

Court: Hyperlinked E-Mails Don't Count as "Communication" for Debt Collectors

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Carlton Fields Shareholder Yolanda Strader was quoted in a *Compliance Week* article, "Court: Hyperlinked E-Mails Don't Count as 'Communication' for Debt Collectors," about the recent decision from the U.S. Court of Appeals for the Seventh Circuit on the use of hyperlinks in emails from debt collectors. The case involved a debt collector that hyperlinked required disclosures in email communications to a consumer that did not click on those links. The court ruled that the collector's hyperlinked disclosures don't qualify as a "communication," but the decision came on the heels of the Consumer Financial Protection Bureau (CFPB) amending its own rules to propose that hyperlinked emails should be allowed in certain circumstances. Strader stated that the incongruity between the two comes in part from federal agencies not keeping up with technology, as the Fair Debt Collection Practices Act (FDCPA) was passed well before the proliferation of the internet, e-mails, and smart phones. "Debt collectors utilizing secured e-mail messages should be aware of the Lavalley ruling and take steps to ensure their e-mails, to the extent such e-mails are intended to be 'initial communication[s]' under the FDCPA, should avoid the use of hyperlinks and a 'digital pathway' in order to access the required disclosures," Strader said. "Until the CFPB clearly articulates the best means by which such disclosures should be made, a debt collector's e-mail sent to a debtor as an initial communication should include the required disclosures in the body to avoid any compliance issues." [Read the article.](#)

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