

NOT FOR PUBLICATION WITHOUT THE APPROVAL
OF THE COMMITTEE ON OPINIONS

JENIFER DEVINE,

Plaintiff(s),

vs.

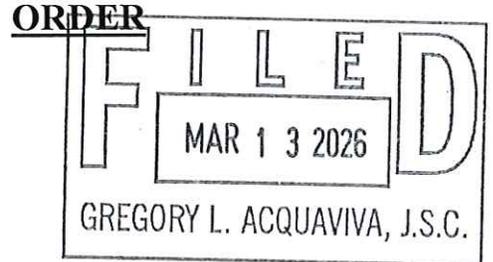
CAVALRY SPV I, LLC;
CAVALRY PORTFOLIO
SERVICES, LLC; and JOHN
DOES 1 TO 10,

Defendant(s).

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH
COUNTY

Docket No: MON-L-1155-25

Civil Action

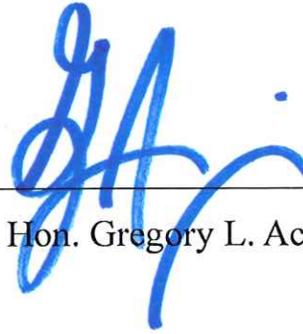


THIS MATTER having been brought before the Court by way of a Motion to Dismiss filed by the Defendants, and Motion to Amend filed by the Plaintiff, and the Court having heard oral argument, considered the pleadings and supplemental briefings submitted, and for good cause shown;

IT IS on this **13th** day of **March**, 2026; **ORDERED** that,

1. Defendants' Cavalry SPV I, LLC and Cavalry Portfolio Services, LLC, motion to dismiss Jennifer Devine's complaint is **DENIED**.
2. Plaintiff Jennifer Devine's cross motion to amend the complaint is **GRANTED**. Devine shall file the proposed first amended complaint within 7 days of this Order.

ORDERED that this order shall be deemed served upon all parties upon its upload to eCourts.

A handwritten signature in blue ink, appearing to be 'G. L. Acquaviva', written over a horizontal line.

Hon. Gregory L. Acquaviva, J.S.C.

Statement of Reasons

This case presents a question not yet addressed in a published New Jersey opinion. Jennifer Devine alleges that Cavalry SPV I, LLC's and Cavalry Portfolio Services, LLC's (collectively, Cavalry) use of a third-party "letter vendor" to populate, print, and mail a "dunning" letter violates the Federal Debt Collection Practices Act's textual prohibition on communication with non-exempt persons in connection with debt collection. 15 U.S.C. 1692c(b). Cavalry counters that a literal reading of the FDCPA produces an absurd result inconsistent with Congressional intent and, accordingly, use of a letter vendor is implicitly permissible. Because a plain reading of Section 1692c(b)'s unambiguous language commands but one interpretation, the court must conclude that communication to a letter vendor violates the FDCPA such that Devine has pled a cognizable cause of action.

Background and Procedural History

Cavalry sought to recover Devine's unpaid credit card debt on the Special Civil Docket, Cavalry SPV I, LLC v. Devine, MON-DC-15195-24. Thereafter, Devine filed this litigation alleging a FDCPA violation. The dockets were consolidated in the Law Division.

A prior motion judge granted Cavalry's motion for a more definite statement, ordering Devine to plead more specific facts supporting the contention that

communications with a third-party letter vendor violated the FDCPA. That order, unfortunately, did not provide a compliance deadline.

Less than a month later, Cavalry moved to dismiss the complaint due to Devine's failure to "timely" file a more definite complaint. Devine cross moved to file an amended complaint alleging Cavalry contracted with "an unrelated business firm" to print, address, and mail debt collection letters. Devine alleges Cavalry communicated data, including her name, address, partial account number, and amount due, to a letter vendor in violation of Section 1692c(b).

Statutory Interpretation of the FDCPA

Enacted in 1977, the FDCPA seeks "to eliminate abusive debt collection practices by debt collectors, to ensure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses." Hodges v. Sasil Corp., 189 N.J. 210, 222 (2007). The Court noted the FDCPA's "broad remedial scope . . . protects consumers . . . by creating procedural mandates for debt collection and prohibiting objectionable debt collection practices." Ibid. (internal citations omitted).

At issue here is Section 1692c(b) which provides that "a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise

permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.” Put another way, the FDCPA first prohibits all communication regarding the debt to “any person,” only to then carve out a narrow subset of exceptions to the general rule. Cavalry readily admits (as it must), a “[l]etter [v]endor is not one of the persons the text of [Section] 1692c(b) identifies as permissible to communicate therewith.”

Where a question of statutory interpretation is posed, courts “begin with the statute’s plain language – our polestar in discerning the Legislature’s intent.” L.W. v. Toms River Reg’l Schs. Bd. of Educ., 189 N.J. 381, 400 (2007) (Zazzali, C.J.); accord Wiggins v. Hackensack Meridian Health, 259 N.J. 562, 574 (2025) (“[W]e look to the Legislature’s intent as expressed in the statute’s plain terms.”). “If the language is plain and clearly reveals the statute’s meaning, the [c]ourt’s sole function is to enforce the statute according to its terms.” Frugis v. Bracigliano, 177 N.J. 250, 280 (2003); accord In re DiGuglielmo, 252 N.J. 350, 360 (2022) (“If the language is clear, the court’s job is complete.”) (quotation omitted).

Plain statutory language “should be given its ordinary meaning.” Merin v. Maglaki, 126 N.J. 430, 434 (1992). A court should not “rewrite a plainly-written enactment of the Legislature nor presume that the Legislature intended something other than that expressed by way of the plain language.” O’Connell v. State, 171 N.J. 484, 488 (2002); accord Craster v. Bd. of Comm’rs of Newark, 9 N.J. 225, 230

(1952) (observing it is not judiciary's role to "write in additional qualification which the Legislature pointedly omitted in drafting its own enactment").

Devine's argument is as simple as it is persuasive. Because a letter vendor is not an enumerated, exempted entity in Section 1692c(b), the alleged communication here is not exempt. Period.

Cavalry contends that a straightforward plain language analysis is an uber-technical, hyper-literal reading that leads to an absurd result inconsistent with congressional intent. Not so.

In Section 1692c(b), Congress made a conscious decision to exempt six enumerated entities that fall into three distinct and rational categories: (1) the parties to the debt; (2) attorneys; and (3) regulated consumer reporting agencies.¹ Put simply, Congress selected a narrow subset of "need to know" entities from the otherwise blanket prohibition on communication with third parties regarding the debt. Cavalry concedes the point, observing that the enumerated, exempt entities "are all persons who play a role in a debt's collection cycle, such that communication with them to effectuate collection efforts and repayment by a consumer is a legitimate collection practice in the eyes of Congress."

¹ 15 U.S.C.S. § 1681s(a)(1) (empowering Federal Trade Commission to regulate consumer reporting agencies).

Congress assuredly could have crafted a broader exemption to inoculate communication to myriad entities that may “play a role.” It did not. Instead, Congress exempted communications only to the leading actors – not the supporting cast, bit players, nor the ensemble.

Congress could have exempted communications to “third-party letter vendors” specifically or, for that matter, more broadly “contractors” and “vendors.” It did not. Congress could have drafted a broad catchall that sanctified communications to “any third-party agent.” It did not. This is to say nothing of additional inclusive language Congress opted to omit, such as amorphous “including, but not limited to” language. Indeed, the exemptions Congress could have crafted (but instead omitted) are bound only by one’s imagination.

But Congress chose not to broadly cast a wide net to capture communications to an array of debt collection participants. Rather, Congress made a conscious decision to specifically delimit permissible disclosure of confidential debt information rife with potential for abuse to parties, lawyers (who are fiduciaries governed by rules of professional conduct and state licensing), and regulated credit reporting entities. Absurd? Absolutely not. Rationally, yet narrowly, circumscribed to further the FDCPA’s remedial aims? Absolutely.

Relevant here is the statutory construction canon *expressio unius est exclusio alterius*, meaning “expression of one thing suggests the exclusion of another left

unmentioned.” Brodsky v. Grinnell Haulers, Inc., 181 N.J. 102, 112 (2004); accord Saunders v. Capital Health Sys. at Mercer, 398 N.J. Super. 500, 508 (App. Div. 2008). Section 1692c(b)’s silence regarding letter vendors is quite loud.

In fact, the court’s refusal here to expand the breadth and scope of a well-defined exception to third-party communication is consistent with the FDCPA’s “broad remedial scope [of] protect[ing] consumers” by “creating procedural mandates for debt collection and prohibiting objectionable debt collection practices.” Hodges, 189 N.J. at 222. Implying additional exceptions not set forth by Congress impedes – and certainly does not advance – the FDCPA’s goal of protecting consumers from broad dissemination of personal, private, and sensitive information to other (potentially unregulated) entities.

Thus, the analysis ends where it began: with the statute’s clear, express, and unambiguous language. Because a plain reading of Section 1692c(b) does not exempt communications to letter vendors from its general prohibition, Devine has set forth a cognizable cause of action.

Nevertheless, Cavalry puts forth other textual arguments, but to no avail.

Cavalry portrays its “disinterested” letter vendor as an entity providing rote, “ministerial” services. Maybe true, but Cavalry fails to point to any FDCPA provision that absolves a debt collector of de minimis infringements of the otherwise

clear and unambiguous prohibition of disseminating sensitive, personal consumer information to non-exempt third parties.

Cavalry too paints its letter vendor as a “medium through which to prepare and send” letters, endeavoring to recast a letter vendor as something other than a person. Although Section 1692c(b) prohibits communication through “any medium,” the phrase is not defined. But it is hard to dispute that a medium is generally understood to mean “a channel, method, or system of communication, information, or entertainment.” Webster’s Third New International Dictionary 1403 (1961). Cavalry offers no support to define a corporate entity as a medium – not a person.

Rather, common sense dictates that “medium” must refer to the means of communication such as a telephone, telegraph, or mail when the FDCPA was adopted and, at present, now include email or other electronic transfers. Khimmat v. Weltman, Weinberg & Reis Co., LPA, 585 F. Supp. 3d 707, 711, 715 (E.D. Pa. 2022) (further observing regulatory guidance exempting telephone and telegraph employees from FDCPA liability). A contrary result would render Congress’ prohibition on communication with “any person” unintelligible. Ibid.

Any other parsing of Section 1692c(b) to achieve an implicit letter vendor exception is too cute by half. Transmittal of sensitive, personal debtor data to a letter vendor cannot gainfully be argued to be not “in connection with” debt collection.

The phrase “in connection with” is broad and implies a “vague, loose connective.” Khimmat, 585 F. Supp. 3d. at 712 (citing Bryan A. Garner, Garner’s Dictionary of Legal Usage 440 (3d ed. 2011)).

Whether a communication from Cavalry to a letter vendor motivates a consumer to pay the debt or is merely a step in the debt collection process is a distinction without a difference in view of Congress’ selection of broad language prohibiting any communication in connection with debt collection.

A plain reading of Section 1692c(b) that does not implicitly exempt letter vendors comports with the published federal courts to squarely address the issue. Hunstein v. Preferred Collection & Mgmt. Servs., 994 F.3d 1341 (11th Cir. 2021);² Jackin v. Enhanced Recovery Co., LLC, 606 F. Supp. 3d 1031 (E.D. Wash. 2022).

The court in Khimmat captured the issue in elementary fashion:

When it comes to statutes, one hopes Congress channels Dr. Seuss: “I meant what I said and I said what I meant.” Dr. Seuss, Horton Hatches The Egg 21(2d ed. 1968). Unfortunately, the Mad Hatter teaches that meaning what you say and saying what you mean are “not the same thing a bit.” Lewis Carroll, Alice’s Adventures In Wonderland 98 (VolumeOne Publishing) (1998). And sometimes, a statute might say something that Congress did not necessarily mean. But courts have to start with the presumption that Congress meant what it said. So when a statute says something, a court must give effect to that

² Hunstein I was later reversed by the Eleventh Circuit, en banc, on standing grounds. Hunstein v. Preferred Collection Mgmt. Servs., 48 F.4th 1236 (11th Cir. 2022). That reversal, however, left unscathed the statutory analysis which remains persuasive. See Christianson v. Colt Indus. Operating Corp., 870 F2d 1292, 1298 (7th Cir. 1989).

enactment. And if it turns out that's not what Congress meant, then it will be up to Congress to fix it.

[Khimmat, 585 F. Supp. 3d at 710.]

Section 1692c(b)'s text compels one result: communication with a letter vendor is not exempt. The express, unambiguous language is incapable of a different interpretation, and the court is constrained to adhere to Congress' clear language – “our polestar in discerning [legislative] intent.” L.W., 189 N.J. at 400.

Cavalry's Counterpoints

To evade application of Section 1692c(b)'s clear dictates, Cavalry offers myriad counterpoints. None withstand scrutiny.

First, Cavalry relies on unpublished Appellate Division and trial decisions. But, of course, Rule 1:36-3 provides such “shall not constitute precedent or be binding upon any court.”

Second, Cavalry contends the United States Supreme Court cleared the field on the issue by labeling Devine's theory “unavailing.” TransUnion LLC v. Ramirez, 594 U.S. 413, 434 n.6 (2021). Cavalry embellishes.

That fleeting footnote, however, is dicta. In the preceding sentences, the Supreme Court notes that because the issue was raised in that litigation “[f]or the first time” to it – thus not properly preserved for review, that tardy identification meant the issue was “forfeited.” Ibid.

Although no court can view dicta from the Supreme Court lightly, the Supreme Court’s passing footnote commentary here is far from the panacea Cavalry heralds. See Official Comm. of Unsecured Creditors of Cybergenics Corp. ex rel. Cybergenics Corp. v. Chinery, 330 F. 3d 548, 561 (3d Cir. 2003).

Third, Cavalry relies on a variety of federal precedents, arguing such command dismissal. Not so.

Although Cavalry cites federal cases in which Devine’s letter vendor theory was criticized, such decisions uniformly were resolved on standing – not statutory non-compliance. Thus, any criticism of the letter vendor theory in those precedents is dicta. See Barclift v. Keystone Credit Servs., L.L.C., 585 F. Supp. 3d 748, 760 (E.D. Pa. 2022) (holding that because plaintiff failed to plead facts showing “a concrete injury, she did not satisfy the standing requirement”); Nabozny v. Optio Sols., L.L.C., 583 F. Supp. 3d 1209, 1215 (W.D. Wis. 2022) (concluding plaintiff “does not have standing”); Cavazzini v. MRS Assocs., 574 F. Supp. 3d 134, 145 (E.D.N.Y. 2021) (summarizing that plaintiff “has not sufficiently pleaded a concrete, particularized injury . . . and . . . does not have standing to sue in federal court”).

Stated differently, the federal precedents relied on by Cavalry assuredly bespeak a federal consensus that use of a letter vendor, if a harm, is so modest or de minimis as to not be actionable in federal court. Yet, as Hunstein observes, although one can doubt whether letter vendors “routinely read, care about, or abuse the

information,” the court’s “obligation is to interpret the law as written, whether or not we think the resulting consequences are particularly sensible or desirable.” 994 F.3d at 1352.

Thus, the value of the dominant federal analysis stops at standing. Any further commentary beyond a jurisdictional analysis is inherently non-binding dicta that prudently side steps the merits of the question squarely presented here in state court. And, even if not dicta, the tangential analysis in those countervailing authorities is flawed because it is in derogation of time-honored, well-settled principles of statutory construction.

This is to say nothing of the New Jersey’s far broader, more liberal standing jurisprudence as compared to our Article III colleagues. See Crescent Park Tenants Ass’n. v. Realty Equities Corp., 58 N.J. 98, 101 (1971).

Fourth, Cavalry contends that the Federal Trade Commission and the Consumer Financial Protection Bureau have approved use of letter vendors. A close read of their guidance demonstrates otherwise.

The CFPB acknowledges it may be “appropriate for . . . debt collectors [] to outsource certain functions to service providers to conserve resources and rely on the expertise from those providers that would not otherwise be available without significant involvement.” CFPB Compliance Bulletin and Policy Guidance; 2016-02, Service Providers. But, in that same document, the CFPB states “the mere fact

that a supervised bank or nonbank enters into a business relationship with a service provider does not absolve the supervised bank or nonbank of responsibility for complying with Federal consumer financial law to avoid consumer harm.” That second sentence is a clear red flag to proceed with caution.

The CFPB’s Regulation F is similarly unavailing. Although Regulation F permits a debt collector to use a vendor’s address as its own when disclosing its mailing address to consumers, 12 C.F.R. 1006.34(c)(4)(iii), such does not anoint use of a letter vendor as compliant with Section 1692c(b). Receiving information from a consumer through a letter vendor is the obverse of communicating to a consumer through a letter vendor. Regulation F does not provide Cavalry safe harbor here.

Assuming arguendo the foregoing analysis is misguided, what is obvious is that the FTC and CFPB are not Congress. Agency guidance cannot trump the sage language selected by the elected branches of the federal government. Moreover, to the extent the federal regulatory agencies have not taken enforcement action against the now allegedly common use of letter vendors, such inaction is not an indication that use of third-party vendors is appropriate, but, at best, a reflection of prosecutorial priorities.

Thus, irrespective of its weight or persuasiveness, Cavalry has not established that any regulatory body has expressly blessed the use of letter vendors to contact consumers to collect a debt notwithstanding Section 1692c(b).

Fifth, Cavalry contends use of a letter vendor is consistent with the FDCPA's statutory purpose which seeks only to make illegal harassing communications concerning debt collection, such as communications to a debtor's spouse, family, neighbors, or employer – not more innocuous communications to a contracted vendor performing ministerial tasks. Such incorrectly presumes legislative history should even be considered where the statutory language is clear and reveals but one meaning, as here. In re Plan for Abolition of Council on Affordable Hous., 214 N.J. 444, 468 (2013) (“Only if the statutory language is ambiguous do courts look beyond it to extrinsic evidence, such as legislative history, for guidance.”).

That argument too fails because Section 1692c(b) is not so narrow. If spouses, family members, neighbors, employers, and the like were the sole targets of Section 1692c(b)'s prohibition on third-party communication, Congress could have said such in the statute – as opposed to the legislative history.

To be sure, a debt collector's communications with individuals and entities closely related to or associated with the debtor are unquestionably more troubling than communication with a letter vendor, as alleged here. But Congress did not create a graduated scale of relative harm or risk, but rather – in effectuating remedial legislation to protect consumer privacy – broadly prohibited third-party communication, subject to six narrowly tailored exceptions. And any contention that communication to an unrelated third-party letter vendor is without risk is absurd in

a modern world of data hacks and breaches. Cavalry's contention on this point is little more than a strawman distracting from the clear text Congress chose and that Congress has not seen fit to amend.

Cavalry too ignores the carefully circumscribed list of exempted third parties that are directly related to the debt and/or are regulated. Here, nothing in the record indicates third-party letter vendors are regulated in any manner nor closely tethered to the underlying debt.

Cavalry further ignores the equally important legislative purpose of preventing "invasion [] of individual privacy." 15 U.S.C. 1692(a). It cannot gainfully be argued that communication of sensitive debt collection information to a potentially unregulated third party does not, at least theoretically, risk disclosure of such private information via myriad avenues, including but not limited to data hacks or misuse by the third party or its employees.

Sixth and finally, implicit (if not explicit) in Cavalry's argument is that use of letter vendors has become a common practice in the industry. Devine agrees. However, such is legally irrelevant to statutory interpretation. The court is not insensitive to this cottage industry and recognizes the competing policy considerations. But Cavalry's and the letter vendor's remedy is with the elected branches of the federal government – not an unelected, state court jurist. Craster, 9 N.J. at 230 (judiciary should not rewrite legislation).

As the Supreme Court of the United States put succinctly: “[T]he limits of the drafters’ imagination supply no reason to ignore the law’s demands. When the express terms of a statute give us one answer and extratextual considerations suggest another, it’s no contest. Only the written word is the law, and all persons are entitled to its benefit.” Bostock v. Clayton Cnty., 590 U.S. 644, 653 (2020).

Because Devine’s first amended complaint sets forth a cognizable cause of action, in view of the liberal good cause standard of Rule 4:9-1 that mandates leave to amend “be freely given in the interests of justice,” Devine’s cross motion to amend is granted. See Notte v. Merchants Mut. Ins. Co., 185 N.J. 490, 500-01 (2006)

Similarly, because Devine’s delay in complying with the prior order for a more definitive statement was not so tardy to unduly prejudice Cavalry, the court shall deny Cavalry’s invitation to sound the death knell to Devine’s cognizable federal law claim.