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—ATTORNEYS AT LAW—

WILENTZ, GOLDMAN & SPITZER, P.A.

Third Circuit Court Affirms Dismissal of Fair Debt Collection Practices Act Claim

Elnaggar v. Watson and Allard P.C., No. 22-2316

05/30/23

Wilentz Shareholders Daniel S. Bernheim, 3d, and Jonathan Bart recently received a favorable opinion from the Third Circuit Court of Appeals on behalf of their client, the law firm of Watson and Allard P.C., affirming the dismissal of a claim under the Fair Debt Collection Practices Act. The Third Circuit agreed with the arguments presented that statements made by the law firm did not constitute unfair litigation tactics, and the dismissal of the complaint was proper.

Specifically, the law firm was representing the University of Pennsylvania in collecting a defaulted Perkins loan. The law firm stated it was the intention of the University to pursue collection, and, in fact, they did in the State of Georgia. The fact that different counsel was hired in another state was not considered misleading. Further, the Court rejected the notion that the withdrawal of a default judgment in Pennsylvania before proceeding in Georgia constituted an unfair tactic under the FDCPA. Further, the Court acknowledged, as argued, that the Perkins loan is not subject to a statute of limitation, and again pursuit for payment was proper. Finally, the fact that the University did not release the Plaintiff's academic transcripts was held not to have been properly presented, and even if it were, there was no basis to hold the law firm responsible.

This matter, *Elnaggar v. Watson and Allard P.C.*, No. 22-2316, is one of many that the Philadelphia office of Wilentz has successfully defended on behalf of law firms against whom FDCPA claims have been brought.

Attorneys

- Daniel S. Bernheim, 3d
- Jonathan J. Bart

Practices

- Appellate Practice
- Business and Commercial Litigation