

In re Pablo MARTINEZ, Debtor.
Pablo Martinez, Plaintiff,
v.
Law Offices of David J. Stern, P.A., Defendant.

Bankruptcy No. 99-42274-BKC-RAM.
Adversary No. 00-1118-BKC-RAM-A.
(Cite as: 266 B.R. 523)

The issue was whether the defendant/ debt collector provided effective notice to the plaintiff/ consumer of the consumer's rights under 15 U.S.C. § 1692g pursuant to the hypothetical least sophisticated consumer standard. A debt collector must ensure that notice of the right to dispute the debt is *actually* conveyed to the consumer, and that the notice is conveyed *effectively*. The least sophisticated consumer standard contemplates a minimum level of sophistication which "prevents liability for bizarre or idiosyncratic interpretations of collection notices by preserving a quotient of reasonableness and presuming a basic level of understanding and willingness to read with care." The Initial Communication in this case was a 16 page package which included a summons and complaint. The FDCPA Notice was on page eight, while the dire consequences of not responding to the complaint were set out in bold on the summons on the first page. Viewed in its entirety, the Court found that a hypothetical least sophisticated consumer would have been confused and uncertain of his rights. As such, the FDCPA Notice did not provide effective notice and therefore violated § 1692g. In determining the amount of damages the Court considered (1) the frequency and persistence of noncompliance; (2) the nature of the noncompliance; and (3) the extent to which the noncompliance was intentional. *See* § 1692k(b). The Court awarded \$1,000 in statutory damages to the Debtor/Plaintiff plus a reasonable attorney's fee.