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## And The Defense Wins

### Daniel S. Strick



Daniel S. Strick of **Lucas and Cavalier, LLC** in Philadelphia recently successfully moved to dismiss a complaint alleging violations of the Fair Debt Collection Practices Act (FDCPA) in the U.S. District Court for the District of New Jersey. The plaintiff alleged the defendant, a debt collection company, sent an initial contact letter on April 14, 2010, seeking to collect a consumer debt from the plaintiff. The debt collection company provided an internal reference number in the letter, but did not provide the original account number. The plaintiff contended the act of providing a reference number instead of the original account number constituted a violation of the FDCPA. The plaintiff also contended the initial contact letter violated the FDCPA because it failed to explain how the debt collection company acquired the debt at issue. The plaintiff sought statutory damages, actual damages, counsel fees and costs.

The FDCPA prohibits debt collectors from using “any false, deceptive or misleading representations in the connection with the collection of any debt.” On behalf of the debt collection company, Mr. Strick asserted there was no violation of the FDCPA and the initial contact letter would not mislead the least sophisticated consumer. The debt collection company also contended the plaintiff was seeking to require the inclusion of information in the initial contact letter that was not required by statute. The statute requires the initial letter from a debt collector to a consumer debtor to include (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer, within 30 days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the 30-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer’s written request within the 30-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

The court agreed with the defense, finding the FDCPA does not require the debt collector to furnish an account number to the debtor in the initial communication or to furnish information regarding its acquisition of the debt. The initial communication must only alert the debtor to his right to dispute the debt and his right to obtain further information. The court dismissed plaintiff’s complaint with prejudice.

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