

## White and Williams Successfully Defends on Appeal the Dismissal of Class Action Lawsuit

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White and Williams successfully defended on appeal the dismissal of a class action lawsuit filed against a California law firm in the business of collecting debts. A debtor received a collection letter from the law firm that invited her to call the firm if she wanted to "eliminate further collection action." The letter also informed the debtor that under the Fair Debt Collection Practices Act (FDCPA), she could legally trigger her right to have the law firm validate the debt and stop collections activities if she made those requests in writing.

The debtor sued the law firm and asked to represent a class of debtors that received a similarly worded letter from the law firm. She alleged that the letter was deceptive because it could give a debtor the mistaken impression that a phone call was a legally adequate method to require the debt collector to validate the debt and stop collection activities.

In the District Court, White and Williams convinced the Court that the letter was not deceptive and complied with the requirements of the FDCPA. The Third Circuit agreed. The Third Circuit noted that the debt collector included the statutorily required language the informed her of her rights under the FDCPA and how to claim those rights. Furthermore, it found that the debt collector never asserted explicitly or implicitly, that a phone call would legally require the debt collector to stop its collection efforts.

The Third Circuit also rejected the debtor's contention that the inclusion of the invitation to call immediately before the legally mandated validation notice overshadowed her validation rights because it was unclear whether she could exercise her validation rights by writing or by phone call. The Panel said, the debtor "sees confusion where none exists." It flatly rejected that the order of the paragraphs created any confusion.

The Court's decision is a reported, precedential decision that provides needed clarification to federal district courts in the Third Circuit that had previously reached inconsistent opinions on the propriety of an invitation to a debtor to call the debt collector.

The defendants were represented by Ed Koch and Marc Penchansky.

*Moyer v. Patenaude & Felix, A.P.C., No. 20-1937, 991 F.3d 466; 2021 U.S. App. LEXIS 7566 (3d Cir. Mar. 16, 2021)*