

**UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, TAMPA DIVISION**

Carlyne Desir v. Andreu, Palma, Lavin & Solis, PLLC, et al.

No. 8:24-cv-02651-SDM-NHA, United States District Court for the Middle District of Florida, Tampa Division
(November 26, 2025)

OPINION

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CARLYNE DESIR, Plaintiff, v. CASE NO. 8:24-cv-02651-SDM-NHA ANDREU, PALMA,
LAVIN & SOLIS, PLLC, et al, Defendants. _____/ ORDER
Alleging fraudulent misrepresentation and violations of the Fair Debt Collec- tions Practices Act,
Carlyne Desir sues (Doc. 19) Andreu, Palma, Lavin & Solis, PLLC, (APLS) Alan Jeffrey Miller,
and Jeremiah Esquig.

The defendants move (Doc. 37) for summary judgment. Desir responds (Doc. 38) and the
defendants reply. (Doc. 39) BACKGROUND On September 26, 2023, Desir defaulted on two
credit card accounts with Bank of America and with a combined unpaid balance of \$103,789.67.
(Docs. 33-1 and 33-2) The bank retained the law firm APLS. (Doc. 33-3 at ¶ 4) On September 17,
2023, and October 17, 2023, APLS sent Desir a “validation notice” for each account.

(Doc. 33-3 at ¶¶ 5-6). On November 7, 2023, Desir sent “written correspondence” to APLS
disputing the accounts and requesting APLS to cease communication with her. (Doc. 33-3 at ¶ 7)
Before APLS received Desir’s “written correspondence,” APLS sent Desir “written verification”
of one of Desir’s defaulted accounts. (Doc. 33-3 at ¶ 8) After receiving Desir’s request, APLS
ceased communication with Desir.

(Doc. 33-3 at ¶ 9) On March 20, the bank, represented by APLS, sued Desir to collect one of the
accounts. Bank of America, N.A. v. Carlyne Desire (Case No. 2024-CC-015302) (Doc. 33-3 at ¶
12) The complaint was signed by Esquig, a lawyer employed by APLS. (Doc. 33-3 at ¶ 13) On
March 21, the bank sued Desir to collect the other account. Bank of Amer- ica, N.A. v. Carlyne
Desire (Case No. 2024-CC-002395) (Doc.

33-3 at ¶ 14) The com- plaint was signed by Miller, another lawyer employed by APLS. (Doc. 33-
3 at ¶ 15) DISCUSSION Desir’s FDCPA claims fail as a matter of law. Under the statute, a
plaintiff must establish (1) that she was the object of collection activity arising from a con- sumer
debt, (2) that the defendant is a debt collector as defined by the statute, and (3) that the defendant
engaged in a statutorily prohibited act or omission.

Helman v. Bank of Am., 685 F. App'x 723, 726 (11th Cir. 2017). Desir offers no evidence that APLS or an APLS lawyer qualifies as a “debt collector” under section 1692a(6). The firm acted solely as counsel for the bank in the collection action. Heintz v. Jenkins, 514 U.S. 291, 296 (1995); Vega v. McKay, 351 F.3d 1334, 1336 (11th Cir. 2003).

The undisputed affidavits show that the defendants sent the validation notices required by Section 1692g and ceased communication upon Desir's request — conduct that fully complies with the FDCPA. Desir's fraudulent misrepresentation claims are likewise unsupported. She submits no affidavits, exhibits, or other competent evidence showing that any defendant falsely stated a material fact.

Butler v. Yusem, 44 So. 3d 102, 105 (Fla. 2010). In her response, Desir asserts that the debts “were not owed to BOA at the time — they had been satisfied or assigned away,” but the record contains nothing to substantiate that claim. (Doc. 38 ¶ 40).

To the extent Desir's response to the defendants' motion for summary judgment attempts to assert a new claim for violation of another statute or a common-law tort claim, those claims are not properly raised in a motion for summary judgment. Gilmour v. Gates, McDonald & Co., 382 F.3d 1312, 1315 (11th Cir. 2004). **CONCLUSION** The defendants' motion for summary judgment is GRANTED and Desir's motion for summary judgment is DENIED.

No later than DECEMBER 8, 2025, Desir may amend her complaint to raise a new statutory or common law claim. Desir may not reassert her claim under the FDCPA or her fraudulent misrepresentation claim. ORDERED in Tampa, Florida, on _____, 2025. _____ STEVEN D. MERRYDAY UNITED STATES DISTRICT JUDGE