

Third Circuit Overrules Prior Precedent, Holds Debt Collection Notices Need Not Request That Disputes Be Expressed in Writing

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An *en banc* panel of the Third Circuit recently overturned a nearly three-decade old precedent, determining that Section 1692g of the Fair Debt Collection Practices Act (FDCPA) does ***not*** require that disputes be expressed in writing but instead permits debts to be disputed orally.

15 U.S.C. Section 1692g requires that debt collectors send debtors a letter notifying them of their right to dispute a debt, and requires five items to be included in such letter. In 1991, a three-judge panel held that a dispute, to be effective, must be communicated in writing. Graziano v. Harrison, 950 F.2d 107 (3d Cir. 1991).

In reviewing the statutory provision with “fresh eyes” in Riccio v. Sentry Credit, Inc., the Third Circuit concluded that Graziano was incorrect and that Section 1692g does not require that disputes be expressed in writing. The Court analyzed the text of the specific portion of the statute, which refers to disputes without specifying whether they must be written or oral, and compared it to other portions of the FDCPA, which require written conduct. It also noted that over the past few decades, at least seven other circuits had come to the same conclusion.

The panel also considered whether *stare decisis* should preclude overturning Graziano, but determined that three factors favored doing so. First, *en banc* panels carry more weight than prior panel decisions. Second, the more recent contrary decisions of other circuits suggested that the court should reconsider its reasoning. Third, case law postdating the prior matter offered sound reasons for believing that the prior panel would now decide the case differently.

Thus, in the matter before the court, the panel affirmed the District Court’s ruling and held that the notice provision at issue satisfied the FDCPA’s requirements by informing the debtor of her right to dispute the debt by several avenues, both written and otherwise, and using language reproduced from the statute itself.

A full copy of the *en banc* panel opinion is attached.