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Appeals Court Affirms MSJ for Defendant in FDCPA Case Over Invitation to Call Made in Letter

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[Virginia Bell Flynn](#)

Virginia Bell Flynn, partner in Troutman Pepper’s Consumer Financial Services Practice Group, was quoted in the *Compliance Digest* article, [“Appeals Court Affirms MSJ for Defendant in FDCPA Case Over Invitation to Call Made in Letter.”](#)

Earlier this month, in *Moyer v. Patenaude & Felix, A.P.C.*, the Third Circuit Court of Appeals held that a debt collector’s letter—inviting the recipient to “eliminate further collection action” by calling the collector — did not mislead the debtor about the method for disputing a debt or imply that a debt collector was legally required to do anything in response to a call, and therefore did not run afoul of the Fair Debt Collection Practices Act. The Court thus affirmed the district court’s summary judgment ruling for the collector.

First, the Court concluded that the invitation to call to “eliminate” further collection activity did not constitute an assertion “explicitly or implicitly, that the phone call would, by law, force [the collector] to cease its collection efforts” (emphasis added), distinguishing this case from those where the letter stated that the law required the debt collector to suspend its collection efforts if the debtor called. Second, it ruled that placing the invitation to call directly before the validation notice requiring disputes to be in writing created no confusion, just as demanding payment for a debt prior to providing the validation notice does not mislead the debtor as to what he needed to do to suspend collection efforts.

This ruling confirms that even under the “least sophisticated debtor” standard, courts are willing to give debt collectors some leeway in their collection notices. So long as they instruct a debtor that a written dispute is necessary to stop collection activity, and do not state or imply legal consequences or obligations where none exist, debt collectors are free to encourage debtors to call to discuss debt collection efforts.

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