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Debt Collection

McDermott v. Marcus, Errico, Emmer & Brooks, No. 13-2181

In this case involving the collection of late condominium fees from plaintiff, plaintiff alleges that defendant's collections activities violated both Massachusetts General Laws Chapter 93A and the federal Fair Debt Collection Practices Act (FDCPA). A magistrate judge found defendant not liable under Chapter 93A, and plaintiff was awarded only \$800 recovery under the FDCPA. The judgment is reversed and remanded with instructions to reinstate the original judgment in plaintiff's favor on his Chapter 93A count, where: 1) defendant's violations of the FDCPA constitute per se Chapter 93A violations by virtue of the unambiguous statutory language in the FDCPA and the Federal Trade Commission Act; and 2) the magistrate judge committed an error of law when she concluded that *Klaimont v. Gainsboro Restaurant, Inc.* required a separate "trade or commerce" finding in these circumstances.