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Liability for Violations of the FDCPA

Section 813 of the Fair Debt Collection Practices Act (FDCPA) provides for civil liability for a violation of the Act in the form of actual and statutory damages, as well as court costs and reasonable attorney's fees.¹ Section 813 also provides class action² and individual collector liability.³ Punitive damages are not available under the FDCPA.⁴ If a debt collector is found to have violated the FDCPA, § 813(a) entitles the consumer to recover actual damages as well as statutory damages of up to \$1,000.

Actual Damages

In FDCPA actions, actual damages may include money illegally collected from the consumer, unlawful collection charges or interest, lost wages or other monetary losses, and in some instances, damages due to emotional distress. When requesting actual damages, the consumer bears the burden of proving the damages alleged.⁵ The consumer must show a reasonable connection between the debt collector's conduct and the emotional and/or monetary damages the consumer alleges.⁶ Courts disagree as to what constitutes sufficient proof of emotional distress to recover under the FDCPA. While some courts have held a consumer's own conclusory testimony may be sufficient proof of emotional distress, other courts have required evidence beyond the consumer's own testimony to recover damages for emotional distress under the FDCPA.⁷

Courts also are split on whether consumers seeking damages for emotional distress for violations of the FDCPA must also satisfy the elements of a state law claim for intentional infliction of emotional distress.⁸ In jurisdictions where a consumer must prove the elements of intentional infliction of emotion distress, the consumer must show the debt collector's behavior was (1) extreme and outrageous; (2) intentional or reckless; (3) resulted in emotional distress; and (4) the distress was severe.⁹ For instance, a jury could find a collector recklessly or intentionally inflicted severe emotional distress upon a consumer following a series of abusive calls from a debt collector calling the consumer a "deadbeat" and threatening the consumer to "stay out of Minnesota if you know what's good for you and your family."¹⁰

Statutory Damages

Although the FDCPA does not specify the maximum amount a consumer may be awarded in *actual* damages, a debt collector's liability may not exceed \$1,000 when awarding the consumer *statutory* damages.¹¹ The court must take into consideration the following factors when assessing the debt collector's statutory liability under this section: (1) the frequency and persistence of noncompliance; (2) the nature of the noncompliance; and (3) the extent to which the noncompliance was intentional.¹² Proof of actual injury is not required for damages under § 813(a)(2)(A).¹³

Numerous courts have established the maximum penalty of \$1,000 applies per proceeding rather than per violation, finding the FDCPA explicitly states statutory damages are not to *exceed* \$1,000 in any action initiated by the consumer.¹⁴ At least one court has also held statutory damages under the FDCPA are capped at \$1,000 per action, not per defendant.¹⁵ Therefore, if a debt collector (or debt collectors in the case of multiple defendants) commits several violations of the FDCPA, the consumer may not receive more than \$1,000 in statutory damages.

However, courts may award the consumer less if the violation is less egregious or severe.¹⁶ For example, in a case where a debt collector sent only one collection letter, the FDCPA non-compliance was relatively minor, and there was a lack of evidence the collector intended to violate the FDCPA, the court determined minimal statutory damages were justified and awarded the consumers only \$50 in statutory damages.¹⁷ Alternatively, a consumer was awarded the full \$1,000 allowable under § 813(a)(2)(A) when a debt collector frequently engaged in false and deceptive collection methods.¹⁸

Court Costs and Reasonable Attorney's Fees

If a consumer brings a “successful action” against a debt collector, the debt collector may be held liable for the consumer’s costs associated with the lawsuit, including reasonable attorney’s fees as determined by the court.¹⁹ A crucial factor in ascertaining a consumer’s ability to recover court costs and attorney’s fees is whether the action is “successful” and to what degree success is obtained. The U.S. Courts of Appeals for the Fifth and Seventh Circuits, as well as other district courts, have held if a consumer plaintiff fails to recover actual or statutory damages where a violation was found, there is no “successful” action, and as such, a consumer is not entitled to attorney’s fees.²⁰ The U.S. Court of Appeals for the Second Circuit, however, has held a consumer plaintiff is entitled to attorney’s fees, whether or not any damages are awarded.²¹

The court has discretion to determine what constitutes reasonable attorney’s fees under the FDCPA. A majority of courts, however, follow the United States Supreme Court’s methodology for calculating reasonable attorney’s fees, commonly referred to as the “lodestar” method. Under this method, the party seeking fees must show the attorney’s fees requested are reasonable under the law.²² The court then multiplies the number of hours reasonably expended on the case by a reasonable hourly rate. This total provides the basis for the court to estimate the value of the attorney’s services.²³ The court may then increase or decrease the fees as appropriate.²⁴

Section 813(a)(3) also permits a consumer to recover court costs associated with a successful FDCPA lawsuit against a debt collector, including charges such as filing fees and constable fees.²⁵ Numerous courts, however, are divided as to whether costs such as postage and printing charges are recoverable. Some courts have found such costs are associated with the action,²⁶ whereas other courts have held such charges are considered part of the attorney’s overhead, and thus may not be lawfully awarded.²⁷

Class Action Liability

Section 813(a)(2)(B) allows consumers to bring a class action lawsuit against a debt collector who violates the FDCPA. In order to accommodate instances where a large number of consumers allege they have suffered the same harm by the same debt collector, this provision allows courts to award all members of the class actual damages, each named consumer in the class action up to \$1,000 in statutory penalties, plus an additional award for the un-named members of the class of up to \$500,000 or one percent of the agency’s net worth, whichever is less.²⁸

A class action lawsuit is one in which “a single person or a small group of people represents the interests of a larger group.”²⁹ To bring a class action suit, the Federal Rules of Civil Procedure require the following criteria be met: (1) the class is so numerous that individual law suits are impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class.³⁰ Generally, these four requirements are respectively referred to as “numerosity, commonality, typicality, and adequacy of representation.”³¹ When a group of consumers is successful in demonstrating the above elements, a court grants “certification” of the class action.

Once a class achieves certification and brings a successful action against the debt collector, the class may be entitled to receive statutory damages in addition to a divisible award of up to \$500,000 or one percent of the debt collector's net worth, whichever is less.³² Although this section of the FDCPA does not provide a methodology for ascertaining a debt collector's net worth, the majority of courts have defined "net worth" as "the difference between assets and liabilities as determined in accordance with generally accepted accounting principles (stockholder's equity) and not fair market value."³³ However, as in individual actions, a class award depends upon (1) the frequency and persistence of noncompliance; (2) the nature of the noncompliance; and (3) the extent to which the noncompliance was intentional.³⁴

Consumer's Liability – Bad Faith

To discourage meritless litigation, the consumer may be liable for the attorney's fees and court costs associated with the defense of the case if a consumer brings an FDCPA action in bad faith or as a means of harassment.³⁵ However, it is not enough to simply have the consumer's claim dismissed; it must be shown the consumer brought the action in bad faith and/or for the purpose of harassment.³⁶

Statute of Limitations

A consumer must bring a lawsuit against a debt collector for an FDCPA violation within one year from the date on which the violation occurred.³⁷ The statute of limitations generally begins to run from the debt collector's last chance to comply with the FDCPA.³⁸ For example, if a collection letter is sent to a consumer that violates the Act, the one-year limitation starts the day the letter was mailed, rather than the date the consumer received the letter, because the last day the collector could comply with the FDCPA was the day the letter is placed in the mail.³⁹ Similarly, if a consumer alleges a collector's lawsuit violates the FDCPA, the statute of limitations begins to run when the lawsuit is filed.⁴⁰

Jurisdiction and Venue

A consumer may bring an action against a debt collector "in any appropriate U.S. district court without regard to the amount in controversy or in any other court of competent jurisdiction."⁴¹ This provision has been construed as granting FDCPA jurisdiction to both state and federal courts; as such, consumers are permitted to bring suit against a debt collector for an alleged FDCPA violation in either federal or state court.⁴²

Once jurisdiction is established, a consumer must determine the venue or physical location in which the action may be commenced. The U.S. Court of Appeals for the Second Circuit has held the "statutory standard for venue focuses...on the location where events occurred."⁴³ Thus, if a collection notice is mailed to the consumer's residence or the consumer received the notice at an area near her home, action may be brought in the consumer's home area.⁴⁴

Venue also must be generally convenient to the parties involved. For instance, a district court in Ohio ruled although the debt collector was located in the Northern District of Ohio and the consumer resided in the Southern District, where the action was brought, defending the case in the Southern District did not subject the debt collector to undue hardship. Alternatively, the court concluded if the venue of the lawsuit had been moved to the Northern District, as requested by the debt collector, the consumer's lack of finances would have adversely affected his ability to sufficiently prosecute the claim.⁴⁵

Individual Collector Liability

Liability under the FDCPA does not only apply to debt collection agencies; employees of collection agencies may also be held liable for violations to the same extent as the collection agency.⁴⁶ In order for an individual to be held liable for an FDCPA violation, however, the consumer must show the collector is a "debt collector" as defined under § 803(6) [15 U.S.C. § 1692a(6)] and that the collector was "personally involved in the collection of the debt at issue."⁴⁷ For example, if an individual debt collector

employed by a collection agency violates the FDCPA by engaging in harassing conduct, such as continuously or repeatedly calling the consumer, the collector may be sued individually.

Individual debt collectors may also be subject to administrative enforcement actions brought by the FTC or other agencies for FDCPA violations. It is vital collection agencies protect their collectors by implementing policies and procedures designed to ensure compliance with the FDCPA.

Shareholder, Officer or Director Liability

When an employee of a debt collection agency is also a shareholder, officer, or director of a corporation, there is a split of authority as to whether the corporate form insulates the shareholder, officer or director from personal liability.

The Court of Appeals for the Seventh Circuit and a few district courts have held individual shareholders, directors, and officers of a debt collection company cannot be personally liable under the FDCPA unless the consumer can prove the corporate form should be disregarded. The Seventh Circuit ruled “the [FDCPA] is not aimed at shareholders of debt collectors operating in the corporate form unless some basis is shown for piercing the corporate veil...”⁴⁸ Courts supporting this proposition have asserted the extent of control exercised by the individual shareholder, director or officer is irrelevant to determining their liability under the FDCPA.

The Court of Appeals for the Sixth Circuit, along with several other district courts, have reached the opposite conclusion, holding the corporate structure does not insulate such persons, and as such, a shareholder, officer or director of a debt collection agency may be held personally liable for FDCPA violations regardless of whether the consumer has pierced the corporate veil, so long as the individual meets the definition of a debt collector under § 803(6).⁴⁹ Even if an individual is not personally or directly involved in the collection of the specific debt, an individual may be personally liable under the FDCPA based on his indirect participation.⁵⁰ For instance, the Sixth Circuit found a member of an LLC was a debt collector because he (1) drafted the form letter that was sent; (2) was one of only two attorneys at the law firm; (3) negotiated terms with the mailing service provider used in debt collection practices; (4) reviewed compliance with applicable collection laws; and (5) the remittance voucher directed the consumer to make the check payable to the attorney individually. Because the member of the LLC met the definition of a debt collector, he was subject to individual liability without piercing the corporate veil.⁵¹

Given the split of authority over whether individual officers, directors, or shareholders may be personally liable under the FDPCA, it is important for collection agencies to identify what roles the individual officers and shareholders play in the collection process.

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¹ 15 U.S.C. § 1692k(a)(2)(A) (2006) [§ 813(a)(2)(A)]. See also *Greif v. Wilson, Elser, Moskowitz, Edelman & Dicker, L.L.P.*, 258 F. Supp. 2d 157, 159 (E.D.N.Y. 2003); *Aronson v. Creditrust Corp.*, 7 F. Supp. 2d 589, 593-94 (W.D. Pa. 1998).

² 16 U.S.C. § 1692k(a)(2)(B) (2006) [§ 813(a)(2)(B)].

³ FTC Statements of General Policy or Interpretation Staff Commentary on the FDCPA, 53 Fed. Reg. 50097, 50109 (Dec. 13, 1988). See also *Musso v. Seiders*, 194 F.R.D. 43, 46 (D. Conn. 1999). See also *Som v. Daniels Law Offices, P.C.*, 573 F. Supp. 2d 349, 356 (D. Mass. 2008); *Krapf v. Prof'l Collection Servs., Inc.*, 525 F. Supp. 2d 324, 327 (E.D.N.Y. 2007).

⁴ See *Thomas v. Law Firm of Simpson & Cybak*, 244 Fed. Appx. 741, 743 (7th Cir. 2007) citing *Randolph v. IMBS, Inc.*, 368 F.3d 726, 728 (7th Cir. 2004); *Aronson v. Creditrust Corp.*, 7 F. Supp. 2d 589, 594 (W.D. Pa. 1998); *Thomas v. Pierce, Hamilton & Stern, Inc.*, 967 F. Supp. 507, 511-12 (N.D. Ga. 1997) (“additional damages” is meant to include punitive damages and preclude an award of punitive damages in addition to statutory damages).

⁵ *Johnson v. Eaton*, 80 F.3d 148, 151 (5th Cir. 1996) (consumer was unable to prove actual damages and was therefore not entitled to actual or additional damage award).

⁶ *Thomas v. Law Firm of Simpson & Cybak*, 244 Fed. Appx. 741, 744 (7th Cir. 2007).

⁷ Compare *Chiverton v. Fed. Fin. Group*, 399 F. Supp. 2d 96, 101 (D. Conn. 2005) (consumer’s trial testimony that he suffered anxiety, stress, frustration, and fear of losing job and not receiving army commission was sufficient to prove emotional distress) with *Clodfelter v. United Processing, Inc.*, No. 08-CV-2131, 2008 WL 4225557, at *4-5 (C.D. Ill. Sept. 12, 2008); *Tallon v. Lloyd & McDaniel*, 497 F. Supp. 2d 847, 850-51 (W.D. Ky. 2007) (consumer’s affidavit stating the experience was “extremely stressful, embarrassing, and humiliating for him” and “as a result of such embarrassment he remains anxious which has further resulted, from time to time, in a loss of sleep and appetite” was insufficient evidence to prove emotional damages).

⁸ Compare *Riley v. Giguere*, 631 F. Supp. 2d 1295, 1315 (E.D. Cal. 2009); *Davis v. Creditors Interchange Receivable Mgmt., LLC*, 585 F. Supp. 2d 968, 971-77 (N.D. Ohio Nov. 12, 2008); *Panahiasl v. Gurney*, No. 04-04479 JF, 2007 WL 738642, at *2 (N.D. Cal. Mar. 8, 2007) (consumer does not need to meet the elements of the state law tort of intentional infliction of emotional distress) with *Bolton v. Pentagroup Fin. Servs., LLC*, No. CIV-F-08-0218 AWI GSA, 2009 WL 734038, at *10 (E.D. Cal. Mar. 17, 2009); *Costa v. Nat'l Action Fin. Servs.* No. Civ. S-05-2084 FCD/KJM, 2007 WL 4526510, at *7-8 (E.D. Cal. Dec. 19, 2007); *Venes v. Prof'l Serv. Bureau Inc.*, 353 N.W. 2d 671, 674 (Minn. Ct. App. 1984) (consumer must prove the elements of the state law tort of intentional infliction of emotional distress).

⁹ *Venes v. Prof'l Serv. Bureau Inc.*, 353 N.W. 2d 671, 674 (Minn. Ct. App. 1984). See also *Bolton v. Pentagroup Fin. Servs., LLC*, No. CIV-F-08-0218 AWI GSA, 2009 WL 734038, at *10 (E.D. Cal. Mar. 17, 2009) citing *Molko v. Holy Spirit Assn.* 762 P.2d 46 (Cal. 1988), *rev'd on other grounds.*

¹⁰ *Venes v. Prof'l Serv. Bureau Inc.*, 353 N.W. 2d 671, 674-75 (Minn. Ct. App. 1984).

¹¹ *Greif v. Wilson, Elser, Moskowitz, Edelman & Dicker, L.L.P.*, 258 F. Supp. 2d 157, 159 (E.D.N.Y. 2003). See also 15 U.S.C. § 1692k(a)(2)(A) (2006) [§ 813(a)(2)(A)].

¹² 15 U.S.C. § 1692k(b)(1) (2006) [§ 813(b)(1)]; *Teng v. Metro. Retail Recovery Inc.*, 851 F. Supp. 61, 70 (E.D.N.Y. 1994); *Weiss v. Zwicker & Associates, P.C.*, 664 F. Supp. 2d 214, 218 (E.D.N.Y. 2009).

¹³ *Savino v. Computer Credit, Inc.*, 164 F.3d 81, 86 (2d Cir. 1998); *Nero v. Law Office of Sam Streeter, P.L.L.C.*, 655 F. Supp. 2d 200, 210 (E.D.N.Y. 2009); *Richard v. Oak Tree Group Inc.*, No. 1:06-CV-362, 2008 WL 5060319, at *7 (W.D. Mich. Nov. 21, 2008).

¹⁴ *Clark v. Capital Credit Servs.*, 460 F.3d 1162, 1177 (9th Cir. 2006); *Wright v. Fin. Serv. of Norwalk, Inc.*, 22 F.3d 647, 651 (6th Cir. 1994); *Harper v. Better Bus. Servs., Inc.*, 961 F.2d 1561, 1563 (11th Cir. 1992); *Muldrow v. Credit Bureau Collection Servs., Inc.*, No. 09-61792-CIV-COOKE, 2010 WL 2650906, at *2 (S.D. Fla. June 30, 2010); *Teng v. Metro. Retail Recovery Inc.*, 851 F. Supp. 61, 69 (E.D.N.Y. 1994).

¹⁵ *Martinez v. Michael J. Scott, PC, et al.*, No. H-10-1619, 2011 WL 3566970 (S.D. Tex. Aug. 12, 2011).

¹⁶ *Jackson v. Diversified Collection Servs., Inc.*, No. CIV.09-CV-00680-WDM-BNB, 2010 WL 1931013, at *2 (D. Colo. May 13, 2010); *Fontana v. C. Barry & Assocs., LLC*, No. 06-CV-359A, 2007 WL 2580490, at *2 (W.D.N.Y. Sept. 4, 2007) (awarding less than \$1,000 in statutory damages).

¹⁷ *Richard v. Oak Tree Group Inc.*, No. 1:06-CV-362, 2008 WL 5060319, at *9 (W.D. Mich. Nov. 21, 2008).

¹⁸ *Barrows v. Tri-Fin.*, No. 09-CV-292S, 2009 WL 3672069, at *2 (W.D.N.Y. Oct. 30, 2009); *Teng v. Metro. Retail Recovery Inc.*, 851 F. Supp. 61, 71 (E.D.N.Y. 1994).

¹⁹ 15 U.S.C. § 1692k(a)(3) (2006) [§ 813(a)(3)].

- ²⁰ *Dechert v. Cadle Co.*, 441 F.3d 474, 476 (7th Cir. 2006); *Johnson v. Eaton*, 80 F.3d 148, 151 (5th Cir. 1996); *Pietrowski v. Merch. & Medical Credit Corp.*, No. 06-CV-12718, 2008 WL 2942214, at *2-4 (E.D. Mich. July 25, 2008).
- ²¹ *Emmanuel v. Am. Credit Exchange*, 870 F.2d 805, 809 (2d Cir. 1989); *Pipiles v. Credit Bureau*, 886 F.2d 22, 28 (2d Cir. 1989); *Miller v. Midpoint Resolution Group, LLC*, 608 F. Supp. 2d 389, 394 (W.D.N.Y. 2009).
- ²² *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983).
- ²³ *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).
- ²⁴ *Altergott v. Modern Collection Techniques, Inc.*, 864 F. Supp. 778, 780 (N.D. Ill. 1994). See generally *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973 (9th Cir. 2008); *Lynch v. City of Milwaukee*, 747 F.2d 423, 428-29 (7th Cir. 1984).
- ²⁵ *Gervais v. O'Connell, Harris & Assocs., Inc.*, 297 F. Supp. 2d 435, 440 (D. Conn. 2003).
- ²⁶ *Gervais v. O'Connell, Harris & Assocs., Inc.*, 297 F. Supp. 2d 435, 440 (D. Conn. 2003).
- ²⁷ *Altergott v. Modern Collection Techniques, Inc.*, 864 F. Supp. 778, 783 (N.D. Ill. 1994).
- ²⁸ 15 U.S.C. § 1692k(a)(2)(B) (2006) [§ 813(a)(2)(B)].
- ²⁹ BLACK'S LAW DICTIONARY (8th ed. 2004).
- ³⁰ Fed. R. Civ. P. Rule 23.
- ³¹ *In re LifeUSA Holding Inc.*, 242 F.3d 136, 139 (3d Cir. 2000).
- ³² 15 U.S.C. § 1692k(a)(2)(B) (2006) [§ 813(a)(2)(B)].
- ³³ *Sanders v. Jackson*, 33 F. Supp. 2d 693, 694 (N.D. Ill. 1998).
- ³⁴ 15 U.S.C. § 1692k(b)(2) (2006) [§ 813(b)(2)].
- ³⁵ 15 U.S.C. § 1692k(a)(3) (2006) [§ 813(a)(3)].
- ³⁶ *Rouse v. Law Offices of Rory Clark*, 603 F.3d 699, 701-06 (9th Cir. 2010); *Winn v. Unifund CCR Partners*, No. CV 06-447-TUC-FRZ (GEE), 2007 WL 2701941, at *3 (D. Ariz. Sept. 14, 2007); *Smith v. Rockett*, No. CIV-06-492-M, 2006 WL 2850491, at *1 (W.D. Okla. Oct. 2, 2006).
- ³⁷ 15 U.S.C. § 1692k(d) (2006) [§ 813(d)].
- ³⁸ *Nass v. Stolman*, 130 F.3d 892, 893 (9th Cir. 1997); *Mattson v. U.S. W. Communications, Inc.*, 967 F.2d 259, 261 (8th Cir. 1992); *Benjamin v. Citibank South Dakota, N.A.*, No. Civ.A. 3:08CV-416-M, 2008 WL 5192239, at *3 (W.D. Ky. Dec. 11, 2008); *Shivone v. Wash. Mut. Bank, F.A.*, No. Civ.A. 07-CV-1038, 2008 WL 3154688, at *2-3 (E.D. Pa. Aug. 5, 2008); *Akalwadi v. Risk Mgmt. Alternatives, Inc.*, 336 F. Supp. 2d 492, 501(D. Md. 2004).
- ³⁹ *Maloy v. Phillips*, 64 F.3d 607, 608 (11th Cir. 1995); *Mattson v. U.S. W. Communications, Inc.*, 967 F.2d 259, 261 (8th Cir. 1992); *Benjamin v. Citibank South Dakota, N.A.*, No. Civ.A. 3:08CV-416-M, 2008 WL 5192239, at *3 (W.D. Ky. Dec. 11, 2008); *Shivone v. Wash. Mut. Bank, F.A.*, No. Civ.A. 07-CV-1038, 2008 WL 3154688, at *2-3 (E.D. Pa. Aug. 5, 2008).
- ⁴⁰ *Nass v. Stolman*, 130 F.3d 892, 893 (9th Cir. 1997); *Awah v. Donaty*, No. CIVAW-09-116, 2009 WL 3747201, at *3 (D. Md. Nov. 4, 2009); *Benjamin v. Citibank South Dakota, N.A.*, No. Civ.A. 3:08CV-416-M, 2008 WL 5192239, at *3 (W.D. Ky. Dec. 11, 2008). But see *Johnson v. Riddle*, 305 F.3d 1107, 1114 (10th Cir. 2002); *Zigdon v. LVNV Funding, LLC*, No. 1:09CV0050, 2010 WL 1838637, at *6 (N.D. Ohio Apr. 23, 2010); *Perez v. Bureaus Inv. Group No. II, LLC*, No. 1:09-CV-20784, 2009 WL 1973476, at *2 (S.D. Fla. July 8, 2009); (the statute of limitations begins to run from the date of service).
- ⁴¹ 15 U.S.C. § 1692k(d) (2006) [§ 813(d)].
- ⁴² *Itri v. Equibank, N.A.*, 464 A.2d 1336, 1342 (Pa. Super. Ct. 1983).
- ⁴³ *Bates v. C & S Adjusters, Inc.*, 980 F.2d 865, 868 (2d Cir. 1992).
- ⁴⁴ *Bates v. C & S Adjusters, Inc.*, 980 F.2d 865, 867 (2d Cir. 1992). See also *Murphy v. Allen County Claims & Adjustments*, 550 F. Supp. 128, 131-32 (S.D. Ohio 1982).
- ⁴⁵ *Murphy v. Allen County Claims & Adjustments*, 550 F. Supp. 128, 131-32 (S.D. Ohio 1982).
- ⁴⁶ FTC Statements of General Policy or Interpretation Staff Commentary on the FDCPA, 53 Fed. Reg. 50097, 50109 (Dec. 13, 1988).
- ⁴⁷ *Musso v. Seiders*, 194 F.R.D. 43, 46 (D. Conn. 1999). See also *Som v. Daniels Law Offices, P.C.*, 573 F. Supp. 2d 349, 356 (D. Mass. 2008); *Krapf v. Prof'l Collection Servs., Inc.*, 525 F. Supp. 2d 324, 327 (E.D.N.Y. 2007).
- ⁴⁸ *White v. Goodman*, 200 F.3d 1016, 1019 (7th Cir. 2000). See also *Petit v. Retrieval Masters Creditors Bureau, Inc.*, 211 F.3d 1057, 1059 (7th Cir. 2000).
- ⁴⁹ *Kistner v. Law Offices of Michael P. Margelefsky, L.L.C.*, 518 F.3d 433, 437-38 (6th Cir. 2008); *Smith v. Levine Leichtman Capital Partners, Inc.*, No. C 10-00010 JSW, 2010 WL 2787549, at *6, --- F. Supp. 2d --- (N.D. Cal., June 29, 2010); *Robinson v. Managed Accounts Receivables Corp.*, 654 F. Supp. 2d 1051, 1059 (C.D. Cal. 2009); *Schwarm v. Craighead*, 552 F. Supp. 2d 1056, 1070-73 (E.D. Cal. 2008); *Del Campo v. Kennedy*, 491 F. Supp. 2d

891, 903 (N.D. Cal. 2006); *Brumelow v. The Law Offices of Bennett and Deloney, P.C.*, 372 F. Supp. 615, 618 (D. Utah 2005).

⁵⁰ *Kistner v. Law Offices of Michael P. Margelefsky, L.L.C.*, 518 F.3d 433, 437-38 (6th Cir. 2008); *Brumelow v. The Law Offices of Bennett and Deloney, P.C.*, 372 F. Supp. 615, 622 (D. Utah 2005).

⁵¹ *Kistner v. Law Offices of Michael P. Margelefsky, L.L.C.*, 518 F.3d 433, 437-38 (6th Cir. 2008).