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New York Federal Court Demands that FDCPA Plaintiffs Read Entire Debt Collection Letter to Determine Creditor's Identity

1 min read

Nov 30, 2017

In *Goldstein v. Diversified Adjustment Serv.*, the Eastern District of New York may have walked back one of the new favorite Fair Debt Collection Practices Act (the "FDCPA") claims—namely that the creditor was not properly identified pursuant to § 1692g of the FDCPA. Although the debt collection letter at issue listed Sprint several times, Goldstein's complaint nonetheless alleged that the debt collection letter violated the FDCPA by failing to adequately identify to whom the debt was owed and what Sprint's role was.

Based on recent caselaw, plaintiffs have, with growing frequency, argued that debt collector's letters that fail to explicitly identify the owner of the debt as the "creditor" violate § 1692g(a)(2). Section 1692g(a)(2) requires a debt collector to notify the debtor in the initial communication (or within five days thereafter) of the "name of the creditor to whom the debt is owed." In prior cases, courts have held that debt collectors may explicitly or implicitly satisfy § 1692g(a)(2). Notably however, those cases also held that a letter that only makes a single reference in the subject line to the identity of the creditor (i.e. "Re: Name of Creditor", as opposed to "Creditor: Name of Creditor") violates the FDCPA.

In *Goldstein*, the Court distinguished prior holdings and held that a debt collection letter must be read as a whole to determine if the debtor was on notice to whom he/she owned the debt. Although the *Goldstein* letter included the previously troublesome "re: name of creditor" language, the Court focused on seven references to the creditor Sprint by name in the letter, including that the debt collector would notify Sprint when payment was received. Specifically, the Court held that an entire reading of the letter could not lead the debtor to conclude that the debt was owed to anyone besides the specific creditor.

While this is only one decision, the Court's holding could give future plaintiffs pause to consider reading the entire collection letter before filing suit.

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Topics

New York, FDCPA, Debt Collection, Fair Debt Collection Practices Act