

# NORTH CAROLINA LAWYERS WEEKLY

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## Improper debt collections nets \$1.2M settlement\*

■ BY BILL CRESENZO

[bcresenzo@nclawyersweekly.com](mailto:bcresenzo@nclawyersweekly.com)



Jackson



Bagley

A class-action lawsuit against a debt collector has resulted in a \$1.2 million settlement, the attorneys for the plaintiffs report.

The lawsuit was filed in 2015 in the U.S. District Court for the Middle District of North Carolina and alleged that a collection agency, whose name was withheld, had attempted to collect debts that had been discharged in a Chapter 7 bankruptcy, which is a violation of the Fair Debt Collection Practices Act and the North Carolina Collection Agency Act. Both acts provide for statutory damages, said Gary Jackson of the Law Offices of James Scott Farrin in Durham, who represented the plaintiffs along with his colleague Christopher Bagley, and Ed Maginnis and Karl Gwaltney of the Maginnis Law Firm in Raleigh.

"A Chapter 7 discharge is supposed to be a fresh start for a consumer whose debts have overwhelmed her ability to pay," Jackson said. "More than 400,000 consumer debtors file for Chapter 7 relief each year, and those bankruptcies typically follow sudden catastrophes

like injuries that require medical treatment."

The original plaintiff's debt was a medical bill from August 2013, Maginnis said. She filed for Chapter 7 bankruptcy in July 2014 and received a discharge the following October. The violation of the FDCPA and the NCCAA occurred in March 2015 when the defendant contacted her to collect on that debt, the attorneys said.

Depositions of the defendant's employees revealed a flaw in the defendant's procedures for screening out--also known as "scrubbing"--such debts from collection lists, Maginnis said.

"The defendant appears to have scrubbed for bankruptcies upon receiving accounts from its customers, the original creditor, but apparently lacked procedures for identifying accounts that later fell into bankruptcy and were discharged," he said.

The parties settled on a class-wide basis for \$1.2 million in May 2018, and Judge Loretta Biggs granted final approval in late May 2019, Maginnis said. The class includes more than 12,000 consumers who were subject to potentially improper collection attempts between 2012 and 2019. None objected to the settlement and none opted out.

The law firms tracked down the plaintiffs eligible for their share of the confidential settlement.

"That was one of the biggest challenges for the whole case," Bagley said. "It involved some time-consuming and somewhat expensive

### SETTLEMENT REPORT – CLASS ACTION/ DEBT COLLECTION

**Amount:** \$1.2 million

**Injuries alleged:** Emotional distress and statutory damages

**Case name:** Withheld

**Court:** U.S. District, Middle District of North Carolina

**Case No.:** Withheld

**Judge:** Loretta Biggs

**Date of settlement:** May 29

**Attorneys for plaintiff:** Ed Maginnis and Karl Gwaltney of Maginnis Law in Raleigh and Gary Jackson and Christopher Bagley of the Law Offices of James Scott Farrin in Durham

**Attorneys for defendant:** Withheld

data analysis."

The firms received a list of people who had been contacted by the defendants between 2012 and 2019, then sent those to the credit bureau TransUnion, which cross-referenced the names to find out who had filed for bankruptcy.

The net settlement is around \$660,000 and those eligible to collect will get about \$54 each.

Follow Bill Cresenzo on Twitter @bcresenzonclw

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