SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART
MERCER COUNTY, NEW JERSEY
DOCKET NO. MER-L-293-23
A.D. #______________________

ELAINE LEVINS and WILLIAM LEVINS, Plaintiffs,	TRANSCRIPT OF ORAL DECISION
v.	
HEALTHCARE REVENUE RECOVERY GROUP, LLC, Defendant.	

Place: Mercer County Civil Courthouse
175 South Broad Street
Trenton, NJ 08650

Date: October 29, 2025

BEFORE:

THE HON. DOUGLAS H. HURD, P.J.Cv.

TRANSCRIPT ORDERED BY:

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THE COURT: Okay. We are on the record. this is Docketed Mercer County Law Division 293-23.

This matter comes to the Court by way of two motions. One was a motion for summary judgment and the other is a motion for a class certification. The Court has read through all the briefing and had oral argument in person yesterday on this matter. And the Court wants to thank counsel for the excellent work they did in their briefing and in their oral argument.

The Court is going to grant the motion for summary judgment. That decision on the summary judgment motion will make the motion for a class certification moot and that will be denied accordingly.

Plaintiff here alleges that the defendant violated the Fair Debt Collection Practices Act. They allege that the defendant employed deceptive business practices. Plaintiff claims that the defendant placed over 60 voice messages to plaintiffs' voicemail box. The core of plaintiffs' complaint states that the defendant failed to meaningfully disclose their identity when they left messages in plaintiffs' voicemail.

Specifically, defendant would leave an automated voicemail in which they would refer to themselves as ARS. ARS refers to a division of

Healthcare Revenue Recovery Group, LLC called ARS, Account Resolution Services. ARS, Account Resolution Services is also registered as HRRG's alternate business name in the State of New Jersey. Plaintiff argues that they, themselves, (indiscernible) situated would be required to call the defendant back or access their website to discern the true identify of the caller.

Plaintiff also argues that there is an issue with this practice because defendant would receive personal information during the prospective phone call or while an individual is using the defendant's website which can later be used against plaintiff in the collection of an outstanding debt. Plaintiff does not allege that they accessed defendant's website or that they placed a call to defendant due to the voicemail messages.

This matter was first heard by the United States District Court of New Jersey in April of 2017. The matter was dismissed by the lower federal court. The Third Circuit took the matter on appeal where they affirmed the lower court's decision in part and denied the lower court's decision in part. The decision stated that ARS cannot be considered HRRG's true name.

The decision further stated that the

defendant's use of an alternate name could amount to a statutory violation, however, plaintiff is required to state a concrete injury rather than a statutory injury alone. And in light of the <u>TransUnion</u> decision and under Article III standing principles, plaintiffs' complaint was dismissed from the federal court and is now here in the state court.

The defendant argues that they did not use deceptive business practices when they identified themselves as ARS in voicemail messages. Defendant claims that ARS is an abbreviation of HRRG's alternate name, ARS, Account Resolution Services. Defendant claims that its alternate name is registered as such in the State of New Jersey. Defendant argues that their actions are permitted under the FDCPA. They further contend that their alleged action would satisfy the least sophisticated consumer standard outline in related cases.

Plaintiff, on the other hand, claims that the defendant is a debt collector who utilized deceptive business practices while attempting to collect outstanding debts. Plaintiff argues that the defendant intended to harass plaintiffs into providing personal information that could later be used in order to recover an outstanding debt. Plaintiff seeks statutory damages and attorney’s fees. Plaintiff argues that the defendant employed deceptive business practices when they left over 60 voicemail messages, all of which failed to meaningfully disclose the identity of the caller. Plaintiff argues that this is a violation of the FDCPA and submits that this action should be treated as a class action lawsuit.

Of course, this matter is governed by the Rule 4:46 standard, as well as the standard articulated in the Brill case and we know that the court must consider whether the competent evidential materials presented when viewed in the light most favorable to the nonmoving party in consideration of applicable evidentiary standards are sufficient to permit a rational fact-finder to resolve the allegedly disputed issue in favor of the nonmoving party. And that comes from Brill at Page 523.

Also, at 533, the court in Brill stated that on a motion for summary judgment, the court must engage in an analytical process essentially the same as that necessary to rule on a motion for a directed verdict, namely, whether evidence presents sufficient disagreements or requires submission to a jury or whether it is so one-sided that a party must prevail as a matter of law.

Here, as I said, even giving all favorable inferences to the nonmoving party here, which is the plaintiff, the Court in this case has no discretion but rather is required as a matter of law to grant the defendant’s motion.

To state a claim under the FDCPA, a plaintiff must allege that - four items -- (1) she is a consumer, (2) that the defendant is a debt collector, (3) that the defendant’s challenge practice involves an attempt to collect a debt as the act defines it and (4) the defendant has violated a provision of the FDCPA in attempting to collect a debt. And the Court there is looking at the Levins v. Healthcare Revenue Recovery case 902 F.3d 274 (3d Cir. 2018).

Under 15 U.S. Code Section 1692(d), a debt collector may not engage in any conduct the natural consequence of which to harass, oppress or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section. And Section 6 states, except as provided in Section 69(2)(b) of this title, the placement of telephone calls without meaningful disclosure of the caller’s identify.

15 U.S. Code Section 1692(e) states that a

debt collector may not use any false, deceptive or misleading representation or means in connection with the collection of any debt without limiting the general application of the foregoing, the following conduct is a violation of this section. Section 10 states the use of an false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

Section 11, the failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose in the failure to disclose in subsequent communications that the communication is from a debt collector except that this paragraph shall not apply to a formal pleading made in connection with a legal action.

Section 14, the use of any business, company or organization name other than the true name of the debt collector’s business, company or organization.

Defendants first argue, correctly, that they did not violate the FDCPA, specifically Section 1692(e) because they used a legally recognized alternate

business name in their voicemail messages. This is significant and defendant is correct on every point with this issue. The name ARS, Account Revenue Services, was registered as an alternate business name for HRRG in the State of New Jersey.

Defendant has provided the Court with credible evidence, frankly, undisputed evidence, namely the registration certificate which establishes that ARS, Account Revenue Services, was HRRG’s alternate business name, legally recognized in the State of New Jersey at the time the plaintiff claims they were injured.

We do know that the Third Circuit stated that this is not the, quote, unquote, true name of HRRG, however, the Third Circuit stated that their decision was being rendered at an early stage in the case and that the defendant would have an opportunity later to expand the record. The defendant has now done so and they’ve done so conclusively on this point in their favor in this state action.

Significant to the analysis, as well, is the FDC commentary which has been adopted in the Third Circuit in Section 692(e)(14). And the quote from the commentary is, quote, a debt collector may use a name that does not misrepresent his identity or deceive the consumer. Thus, a collector may use its full business name, the name under which it usually transacts business or a commonly used acronym. When the collector uses multiple names in its various affairs, it does not violate this subsection if it consistently uses the same name when dealing with a particular customer.

Defendant has established through credible, undisputed evidence that it abbreviated its alternate business name. It consistently used this abbreviation in its voicemail messages and that ARS is a division of HRRG that usually transacts businesses with consumers once a specific stage of the debt collection process has been reached, which it was here.

So, even giving all favorable inferences to plaintiff as a nonmoving party, as a matter of law, the Court has concluded that the defendant did not violate 1692(e)(14) of the FDCPA.

Plaintiff also here argues that the defendant engaged in a deceptive business practice under the FDCPA, stating that debtors would be unable to discern which debt collection agency was leaving the voice messages delivered by defendant. In turn, plaintiff argues that they would be forced to either call the number provided in the voicemail or access the website

the message indicated in order to discern the identity of the caller.

Defendant has been transparent about the fact that any information they gathered while plaintiff attempted to discover the identity of defendant by either calling or accessing their website would be used to collect the outstanding debt. Here, it is not that the defendant actually gathered any information or that plaintiff relied on the voicemail to their detriment, it is instead an issue of whether the voicemail meaningfully disclosed defendant’s identity to plaintiff.

The plaintiff argues it is not the purpose of the call that was uncertain, but rather the identity of the caller that was uncertain.

Essentially, did the defendant violate the deception prohibition of 1692(e)(10) by failing to meaningfully disclose their identity in the voicemail. The Third Circuit has stated that meaningful disclosure under the FDCPA requires a voice message placed by a debt collector to provide two types of information -- (1) the name of the debt collection company, (2) the nature of the debt collection company’s business, which can be satisfied by disclosing that the call is on behalf of a debt collection company. That comes from

Levins at 282.

Here, the Court does have the transcript of the voicemail message and it is clear that, as a matter of law, both elements were present in defendant’s voice message.

Plaintiff claims that a reasonable search of ARS brings up different debt collection companies showing that the defendants could not disclose their identity merely by stating that ARS was calling. Based on plaintiff’s argument, defendant would have violated that DCPA by failing to properly disclose their identity when placing collection voicemail messages.

The Third Circuit disagreed and this Court disagrees as well. The FDCPA permits debt collection companies to request verification of identifying information of a caller before making debt collection disclosures. And that’s at Section 1692(e)(11). Even if ARS could not be considered the true name of HRRG, and this Court has already decided that it is, the message was clear enough to distinguish ARS as a debt collector. It was the registered alternate business name in the State of New Jersey.

The message itself revealed two mechanisms that plaintiff could use to identify the caller and the FDCPA permitted defendant to request additional

information before divulging any privileged information. And the message clearly disclosed that the purpose of the call was to collect an outstanding debt Defendant has successfully established that they have not violated the deception prohibitions of Section (e)(10) of the FDCPA by showing that they meaningfully disclosed their identity within the automated voice message.

Furthermore, it is undisputed that the defendant left 67 voice messages to plaintiff over a 14-month period from November 2015 to February 2017. Plaintiff contends that the defendant’s actions constitute an intention to harass. As noted before, defendant argues that their actions do not constitute intentional harassment, oppression or abuse in connection with the collection of a debt.

Defendant focuses on the number of messages that were left over a 14-month period. They claim that this is, objectively, not an example of harassment based on similar federal cases. Defendant contends, correctly, that the sheer volume of messages, or a lack thereof, placed over an extended period of time objectively show that their actions were not intended to annoy, abuse or harass plaintiffs under Subsection 1692(d)(5).

The Arteaga court decided that daily phone calls do not rise to a level that violates the FDCPA. That was a decision based as a matter of law and that's 733 F.2d 1218, 1237 from the Eastern District of California, 2010.

Hoover is another case, on the other hand, that said placing ten or more calls per week for eleven weeks is sufficiently harassing to violate the FDCPA, and that's 888 F. Supp. 2d 589, Eastern District of Pennsylvania, 2012.

While here, as a matter of law, the current facts, undisputed facts, show the defendant's actions fall closer to the Arteaga Court than to the Hoover decision. And this Court agrees that there is no deception or intent to harass here.

While plaintiffs have not asserted a claim under (d)(5), this discussion supports the idea that the defendants did not intend to harass plaintiff under Subsection 1692(d) overall.

We know that federal courts supply the least sophisticated consumer standard when evaluating whether a debt collection collector has violated FDCPA. This standard does not intend to generate wholly unreasonable interpretation of facts but instead intends to provide a wider interpretation of factual

disputes concerning fraud.

Defendant correctly argues, once again, that plaintiffs confusion over which ARS was calling has been subjectively construed to generate this cause of action. They are correct that even if there are multiple ARSs in the New Jersey debt collection industry, that their use of this acronym is permissible under the FDCPA regardless of whether it causes confusion.

The least sophisticated consumer standard asks whether the challenged communication would mislead or deceive the least sophisticated consumer, not whether any particular recipient actually listened to it or subjectively confused by it. That comes from the Third Circuit case from 2006 of Brown 464 F.3d 450. In addition, that standard aims to protect the gullible, as well as the shrewd, but it, nevertheless, preserves a caution as reasonableness. And that comes from the Levins case at 280.

To illustrate this point, plaintiff may not have known the registered alternate business name of defendant but could the least sophisticated consumer in plaintiffs' position be able to ascertain the identity of the defendant based on the voice message. A least sophisticated consumer should be able to identify the

ARS as a debt collector.

Based on the undisputed evidence in this record, and even giving all favorable inferences to plaintiff, as I said, it is clear that the least sophisticated consumer, an objective standard, should be able to identify that ARS is a debt collector. And, in fact, it was stated so on the voice message. They could access the phone number or the website listed in the voice message to ascertain the true identity of the caller.

At the same time, the purpose of the message was clear, to gather information about an outstanding debt. Defendant has conclusively complied with the regulations laid out by the FDCPA, so the summary judgment motion must be granted.

Here, the moving papers of the defendant are limited to seeking dismissal of plaintiffs' claims under 1692(d), 1692(d)(6), 1692(e)(10 and 1692(e)(14). They do not seek summary judgment on the bankruptcy related claim, so the grant of summary judgment here will be a partial grant of summary judgment based upon the motion papers here. And defendant does not dispute that.

So, the orders memorializing these decisions will be uploaded to eCourts.

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C E R T I F I C A T I O N

I, ALYCE H. STINE, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on compact disk, playback number 9:46 to 10:06, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings as recorded, and to the best of my ability.

/s/ Alyce H. Stine
ALYCE H. STINE AOC #705
J&J COURT TRANSCRIBERS, INC. DATE: November 14, 2025