

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO
Judge John L. Kane**

Civil Action No. 15-cv-00400-JLK

DAVID ARCINIEGA,

Plaintiff,

v.

MEDICREDIT, INC.,

Defendant.

**ORDER DENYING DEFENDANT’S MOTION FOR SUMMARY JUDGMENT
(Doc. 35)**

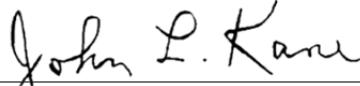
Kane, J.

When reporting a disputed debt, a debt collector bears a legal duty to communicate that the debt is disputed. In this case, defendant Medcredit reported a debt, but did not state that it was disputed. The question presented is whether certain protestations Plaintiff made in a December 2014 phone call to Medcredit -- that he “knew” the debt was less than the \$564 reported and that he owed “less than \$400” for the services charged – were sufficient to cast the debt as being “in dispute” and trigger Medcredit’s duty to communicate it as such. For summary judgment purposes, I find that they are. Medcredit’s attempts to discredit Mr. Arciniega’s statements to the point that they fail, as a matter of law, to raise a triable issue of fact on that question are unpersuasive. Medcredit contends the issue before the Court “is not whether Arciniega disputes the debt, but rather whether he sufficiently communicated his dispute in a manner that Medcredit understood the debt to be disputed.” Reply (Doc. 46) at 5-6 (citing *Dixon v. RJM*

Acquisitions LLC, 2015 WL 729388 (Feb. 17, 2015)). As a panel of the Tenth Circuit pointed out in reversing *Dixon*, this question is completely unamenable to resolution on a motion for summary judgment. *See Dixon v. RJM Acquisitions, LLC*, --- Fed.Appx. ---, 2016 WL 624807 (10th Cir. Feb 17 2016). Accordingly,

Medicredit's Motion for Summary Judgment (Doc. 35) is DENIED. The parties are directed to CONFER and call in jointly on or before May 5, 2016, to Chambers to set a date for a Pretrial Conference. Should the parties wish to take Magistrate Judge Shaffer up on his offer to have them in for a settlement conference, they should communicate that to Chambers staff when they phone in and a referral will be issued.

Dated April 27, 2016.



JOHN L. KANE
SENIOR U.S. DISTRICT COURT JUDGE