

# Win by Ania Moncrief

Consumer plaintiff filed suit against our collection-agency client, in Kansas federal court. We obtained a ruling dismissing the case in its entirety and though granting Plaintiff's motion for leave to amend, Plaintiff recognized the futility, and declined to do so.

After Plaintiff failed to pay his debt to AT&T, the creditor referred the bill to our client, who sent a letter stating, in part, "IF YOU ARE NOT PAYING THIS ACCOUNT IN FULL, CONTACT YOUR ATTORNEY REGARDING OUR POTENTIAL REMEDIES, AND YOUR POTENTIAL DEFENSES, OR CALL XXX-XXX-XXXX.

The complaint alleged violations of the Fair Debt Collection Practices Act (FDCPA), primarily for making a false threat of imminent suit.

In granting our Motion to Dismiss, or in the alternative for Judgment on the Pleadings, the court found that the letter complied with the FDCPA because nothing in the letter threatened an imminent or pending lawsuit. Recognizing the impending loss, Plaintiff asked for leave to amend, to claim that the letter falsely stated an intent to credit report. Based on the timing, the court found the Complaint asserted no claim, but allowed Plaintiff the opportunity to amend, if Plaintiff could allege, in good faith, a lack of intent to credit report. Plaintiff declined to amend, allowing the dismissal. As a result, dismissal stands as the final ruling.

*Covington v. Franklin Collection Services, Inc.*, 2016 WL 4159731 (D. Kan. Aug. 5, 2016).

*For additional information regarding creditor's rights, please contact [Ania W. Moncrief](#), of the [Creditor's Rights & Remedies](#) Practice Area.*