

Federal Court Grants Summary Judgment in Debt Collector's Favor in FDCPA and TCPA Case, by Richard J. Perr, Esq. and Dominic Borelli, Esq., 10-16-2024

A Nevada District Court recently granted summary judgment in favor of a debt collector in a case involving alleged violations of the Fair Debt Collection Practices Act ("FDCPA") and the Telephone Consumer Protection Act ("TCPA").

In this case, the consumer had two (2) different accounts with the agency when it received a notice of attorney representation. The consumer alleged improper communication(s) under the FDCPA for a third account that was placed with the agency after the notice of representation was received. The Court ultimately found in favor of the agency, holding that notice of legal representation pertaining to one account does not extend to subsequently placed accounts.

The consumer also alleged that the agency violated the TCPA by using an automated telephone dialing system ("ATDS") to contact her without her consent. However, the Court determined that the consumer did give her prior express consent when she provided her cell phone number to the medical provider who then placed her account with the agency for collection. In other words, a consumer gives prior express consent under the TCPA if they provide a cell phone number to one entity in a commercial transaction, who later provides the number to another entity for the collection of a debt.

For more information on compliance with the Fair Debt Collection Practices Act and Telephone Consumer Protection Act, please contact Kaufman Dolowich's Financial Services & Institutions Practice Group.