



Collector's Corner

Current Legal News Affecting the Collection Industry

Franzén and Salzano, P.C. welcomes you to Collector's Corner, your source for the most recent legal news for the collection industry.

"Reasonable Investigation" Means Doing The Best With What You're Given.

The 7th Circuit Court of Appeals recently exonerated a collection agency from FCRA liability when the agency confirmed account information to a credit bureau in response to a CDV which did not reference the consumer's allegations of identity theft or provide the collector with the consumer's supporting documentation. The Court held that the "... investigation in this case was reasonable given the scant information it received regarding the nature of Westra's dispute." *Dirk Westra v. Credit Control of Pinellas*, 409 F.3d 825 (7th Cir. May 27, 2005).

Shareholders Of Agency Could Be Personally Liable Under FDCPA.

A Utah District Court recently held that a shareholder may be a "debt collector" under the FDCPA when they (1) exercise supervisory authority over the corporation, (2) are intimately involved with the corporate practices and procedures, and (3) develop and implement collection practices alleged to violate the law. This "indirect" participation in debt collection created a fact issue upon which the Court denied summary judgment to two shareholder defendants. *Brumbelow v. The Law offices of Bennett & Deloney, P.C. et al.*, Case No. 2:04-CV-00439PGC (D. Utah May 23, 2005).

FDCPA Statutory Damages Limited To \$1,000 Per Plaintiff Per Proceeding Regardless Of Number Of Defendants.

A New York District Court recently confirmed that FDCPA statutory damages are limited to \$1,000 per plaintiff per proceeding. Having already found a violation, the Court considered separate statutory damage awards for each plaintiff, but rejected plaintiffs' argument that they were entitled to a separate statutory award against each defendant. *Dowling v. Kucker Kraus & Brub et al.*, Case No. 99 Civ. 11958RCC (S.D. NY, June 6, 2005).

Franzén and Salzano, P.C. assists collection agencies, creditors, and attorneys nationwide with their compliance and litigation needs. Our expert services include letter review, FDCPA/FCRA defense litigation, licensing, and vendor contract review. For more information about our services, please call John H. Bedard, Jr., 770-248-2885, ext. 244, or e-mail him at jbedard@franzen-salzano.com.

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