

Read Before You Leap: Providing Telephone Number To Communicate With Collector Does Not Overshadow Validation Rights

1 min read

Feb 13, 2018

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The New Jersey federal court has rejected a claim that providing a debtor with a telephone number and other options to communicate with a collector does not overshadow required language that the debtor must dispute the debt in writing within thirty days. The court found that the validation language concerning a consumer's right to dispute the debt under the Fair Debt Collection Practices Act (FDCPA) must be construed by considering as a whole the letter to the debtor.

In [*Riccio v. Sentry Credit, Inc.*](#), the debtor alleged that inclusion of a three separate boxes below the validation rights provision, with contact information, violated Section 1692g of the FDCPA because the letter "leaves [the least sophisticated debtor] uncertain as to her rights and what she must do to effectively dispute the debt." The debtor also claimed that such overshadowing also amounts to false representation or deceptive means to collect a debt.

Dismissing the case in response to a motion for judgment on the pleadings, the court found the mere fact that a telephone number was also provided below the compliant language does not overshadow the language itself. Reviewing the letter in its entirety, the collector's use of bold typeface text titled "IMPORTANT NOTICE" preceding the validation rights language indicated that a dispute in writing must be made within thirty days and put consumers on notice of their right to dispute the debt. The boxes containing means of contacting the collector by mail, telephone and online would not confuse the least sophisticated consumer who reads the letter in its entirety. The court also noted that the boxes "do not instruct nor suggest an alternative method of disputing the alleged debt, but merely provides the consumer with Sentry's contact information."

This type of overshadowing allegation has surfaced in various district courts around the country. The opinion in this case is relevant to plaintiffs and defendants alike sounding a warning bell for plaintiffs bringing such claims,

but also cautioning collectors with respect to the items they place in debt validation correspondence under the FDCPA.

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Topics

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