

Validity of Debts May Be Disputed by Oral Communication: Third Circuit Rejects Requirement of a Writing to Dispute Consumer Debt Under the Fair Debt Collections Practices Act

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On March 30, 2020, the U.S. Court of Appeals Third Circuit issued an important decision in the case of Riccio v. Sentry Credit, Inc., approving oral communication as a method to dispute the validity of a debt. This decision overruled Graziano v. Harrison 950 F.2d 107 (3d Cir. 1991), a long-standing case requiring a writing to dispute a debt and will affect all consumer debt collectors including those collecting debt for community associations.

This case involves an individual debtor, Maureen Riccio, who became delinquent in her obligations to M-Shell Consumer Oils. Sentry Credit purchased the debt and proceeded with collection efforts against Riccio. Sentry Credit forwarded a notice letter to Riccio containing three options for responding: (1) mail; (2) phone; or (3) website. The notice letter also stated the following language required by the Fair Debt Collections Practices Act (FDCPA):

“Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.”

Riccio commenced suit against Sentry Credit on grounds that the notice letter violated §1692g(a)(3) of the FDCPA, as it appeared to provide individuals with several methods of contacting Sentry to dispute the alleged debt, rather than specifically stating that the debt must be disputed in writing. Sentry Credit acknowledged that under *Graziano*, the debt must be disputed in writing, and argued that their notification letter complied with the writing requirement. The District Court granted Sentry Credit’s motion for judgment against Riccio. Riccio filed an appeal.

The question before the Third Circuit was whether §1692g(a)(3) of the FDCPA, allows debtors to orally dispute the validity of a debt. For nearly three decades, *Graziano* stood as the law interpreting section §1692g(a)(3): for a dispute to be considered effective, it must be in writing.

Section 1692g(a) specifies five things the notice letter must include:

1. the amount of the debt;
2. the name of the creditor to whom the debt is owed;
3. a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;
4. a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and
5. a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

In overruling *Graziano*, the Third Circuit held that § 1692g(a)(3) does not expressly require written disputes and concluded that if Congress wanted to require the writing, it would have specified it, as it did in the other sections of 1692g. Subsections (a)(4), (a)(5), and (b) specifically command a written dispute; (a)(3) does not. As a result, debt collection notices sent under § 1692g need not require that disputes be expressed in writing. Oral disputes are permitted as well. This decision makes it easier for Debtors to dispute the debt's validity.

The *Riccio* decision makes it easier for a debtor to dispute the validity of a debt. Accordingly, it will affect all attorneys and other debt collectors who collect assessments from consumers for their community association clients.

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