

# Prohibition Regarding Leaving Messages When Seeking Location Information

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*The Safe Harbor: Debt Collection Law Update by Aylix Jensen (March 2022 edition)*

03.21.2022

**Aylix K. Jensen offers analysis and insights for the debt collection industry in her monthly newsletter, *The Safe Harbor: Debt Collection Law Update by Aylix Jensen*. This monthly newsletter provides an update of changes and developments in the law that impact the debt collection industry. It highlights new debt collection laws and practices, discusses what these may mean for the collection industry, and provides tips to ensure compliance. This article is featured in the March 2022 edition.**

On March 3, 2022, the United States District Court for the Western District of New York granted a plaintiff's motion for summary judgment, finding that the record established three FDCPA violations by a debt collector resulting from phone calls placed to the plaintiff's mother with the purpose of acquiring location information. *Raze v. Everest Receivable Services*, Case No. 1:19-cv-01094-LJV-LGF (W.D.N.Y., March 3, 2022).

In this case, the debt collector placed a telephone call to a number registered to the plaintiff's mother. The plaintiff's mother answered the call and advised that she could not assist regarding the plaintiff's location, but that she would let her daughter know about the call the next time she hears from her. During the call, the debt collector asked the plaintiff's mother to ask the plaintiff to return the call and provided a call back number. A few days later, the debt collector placed a second telephone call to the plaintiff's mother, who again stated that she could not help confirm location information. During this call, the debt collector asked the plaintiff's mother for a number to reach the plaintiff and again provided a call back number.

Among the asserted violations, the plaintiff argued that the debt collector violated section 1692c(b) of the FDCPA, which prohibits a debt collector from communicating with third parties without the consumer's prior consent directly given to the debt collector, except as provided in section 1692b. Specifically, the plaintiff asserted that the debt collector violated section 1692c(b) by asking the plaintiff's mother to give the plaintiff a message, which is an inquiry not intended to acquire location information, and is not within the carve-out exceptions in section 1692b (permitting subsequent calls by the debt collector to obtain the consumer's correct or complete location information).

The court granted summary judgment in favor of the plaintiff, finding that leaving messages requesting a callback from plaintiff in both the first and second calls violated section 1692c(b). Notably, the court emphasized that "attempting to obtain a debtor-initiated contact is not the same as confirming or inquiring as to a consumer's location to the extent permitted by § 1692b." This case serves as an important reminder that while in some instances seeking location information and seeking a right party contact can be similar, a debt collector *cannot* leave a message with a third

party when seeking location information.

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Financial Services

