

Collections Professionals, Inc. v. Jane Native

American Immediate is a credit card company based in San Diego and Ms. Native has been a reliable customer of American Immediate for the last 25 years. She has always paid her bills on time and never had a problem with the company before. However, for the last 5 months Ms. Native has received letters from American Immediate, her credit card company, regarding a past due payment in the amount of \$61,345.00.

Lately, the letters from American Immediate have stopped and instead Ms. Native has been getting nasty demand letters and phone calls from a company called Collection Professionals, Inc. They are demanding the full payment of the American Immediate balance of \$61,345.00. Ms. Native has refused to pay the amount because she insists her identity was stolen and she was not the one to incur these charges on her credit card bill. However, she has not filed a police report.

Ms. Native is very distraught over the communications she has had from Collections Professionals, Inc. and she wants it to stop. The Fair Debt Collection Practices Act §806(5) protects the consumer from harassment by the collection agency and §805(b) protects the consumer from the information of their debt being disclosed to a 3rd party. She feels like Collections Professionals is in violation of both sections of this Act and has hired a lawyer to deal with Collection Professionals, Inc.

Collection Professionals Inc.'s Private Facts

Collection Professional's Inc. is new to the collection business and American Immediate is one of their first big clients. Ms. Native's complaining regarding the harassment by the company's agents has put the contract between Collection Professionals and American Immediate in jeopardy. Additionally, one of Collection Professionals' agents told Ms. Native's upstairs neighbor that Ms. Native owed a lot of money on credit cards and was in "big trouble." This disclosure to a 3rd party is a violation of Fair Debt Collection Practices Act (FDCPA) § 805(b), in fact under *West v. Nationwide Credit*, 998 F. Supp. 642 (1998) the court held that when a collector told the neighbor to have the debtor call, that was a violation, even though the disclosure did not contain any substantive information regarding the debt. Collection Professionals can get in big trouble if Ms. Native were to take legal action.

The agents have also been harassing Ms. Native, which is in violation of FDCPA §806(5). In *Joseph v. J.J. Mac Intyre Co, L.L.C.*, 238 F. Supp. 2d 1158 (2002) the judge determined excess phone calls by the collection agency is harassment, and because Ms. Native is a little old lady who lives alone, Collection Professionals feels she will be a sympathetic plaintiff. They do not want this to go to trial. Collection Professionals has purchased the entire debt from American Immediate at .30 cents on the dollar for a total of \$18,403.50. They need to at least be able to collect their purchase price and expenses incurred in the collection process, but they are aware it is important to save their business from an expensive lawsuit and bad publicity. The fines for each violation are only \$1,000.00 but Collections Professionals is aware that their agents have committed at least 15 violations. They are not sure how many Ms. Native and her lawyer are aware of.

Collection Professionals is looking to avoid expensive legal fees and bad publicity especially as their business is just starting up.

You have been called in to settle this dispute and get a guarantee that Ms. Native will not pursue the harassment issue against them. You have been instructed to go for the full amount of the original debt of \$61,345.00, but you have the authority to negotiate down the cost of the purchased debt \$18,403.50, and if you can get Ms. Native to file a police report, then Collection Professionals can write off the entire debt.