



DEBT COLLECTOR'S 125 CALLS IN 135 DAYS DOES NOT VIOLATE FDCPA

A Pennsylvania district court concluded that a debt collector did not violate the federal Fair Debt Collection Practices Act ("FDCPA") when it placed 125 calls to a debtor's cell phone over the course of 135 days. *Reed v. IC System, Inc.*, No. 3:15-279, 2017 WL 89047 (W.D. Pa. Jan. 10, 2017).

On 35 of the 135 days, the collector called the debtor at least two times a day. On 3 of the 135 days, the collector called the debtor at least three times. All of the calls went to the debtor's voicemail. Of the 125 calls made, the collector left one voicemail message. The collector stopped making calls after receiving a letter from the debtor's attorney requesting that calls cease.

When the debtor started receiving collection calls, she downloaded an app called "Blocked Calls Get Cash," which "was developed to help users effortlessly exercise their rights under the Telephone Consumer Protection Act." The app asks users whether a call is a personal call or from a debt collector or telemarketer and allows users to block a call. If a number associated with a debt collector or telemarketer calls again, a cell phone rings once or twice, then the app blocks the call, sends a notification of the blocked call to the user and logs call information.

The debtor alleged that the collector violated the FDCPA's prohibitions on: (i) engaging in conduct the natural consequence of which is to harass, oppress or abuse any person and (ii) causing a telephone to ring repeatedly or continuously with the intent to annoy, abuse or harass.

The district court dismissed the case finding that the collector engaged in no egregious conduct in connection with the number of calls in violation of the FDCPA. The court acknowledged that the number of calls seemed "quite high," but the following facts demonstrate no egregious conduct on behalf of the collector: (i) collection calls were never made back-to-back, there was always two hours between calls, (ii) the calls took place between 8 am and 7:45 pm, (iii) the collector left only one voicemail message and waited three days after the message to place another call, (iv) the collector never spoke directly with the debtor, (v) the debtor blocked the collector's calls with the "Blocked Calls Get Cash" app and (vi) the collector ceased calls after receiving a letter from the debtor's

attorney. □

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FTC SETTLES WITH STUDENT LOAN DEBT COLLECTOR

On February 14th, the Federal Trade Commission ("FTC") entered a settlement with a student loan debt collector over alleged unlawful collection calls in connection with federal student loans and other debts. In connection with the settlement, the collector agreed to pay a \$700,000 civil penalty. The FTC had alleged that the collector violated the prohibition on unfair and deceptive acts or practices under Section 5 of the Federal Trade Commission Act and the FDCPA by engaging in the following actions:

- Leaving voicemail messages that disclosed a debtor's debt to third parties.
- Making repeated calls to numbers (i) associated with a person that did not owe a debt or (ii) through which the debtor could not be reached.
- Misrepresenting that the collector will stop making calls to the wrong number.
- Contacting third parties more than once to acquire location information about a debtor without the third party's consent or without forming a reasonable belief that the third party's original denial of knowledge about the debtor's location was incomplete or erroneous.

Regulators have increased their scrutiny of federal student loan servicers. In January, the Consumer Financial Protection Bureau filed a complaint against a federal and private student loan servicer for servicing practices that allegedly constituted unfair or abusive acts or practices and violated the FDCPA and Fair Credit Reporting Act. □

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