



ELEVENTH CIRCUIT: VOICEMAIL IS A COMMUNICATION UNDER THE FDCPA

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The U.S. Court of Appeals for the Eleventh Circuit has held that (i) a voicemail is a “communication” within the meaning of the Fair Debt Collection Practices Act (“FDCPA”) and (ii) “meaningful disclosure” of a caller’s identity is satisfied with disclosure of the collection company’s name and the nature of its business. *Hart v. Credit Control, LLC*, No. 16-17126 (11th Cir. Sept. 22, 2017).

This case arose from the following voicemail left by a collection company:

This message is [collection company’s name] calling with a message. This call is from a debt collector. Please call us at 866-784-1160. Thank you.

The voicemail constituted the collection company’s first contact with the debtor. The company continued to call the debtor and leave voicemails.

First, the debtor argued that the collection company violated the FDCPA by failing to give a “mini Miranda” warning in the company’s initial communication with the debtor. The court concluded that a voicemail is a “communication” under the FDCPA because the voicemail conveyed information regarding a debt by letting the debtor know that a collection company sought to speak with her and providing instructions to return the call. The court noted the broad statutory language of the definition of “communication”.

Next, the debtor argued that the company violated the FDCPA when individual callers did not identify themselves by name in the voicemails. The court rejected the debtor’s argument. The FDCPA does not define “meaningful disclosure” and the court noted that no circuit courts have analyzed the meaning of the term. Based on the text of the FDCPA, the court concluded that a collection company’s name is “plenty” to provide “meaningful disclosure” to the debtor. The court wrote that an individual caller’s name “adds little value to the consumer” who seeks to complain about the collection company’s behavior.

This case demonstrates some risks with leaving voicemails during collections. We can assist in developing collection strategies and procedures and reviewing collection communications. ☐

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