

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

VERONICA RIVERA, )  
                        )  
                        )  
Plaintiff,           ) Case No. 15 C 1507  
                        )  
                        )  
v.                     )  
                        )  
BENJAMIN M. MESKIN, ESQ., )  
                        )  
                        )  
Defendant.           )

**MEMORANDUM OPINION AND ORDER**

Although this action was filed on February 18, 2015, counsel for plaintiff Veronica Rivera ("Rivera") ignored the explicit directive of this District Court's LR 5.2(f) that requires the delivery of a paper copy of the complaint for the assigned judge's use within one business day after filing. Despite the literal one-business-day requirement of LR 5.2(f), this Court always allows a grace period -- typically at least a week<sup>1</sup> -- before it issues a memorandum order that mandates compliance with the LR and imposes a \$100 sanction for the earlier noncompliance. In this instance such a memorandum order was sent to Rivera's counsel on March 2, and that order has produced an immediate response for which this Court is most appreciative.

Unfortunately, however, the opportunity for this Court to review Rivera's Complaint in consequence of its delivery to chambers has disclosed a far more significant substantive defect in counsel's filing. Although this action, brought under the auspices of the Fair Debt Collection Practices Act ("Act"), clearly comes within federal subject matter jurisdiction, that cannot be said

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<sup>1</sup> That grace period varies somewhat from case to case, the result of this Court's obtaining the Clerk's Office printouts reflecting new case filings only sporadically rather than on a regular (say weekly) basis.

of what is really a bogus choice of forum reflected in this boilerplate allegation regarding venue (Complaint ¶ 3):

Venue is proper in this District pursuant to 28 U.S.C. 1331(b) because a substantial part of the events and omissions giving rise to this claim occurred in this District.

On that score Complaint ¶ 4 identifies Rivera as "an individual who was at all relevant times residing in Athens, Georgia." And as for defendant Benjamin Meskin, Esq. ("Meskin"), Complaint ¶ 8 reads:

On information and belief, Defendant is an individual attorney licensed to practice in the State of New York, who has his principal place of business in Brooklyn, New York.

Given those geographical locations, just what is this action doing in the Northern District of Illinois? All that is said in that respect is found in Complaint ¶ 9:

On April 25, 2014, Plaintiff filed a Chapter 7 bankruptcy petition in the United States Bankruptcy Court, Northern District of Illinois, Case No. 14-15643. On July 29, 2014, an Order of Discharge was entered in Plaintiff's bankruptcy case.

It is scarcely surprising that the Complaint does not, as is most frequently done in actions brought under the Act, attach a copy of the assertedly Act-violative collection notice mailed by Meskin to Rivera. Instead here is what is said in Complaint ¶ 10:

On or about December 30, 2014, Defendant caused a collection notice to be mailed to Plaintiff in an attempt to collect an alleged debt, which had been discharged in Plaintiff's bankruptcy case.

Dollars to doughnuts<sup>2</sup> that the collection notice had no relation at all to this judicial district, and the Illinois location of Rivera's bankruptcy filing cannot reasonably be labeled as "a substantial part of the events and omissions giving rise to this claim" (after all, the "event giving rise to the

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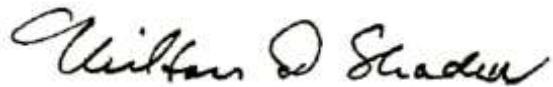
<sup>2</sup> That catch phrase really dates this author, given the effect of inflation on the price of doughnuts.

claim" was the collection notice and the "omission" was Meskin's failure to have taken cognizance of Rivera's bankruptcy that had terminated with her discharge five months before the notice was sent.

This is not of course the first time that this Court has encountered such forum shopping in cases brought under the Act, and its consistent reaction has been the same that it has sometimes voiced in the context of a 28 U.S.C. § 1404(a)<sup>3</sup> motion to transfer:

"Convenience of counsel" is not among the express considerations set out in the statute, nor does it fit under the "interest of justice" rubric that rounds out the statutory considerations.

In sum, this action plainly calls for a sua sponte dismissal for lack of venue in this judicial district, and its Court so orders. It is recognized that Section 1406(a) permits transfer as an alternative to dismissal, but nothing about the filing of this lawsuit here appears to call for sparing Rivera's counsel the price of a second filing fee.<sup>4</sup>



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Milton I. Shadur  
Senior United States District Judge

Date: March 3, 2015

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<sup>3</sup> All further references to Title 28's provisions will simply take the form "Section --," omitting the prefatory "28 U.S.C. §."

<sup>4</sup> This Court can only trust that counsel will not impose that burden on his client Rivera.