

Pro Bono Unfair Debt Collection Practices Class Action Lawsuit Favorably Resolved by Settlement

January 7, 2016

Washington, DC – Wiley Rein LLP, in collaboration with the Legal Aid Society of the District of Columbia, has obtained a highly favorable settlement on behalf of tenants in a proposed class action that alleged unfair debt collection practices. The lawsuit was originally filed in federal district court in November 2014 against a D.C.-based law firm specializing in the representation of landlords in landlord/tenant proceedings. At issue was the law firm’s handling of eviction cases in the Superior Court of the District of Columbia.

Wiley Rein Pro Bono Partner Theodore A. Howard and associate Bonnie Thompson Wise of the firm’s Insurance Practice represented the plaintiffs in conjunction with Chinh Le and Heather Latino of the Legal Aid Society. Mr. Howard said, “It is always a great pleasure to work collaboratively with our colleagues at Legal Aid, and we are delighted to have reached a resolution in this case that vindicates critically important rights on the part of a group of vulnerable low-income tenants who typically lack legal representation, while bringing practices that we believe were clearly unlawful to an end.”

The pro bono lawsuit, brought pursuant to the federal Fair Debt Collection Practices Act (FDCPA), alleged that the law firm and its principals engaged in a pattern of unlawfully filing eviction complaints against tenants in which they misrepresented the federally subsidized nature of the rental properties as to which repossession was sought by the law firm’s landlord clients.

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The standard-form eviction complaint utilized in the D.C. Superior Court's Landlord/Tenant Branch requires the landlord or the landlord's attorney to disclose whether the rental property at issue is subject to a public subsidy. This disclosure alerts the presiding judge that the tenant may have special defenses to eviction, available to those residing in subsidized housing, of which the tenant may not be aware or may not know how to raise – a likely possibility in a court in which about 90% of tenants routinely are not represented by an attorney. A knowing failure to accurately disclose the rental property's subsidy status under such circumstances in hundreds of eviction cases, as alleged in the lawsuit, could clearly have serious adverse implications for the tenants sued in such cases.

After a significant decision by the federal district court in June 2015 denying the defendants' motion seeking to dismiss the case, based on the court's interpretation of the provisions of the FDCPA on several issues of first impression in the D.C. federal courts, the parties commenced serious settlement negotiations. Those talks yielded an agreement, fully executed as of December 18, 2015, that not only provides monetary relief to the four named plaintiffs and seven additional affected tenants, but also includes important provisions requiring the defendants to adopt and implement strict due diligence procedures and reporting obligations in connection with the law firm's filings in the Landlord/Tenant Branch for a minimum of one year from the date of the agreement.

Specifically, while the defendants did not admit to any wrongdoing, they have agreed under the terms of the Settlement to undertake a sequence of steps to correctly determine whether any rental property to be made the subject of an eviction action is subject to a subsidy, to accurately reflect the property's status in any complaint filed, and to submit a sworn declaration with each such complaint confirming that the due diligence measures outlined by the settlement agreement were followed.

Finally, the defendants must also reimburse the plaintiffs for the value of a substantial portion of the attorneys' fees and litigation costs that were incurred in preparing and bringing the lawsuit.

After defraying its out-of-pocket expenses attributable to the litigation, Wiley Rein will donate its portion of the remaining fee recovery to Legal Aid to support its ongoing legal services work.

For more information, please contact Mr. Howard at thoward@wiley.law.