPA](#),” and *AccountsRecovery.net* in “[Judge Grants MTD in FDCPA Case Over Rounding Discrepancy in Settlement Offer](#).”

The case is [Freeman v. Fin. Bus. & Consumer Sols.](#), No. 1:19-cv-03900-MPB-JMS, 2020 U.S. Dist. LEXIS 69436 (S.D. Ind. Apr. 17, 2020).

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