

January 2015

Hooks v. Forman, Holt, Eliades & Ravin, LLC

JENNIFER A. GONG
New York Law School, 2015

Follow this and additional works at: https://digitalcommons.nyls.edu/nyls_law_review



Part of the [Consumer Protection Law Commons](#)

Recommended Citation

JENNIFER A. GONG, *Hooks v. Forman, Holt, Eliades & Ravin, LLC*, 59 N.Y.L. SCH. L. REV. (2014-2015).

This Case Comments is brought to you for free and open access by DigitalCommons@NYLS. It has been accepted for inclusion in NYLS Law Review by an authorized editor of DigitalCommons@NYLS.

JENNIFER A. GONG

*Hooks v. Forman, Holt, Eliades & Ravin,
LLC*

59 N.Y.L. SCH. L. REV. 409 (2014–2015)

ABOUT THE AUTHOR: Jennifer A. Gong is an Executive Editor of the 2014–2015 *New York Law School Law Review*, J.D. candidate, 2015.

Debt collectors are notoriously aggressive and deceptive when it comes to collecting debts from consumers who, in most cases, fall behind repaying their debts due to unforeseen circumstances.¹ In response to these collection tactics, Congress passed the Fair Debt Collection Practices Act (FDCPA) “to protect consumers from a host of unfair, harassing, and deceptive debt collection practices without imposing unnecessary restrictions on ethical debt collectors.”² Abusive behavior that the FDCPA aims to deter includes: “obscene or profane language, threats of violence, telephone calls at unreasonable hours, misrepresentation of a consumer’s legal rights, disclosing a consumer’s personal affairs to friends, neighbors, or an employer, obtaining information about a consumer through false pretense, impersonating public officials and attorneys, and simulating [the] legal process.”³ During the short period from January 1, 2013 to July 17, 2013, the Federal Trade Commission—the agency charged with enforcing the FDCPA⁴—“brought 15 enforcement actions against debt collectors and obtained more than \$56 million in judgments.”⁵ Accordingly, the FDCPA has been an effective tool for punishing abusive and deceptive debt collectors,⁶ and a government interest in protecting consumers continues to exist.⁷

The FDCPA requires that debt collectors provide notice of alleged debts to consumers.⁸ Under § 1692g(a)(3) of the FDCPA, the notice must include “a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the

-
1. See S. REP. NO. 95-382, at 3 (1977), as reprinted in 1977 U.S.C.C.A.N. 1695, 1697.
 2. *Id.* at 1; CONSUMER FIN. PROT. BUREAU, FAIR DEBT COLLECTION PRACTICES ACT: CFPB ANNUAL REPORT 2013, at 8 (Mar. 20, 2013), http://files.consumerfinance.gov/f/201303_cfpb_March_FDCPA_Report1.pdf (“Congress passed the FDCPA in 1977 to eliminate abusive collection practices by debt collectors and to ensure that those debt collectors who refrain from using abusive practices are not completely disadvantaged.”); see also Ronald Paul Hill, *Bill Collectors and Consumers: A Troublesome Exchange Relationship*, 13 J. PUB. POLY & MARKETING 20, 27 (1994) (“‘Harassment’ is the primary descriptor indebted consumers use to characterize their interactions with collectors, which suggests possible violation of national law.”).
 3. S. REP. NO. 95-382, at 2.
 4. See 15 U.S.C. § 1692l (2010) (“The Federal Trade Commission shall be authorized to enforce compliance with this subchapter, except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to another Government agency under any of paragraphs (1) through (5) of subsection (b), subject to subtitle B of the Consumer Financial Protection Act of 2010.”).
 5. *FTC Testifies Before Senate Banking, Housing, and Urban Affairs Subcommittee on Debt Collection and the Fair Debt Collection Practices Act*, FED. TRADE COMM’N (July 17, 2013), <http://www.ftc.gov/opa/2013/07/debtcollection.shtm>. Federal Trade Commission (FTC) testimony before the Senate Banking, Housing, and Urban Affairs reveals that the FTC has been effective in bringing FDCPA enforcement actions against non-compliant debt collectors. In 2013, the FTC obtained the largest civil penalty totaling \$3.2 million in an enforcement action for FDCPA violations. *Id.*
 6. See *id.*
 7. See CONSUMER FIN. PROT. BUREAU, *supra* note 2, at 9–10.
 8. 15 U.S.C. § 1692g (2006) (“Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice . . .”).

debt collector.”⁹ If a consumer disputes the debt in writing, it is granted certain protections under § 1692g.¹⁰ Consideration of the entire statutory scheme of § 1692g is necessary to ensure that the protections against debt collectors are granted to each consumer without stripping ethical debt collectors of their only recourse to validate consumer debt.

In *Hooks v. Forman, Holt, Eliades & Ravin, LLC*, the U.S. Court of Appeals for the Second Circuit confronted an issue of first impression in the Circuit: whether § 1692g(a)(3) of the FDCPA imposes a writing requirement on a consumer who seeks to challenge the validity of a debt.¹¹ Applying the plain-meaning rule,¹² the Second Circuit held that § 1692g(a)(3) does not impose a writing requirement because the text of § 1692g(a)(3) includes no such requirement.¹³ The Second Circuit reasoned that if Congress had intended to impose a writing requirement in § 1692g(a)(3), it would have expressly incorporated such a requirement as it did in other sections within the FDCPA.¹⁴

This case comment contends that the *Hooks* court erroneously interpreted § 1692g(a)(3). If § 1692g(a)(3) is understood to not require a written debt dispute, we are left with absurd and inconsistent results. When read *in pari materia*¹⁵ with parallel sections of the FDCPA,¹⁶ § 1692g(a)(3) implicitly imposes a writing requirement on all consumers who challenge the validity of a debt because such a reading harmonizes the statute, is consistent with the FDCPA’s statutory scheme, and gives effect to Congress’s purpose to protect consumers against abusive, aggressive, and deceptive debt collectors.¹⁷

9. *Id.* § 1692g(a)(3).

10. *See id.* § 1692g(b) (providing, *inter alia*, that once a written notice is timely executed by the consumer, either disputing the debt or requesting “the name and address of the original creditor the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector”).

11. 717 F.3d 282, 284–85 (2d Cir. 2013).

12. The plain-meaning rule dictates that “if a writing, or a provision in a writing, appears to be unambiguous on its face, its meaning must be determined from the writing itself without resort to any extrinsic evidence.” BLACK’S LAW DICTIONARY 1267 (9th ed. 2009).

13. *Hooks*, 717 F.3d at 285.

14. *Id.* at 285–86; *see also* *Camacho v. Bridgeport Fin., Inc.*, 430 F.3d 1078, 1081 (9th Cir. 2005). For example, § 1692g(a)(4), (a)(5), and (b) expressly incorporate a writing requirement.

15. *In pari materia*, when used as an adverb, is defined as “in conjunction with.” But when employed as an adjective, it means “On the same subject; relating to the same matter.” BLACK’S LAW DICTIONARY 862 (9th ed. 2009). “Statutes *in pari materia* are statutes sharing a common purpose or relating to the same subject. They are construed together as one law, regardless of whether they contain any reference to one another.” *Ameritech Mich. v. Mich. Pub. Serv. Comm’n*, 658 N.W.2d 849, 856 (Mich. Ct. App. 2003).

16. “A statute must be construed in relation to other statutes of which it is a part, and all statutes relating to the same subject matter, briefly called statutes *in pari materia*, are construed together, and harmonized wherever possible, so as to ascertain the legislative intent and give effect thereto.” *Askins v. Colon*, 608 S.E.2d 6, 9 (Ga. Ct. App. 2004).

17. S. REP. NO. 95-382, at 2–3 (1977).

After attending a presentation on vacation timeshares, Karen Hooks and Geraldine Moore entered into an agreement to purchase a timeshare with Wyndham Vacation Resorts, Inc. (“Wyndham”), the sponsor of the presentation.¹⁸ Unbeknownst to Hooks and Moore, the document they signed was a mortgage.¹⁹ Upon realizing this, Hooks and Moore refused to make any subsequent payments pursuant to the mortgage agreement.²⁰

To collect the payments owed under the agreement, Wyndham hired Forman, Holt, Eliades & Ravin, LLC (“Forman”), a debt collection law firm.²¹ Forman commenced the debt collection process by sending a collection notice to Hooks and Moore which stated in pertinent part:

Unless you notify [us] in writing within thirty (30) days after receipt of this letter that the debt, or any part of it, is disputed, we will assume that the debt is valid. If you do notify [us] of a dispute, we will obtain verification of the debt and mail it to you. Also upon your written request within thirty (30) days, we will provide you with the name and address of the original creditor if different from Wyndham. This communication is an attempt to collect a debt and any information obtained will be used for that purpose.²²

Subsequently, Hooks and Moore initiated suit in the U.S. District Court for the Southern District of New York, alleging that the debt collection notice violated § 1692g of the FDCPA.²³ They argued that because Forman’s debt collection notice required that a debt dispute be made in writing, it violated the FDCPA—which they claimed does not impose a writing requirement.²⁴ Forman responded that, because § 1692g(a)(4),²⁵ (a)(5),²⁶ and (b)²⁷ all impose a writing requirement before a consumer

18. *Hooks*, 717 F.3d at 283.

19. *Id.*

20. *Id.*

21. *Id.*; see also *Debtor Representation*, FORMAN, HOLT, ELIADES & YOUNGMAN, LLC, <http://www.formanlaw.com/practice-areas/bankruptcy> (last visited Jan. 25, 2015).

22. *Hooks v. Forman Holt Eliades & Ravin LLC*, No. 11 Civ. 2767(LAP), 2012 WL 3322637, at *1 (S.D.N.Y. Aug. 13, 2012). The original notice contained all capital letters with the final sentence in bold. *Id.*

23. *Id.*

24. *Id.* at *2.

25. Section 1692g(a)(4) provides that a validation notice must contain:

A statement that if the consumer notifies the debt collector *in writing* within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector[.]

15 U.S.C. § 1692g(a)(4) (2006) (emphasis added).

26. Section 1692g(a)(5) requires that a validation notice include “a statement that, upon the consumer’s written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.” *Id.* § 1692g(a)(5).

27. Section 1692g(b) provides:

If the consumer notifies the debt collector *in writing* within the thirty-day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or that the

may exercise her rights under those sections, § 1692g(a)(3) necessarily imposes an equivalent writing requirement.²⁸

The district court held that § 1692g(a)(3) implicitly requires consumers challenging the validity of a debt to notify the debt collector of the dispute in writing.²⁹ Although the term “in writing” does not appear within the subsection itself, the district court read a writing requirement into the statute because § 1692g(a)(3) would otherwise produce an “absurd result” in light of § 1692g(a)(4).³⁰ Specifically, § 1692g(a)(4) requires the debt collector to provide the consumer verification of the debt upon the consumer’s written notice that the debt is disputed.³¹ Thus, under § 1692g(a)(4), a written communication is required to obtain verification of the debt.³² But a literal reading of § 1692g(a)(3) strips § 1692g(a)(4) of its intended effect because, if the dispute could be made orally, the consumer would not be able to receive verification of the debt. Therefore, as the district court noted, “a validation notice’s required language should be ‘read as a whole.’”³³ By reading § 1692g(a)(3) and (a)(4) together, the district court found that a writing requirement is necessary for a sensible interpretation of the FDCPA.³⁴

Reversing the district court on appeal, the Second Circuit held that § 1692g(a)(3) does not require consumers to challenge the validity of a debt in writing. In reaching its conclusion, the court examined the reasoning of both the Third Circuit in *Graziano v. Harrison*³⁵ and the Ninth Circuit in *Camacho v. Bridgeport Financial Inc.*³⁶—each reaching a different conclusion as to the meaning of § 1692g(a)(3).³⁷

consumer requests the name or address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector. Collection activities and communications that do not otherwise violate this subchapter may continue during the 30-day period referred to in subsection (a) of this section unless the consumer has notified the debt collector *in writing* that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor.

Id. § 1692g(b) (emphasis added).

28. *Hooks v. Forman, Holt, Eliades & Ravin, LLC*, 717 F.3d 282, 284 (2d Cir. 2013).

29. *Hooks*, 2012 WL 3322637, at *4.

30. *Id.* at *3.

31. 15 U.S.C. § 1692g(a)(4) (2006).

32. *Hooks*, 2012 WL 3322637, at *3.

33. *Id.* (quoting *Shapiro v. Riddle & Assocs., P.C.*, 240 F. Supp. 2d 287, 290 (S.D.N.Y. 2003), *aff’d*, 351 F.3d 63 (2d Cir. 2003)).

34. *See id.* at *4.

35. *Hooks v. Forman, Holt, Eliades & Ravin, LLC*, 717 F.3d 282, 285 (2d Cir. 2013) (discussing *Graziano v. Harrison*, 950 F.2d 107 (3d Cir. 1991)).

36. *Id.* at 285–86 (citing *Camacho v. Bridgeport Fin., Inc.*, 430 F.3d 1078 (9th Cir. 2005)).

37. *Compare Graziano*, 950 F.2d at 112 (holding that a writing is required to dispute a debt under § 1692g(a)(3)), *with Camacho*, 430 F.3d at 1081–82 (holding that § 1692g(a)(3) does not impose a writing requirement to dispute a debt). *See also Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich, LPA*, 559 U.S. 573,

In *Graziano*, the Third Circuit held that § 1692g(a)(3) imposes a writing requirement upon a consumer contesting the validity of a debt.³⁸ Michael Harrison, a debt collection attorney, sent a debt collection notice to Anthony Graziano, informing Graziano that unless he challenged the debt in writing within thirty days, the debt would be assumed to be valid.³⁹ Graziano sued Harrison, alleging that the notice requiring Graziano to dispute the debt in writing violated § 1692g(a)(3).⁴⁰

While conceding that the language of § 1692g(a)(3) does not explicitly require that a consumer's challenge be made in writing, the *Graziano* court reasoned that the statutory scheme dictates otherwise.⁴¹ The subsequent sections, namely § 1692g(a)(4) and (a)(5), explicitly require written communications to trigger certain consumer rights, including the right to receive verification of the debt, and to obtain the name and address of the original creditor.⁴² Thus, according to *Graziano*, a reading of § 1692g(a)(3) that did not require written notice would produce an “incoherent . . . system” not attributable to Congress.⁴³ The *Graziano* court reasoned that a literal reading of § 1692g(a)(3) denies the debt collector his sole statutory ground for assuming the validity of the debt.⁴⁴ Nevertheless, when faced with a debtor's non-written challenge, the debt collector need not provide the debtor with the original creditor's contact information and written verification of the debt as required by § 1692g(a)(4) and (a)(5).⁴⁵ The *Graziano* court also noted policy considerations for reading a writing requirement into § 1692g(a)(3): a written communication creates a record of the dispute and thereby prevents potential conflicts between debtors and debt collectors.⁴⁶

In contrast, the Ninth Circuit held that § 1692g(a)(3) does not impose a writing requirement upon a consumer challenging the validity of a debt and that a debt collection notice requiring that a dispute be in writing violates the FDCPA.⁴⁷ In *Camacho*, Bridgeport Financial, Inc. sent a debt collection notice to Rita Camacho which included the statement, “Unless you notify this office *in writing* within 30 days after receiving this notice that you dispute the validity of this debt or any portion

580 (2010) (acknowledging the circuit split without addressing whether including an “in writing” requirement in a notice to a consumer violates § 1692g).

38. *Graziano*, 950 F.2d at 112. (“[G]iven the entire structure of section 1692g, subsection (a)(3) must be read to require that a dispute, to be effective, must be in writing.”)

39. *Id.* at 109.

40. *Id.* at 110.

41. *Id.* at 112.

42. *Id.*; see also 15 U.S.C. § 1692g(a)(4)–(a)(5) (2006).

43. *Graziano*, 950 F.2d at 112.

44. *Id.*

45. *Id.*

46. *Id.*

47. *Camacho v. Bridgepoint Fin., Inc.*, 430 F.3d 1078, 1082 (9th Cir. 2005).

thereof, this office will assume this debt is valid.”⁴⁸ Camacho then sued the debt collector alleging that the notice violated § 1692g(a)(3) by requiring a written dispute of the debt.⁴⁹ The *Camacho* court, applying the plain-meaning rule, concluded that consumers may exercise their rights under § 1692g(a)(3) by disputing the debt either orally or in writing.⁵⁰ The *Camacho* court reasoned that Congress would have expressly required a written dispute if Congress intended to impose a writing requirement in § 1692g(a)(3).⁵¹ Additionally, because § 1692g(a)(3) did not produce absurd results, the *Camacho* court refused to insert additional language into § 1692g(a)(3), reasoning that other FDCPA provisions protect oral disputes.⁵²

The *Hooks* court, rejecting the *Graziano* court’s reasoning and relying in part on the *Camacho* court’s analysis, reversed the lower court’s decision and held that § 1692g(a)(3) does not impose a writing requirement on a consumer disputing the validity of a debt.⁵³ Consequently, according to the *Hooks* court’s interpretation, Forman’s notice violated § 1692g(a)(3) by requiring Hooks and Moore to dispute the validity of the debt in writing.⁵⁴ The difference in statutory language among the various FDCPA sections struck the *Hooks* court as significant.⁵⁵ Because the language of § 1692g(a)(3) does not incorporate a writing requirement—while other sections within the same statute explicitly require a form of writing to trigger certain rights—the *Hooks* court held that consumers may exercise their rights under § 1692g(a)(3) by disputing a debt orally. According to the *Hooks* court, acknowledging the difference in statutory language “creates a sensible bifurcated scheme.”⁵⁶ Furthermore, the *Hooks* court found the right to dispute a debt to be the most fundamental right under § 1692g.⁵⁷ Therefore, to allow debtors who may have difficulty submitting a timely written dispute to enjoy this most important right, the court held that the right may be exercised both orally and in writing.⁵⁸

The *Hooks* court also rejected the notion that § 1692g(a)(3) applies only to written debt disputes because the FDCPA provides other statutory protections for consumers

48. *Id.* at 1079 (emphasis added).

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.* at 1081–82 (citing § 1692e(8) and § 1692c(a)(1) as providing protection for consumers who give notice orally).

53. *Hooks v. Forman, Holt, Eliades & Ravin, LLC*, 717 F.3d 282, 287 (2d Cir. 2013).

54. *Id.* at 286.

55. *Id.*

56. *Id.*

57. *Id.*

58. *Id.*

who give notice orally,⁵⁹ namely the protections set forth in § 1692h⁶⁰ and § 1692e(8).⁶¹ Although the *Hooks* court conceded that it “makes sense” to require consumers to dispute the debt in writing before claiming their rights under § 1692g(a)(4), (a)(5), and (b), it nevertheless concluded that this was “not the type of patently unreasonable policy” that would permit it to insert additional language into the statute.⁶²

This case comment contends that the *Hooks* court’s interpretation of § 1692g(a)(3) as extending to oral disputes is erroneous for several reasons. First, contrary to the *Hooks* court’s interpretive approach, a statutory provision cannot be read in isolation, but rather should be construed in light of the statutory scheme as a whole, especially those sections of the statute with which it is *in pari materia*. A comprehensive reading of § 1692g suggests that Congress intended to impose a writing requirement upon a consumer wishing to contest the validity of a debt. Second, to hold otherwise would repudiate Congress’s intent to provide FDCPA protections for all consumers alike, since key provisions in § 1692g⁶³ become superfluous for consumers disputing their debt orally. Third, the *Hooks* court’s literal reading of § 1692g(a)(3) divests some debt collectors of their only recourse under the statute to assume the validity of consumer debt. Thus, the *Hooks* court’s interpretation runs contrary to Congress’s underlying intent to protect debtors without imposing unnecessary burdens on ethical debt collectors.⁶⁴

When interpreting a statute, a court must begin its analysis with the text of the statute.⁶⁵ Under the plain-meaning doctrine,⁶⁶ if the import of the text is clear, the court’s interpretation comes to a halt.⁶⁷ One exception to the plain-meaning rule is the absurdity doctrine.⁶⁸ When a statute’s plain meaning would lead to absurd results at odds with

59. *Id.*

60. Section 1692h provides:

If any consumer owes multiple debts and makes any single payment to any debt collector with respect to such debts, such debt collector may not apply such payment to any debt which is disputed by the consumer and, where applicable, shall apply such payment in accordance with the consumer’s directions.

15 U.S.C. § 1692h (1977).

61. *Hooks*, 717 F.3d at 286.

62. *Id.*

63. *See* 15 U.S.C. § 1692g(a)(4)–(a)(5) (2006).

64. CONSUMER FIN. PROT. BUREAU, *supra* note 2, at 8 (“Congress passed the FDCPA in 1977 to eliminate abusive collection practices by debt collectors and to ensure that those debt collectors who refrain from using abusive practices are not completely disadvantaged.”).

65. *Estate of Cowart v. Nicklos Drilling Co.*, 505 U.S. 469, 475 (1992) (“In a statutory construction case, the beginning point must be the language of the statute, and when a statute speaks with clarity to an issue judicial inquiry into the statute’s meaning, in all but the most extraordinary circumstance, is finished.”).

66. To interpret § 1692g(a)(3), the Second, Third, and Ninth Circuits employed the plain-meaning doctrine. *See Hooks*, 717 F.3d at 286–87; *Graziano v. Harrison*, 950 F.2d 107 (3d Cir. 1991); *Camacho v. Bridgepoint Fin., Inc.*, 430 F.3d 1078 (9th Cir. 2005).

67. *Estate of Cowart*, 505 U.S. at 475.

68. *United States v. Kirby*, 74 U.S. 482, 486–87 (1868); *see* John F. Manning, *The Absurdity Doctrine*, 116 HARV. L. REV. 2387, 2389–90 (2003) (“While the enacted text is generally considered the best evidence of such

common sense or social policy, the court may rely on other tools of construction, such as a statute's legislative history, in order to reach a sensible interpretation.⁶⁹ Moreover, applying the *in pari materia* canon of statutory interpretation, statutes dealing with the same subject matter "should be read as if they were one law."⁷⁰

While the *Hooks* court correctly applied the plain-meaning rule, the court erred by concluding that § 1692g(a)(3) does not require a consumer to submit a written dispute. The *Hooks* court failed to consider the ramifications of its literal reading of the FDCPA's debt-collection scheme.

The statutory scheme of the FDCPA substantiates the need for a writing requirement for consumers challenging the validity of a debt under § 1692g(a)(3).⁷¹ Sections 1692g(a)(4), (a)(5), and (b), provisions *in pari materia* with the disputed section, all require written notice from the debtor to trigger certain rights.⁷² If a consumer notifies the debt collector in writing that the debt is disputed, the debt collector must obtain and produce to the consumer verification of the debt or a copy of the judgment against the consumer.⁷³ Further, upon the consumer's written request, the debt collector must provide the consumer with the contact information of the original creditor.⁷⁴ In addition, a timely written dispute requires the debt collector to cease all collection efforts until the consumer receives verification of the disputed debt.⁷⁵ Under the *Hooks* court's literal interpretation, these key protections of the FDCPA are unavailable for consumers who dispute their debt orally.

After considering the statutory scheme of the FDCPA, the *Hooks* court, relying in part on the *Camacho* court's analysis,⁷⁶ determined that giving effect to oral

intent, Congress does not always accurately reduce its intentions to words because legislators necessarily draft statutes within the constraints of bounded foresight, limited resources, and imperfect language. The absurdity doctrine builds on that idea: If a given statutory application sharply contradicts commonly held social values, then the Supreme Court presumes that this absurd result reflects imprecise drafting that Congress could and would have corrected had the issue come up during the enactment process."

69. *Goldman v. Cohen*, 445 F.2d 152, 155 (2d Cir. 2006) ("The plain meaning of legislation should be conclusive, except in the rare cases in which the literal application of a statute will produce a result demonstrably at odds with the intentions of its drafters." (quoting *United States v. Ron Pair Enters., Inc.*, 489 U.S. 235, 242 (1989)).

70. *See Wachovia Bank, Nat'l Ass'n v. Schmidt*, 546 U.S. 303, 315–16 (2006) (quoting *Erlenbaugh v. United States*, 409 U.S. 239, 243 (1972)).

71. *See* 15 U.S.C. § 1692g(a)(3)–(5) (2006).

72. *Id.* § 1692g(a)(4)–(5), (b).

73. *Id.* § 1692g(a)(4).

74. *Id.* § 1692g(a)(5).

75. *Id.* § 1692g(b).

76. "[T]he plain meaning of subsection (a)(3) does not lead to absurd results because an oral dispute triggers multiple statutory protections." *Camacho v. Bridgeport Fin., Inc.*, 430 F.3d 1078, 1081 (9th Cir. 2005). The *Camacho* court reasoned that under § 1692e(8), consumers disputing debts orally are protected from debt collectors communicating consumers' credit card information to others without including the fact that the debt is in dispute. Additionally, the *Camacho* court noted that an oral dispute protects the consumer under § 1692c(a)(1) by barring the debt collector from communicating with a consumer at "a time or place known or which should be known to be inconvenient to the consumer." *Id.* at 1082; *see also* § 1692e(8); *id.* § 1692c(a)(1).

disputes under § 1692g(a)(3) would not lead to absurd results because the FDCPA already provides protections for oral disputes, separate and apart from § 1692g(a)(4), (a)(5), and (b).⁷⁷ The *Hooks* court reasoned that although disputing a debt in writing triggers a broader set of rights under the FDCPA, consumers making oral disputes are nevertheless entitled to some basic rights under the statute.⁷⁸

Admittedly, as noted by the *Hooks* and *Camacho* courts,⁷⁹ consumers disputing a debt orally are afforded some statutory protections under the FDCPA, such as § 1692e(8)⁸⁰ and § 1692c(a)(1),⁸¹ which provide for a cause of action against the debt collector if violated. But the statutory protections provided by § 1692g(a)(4), (a)(5), and (b) are more attuned to Congress's intent to "protect consumers from a host of unfair, harassing, and deceptive collection practices without imposing unnecessary restrictions on ethical debt collectors."⁸² The provisions protecting oral disputes,⁸³ unlike § 1692g(a)(4), (a)(5), and (b), are not included within § 1692g of the FDCPA in which the disputed section is incorporated.⁸⁴ When the meaning of a statutory provision is at issue, it must be interpreted *in pari materia* with those provisions included within the same section, and not in relation to extrinsic provisions.⁸⁵ Accordingly, in interpreting § 1692g(a)(3), the *Hooks* court should have looked to the

77. *Hooks v. Forman, Holt, Eliades & Ravin, LLC*, 717 F.3d 282, 285–86 (2d Cir. 2013).

78. *Id.* at 286.

79. *Camacho*, 430 F.3d at 1081–82.

80. Section 1692e(8) provides: "Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed."

15 U.S.C. § 1692e(8) (1996).

81. Section 1692c(a)(1) provides that unless a consumer gives his prior consent or the court gives express permission, a debt collector may not communicate with a consumer in connection with the collection of a debt:

At any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antemeridian and before 9 o'clock postmeridian, local time at the consumer's location[.]

Id. § 1692c(a)(1) (1977).

82. S. REP. NO. 95-382, at 1 (1977), reprinted in 1977 U.S.C.C.A.N. 1695, 1696.

83. The *Hooks* and *Camacho* courts viewed § 1692e(8) and § 1692c(a)(1) as protecting consumers who dispute their debt orally. See *Hooks v. Forman, Holt, Eliades & Ravin, LLC*, 717 F.3d 282, 285–86 (2d Cir. 2013); *Camacho v. Bridgeport Fin., Inc.*, 430 F.3d 1078, 1081–82 (9th Cir. 2005).

84. See 15 U.S.C. § 1692g (2006).

85. The court must consult "the statute itself for clues about meaning, to look at its structure, to examine related passages of the same statute or statutes that may be *in pari materia*, etc., before resorting to [other] sources." Justice Robert P. Young, Jr., *A Judicial Traditionalist Confronts Justice Brennan's School of Judicial Philosophy*, 33 OKLA. CITY U. L. REV. 263, 280–81 (2008); see also 2 J. SUTHERLAND, STATUTORY CONSTRUCTION § 5201 (3d F. Horack ed. 1943).

provisions of § 1692g(a)(4), (a)(5), and (b), all of which require written notification,⁸⁶ before consulting those extrinsic provisions whose protections extend to oral disputes.

The *Hooks* court's literal reading of § 1692g(a)(3) produces an "incoherent system"⁸⁷ for two reasons. First, under the court's interpretation, the debt collector is without any statutory ground for assuming the validity of consumer debt when faced with a consumer's oral dispute.⁸⁸ Yet, because the debt collector would not have to verify the debt under § 1692g(a)(4),⁸⁹ the debt collector may continue to pursue payment of the debt under § 1692g(b), notwithstanding the consumer's dispute thereof.⁹⁰ To avoid such a patently absurd result, an established rule of construction demands that the statute be read as a harmonious whole.⁹¹ This holistic approach to statutory construction is especially appropriate when, as here, an isolated reading of § 1692g(a)(3) would permit Congress's inadvertent omission of an "in writing" requirement to defeat otherwise clear legislative intent.⁹² When § 1692g(a)(3) through (a)(5) are read *in pari materia*, a writing requirement is impliedly read into § 1692g(a)(3) in order to avoid an absurd and incoherent result.⁹³

Second, under the *Hooks* court's interpretation, consumers disputing debts orally are not given the same statutory protections as consumers disputing debts in writing.⁹⁴ Rather, consumers making oral challenges are shortchanged because they can neither seek verification of the debt nor identification of the original creditor.⁹⁵ But by enacting the FDCPA, Congress sought to protect *all* consumers equally, rather than

86. See § 1692g(a)(4)–(5), (b).

87. As noted by the *Graziano* court, such an "incoherent" result could not be attributed to Congress which, by enacting the FDCPA, sought to "eliminate the recurring problem of debt collectors dunning the wrong person or attempting to collect debts which the consumer has already paid." *Graziano v. Harrison*, 950 F.2d 107, 112 (3d Cir. 1991) ("We see no reason to attribute to Congress an intent to create so incoherent a system.").

88. *Id.*

89. *Id.*

90. See § 1692g(b).

91. See *United States v. Morton*, 467 U.S. 822, 828 (1984) (noting that courts generally read statutes "as a whole"); see also *Stafford v. Briggs*, 444 U.S. 527, 535 (1980) ("And it is well settled that, in interpreting a statute, the court will not look merely to a particular clause in which general words may be used, but will take in connection with it the whole statute . . . and the objects and policy of the law . . .") (alteration in original) (quoting *Brown v. Duchesne*, 60 U.S. (19 How.) 183, 194 (1856)); *Shapiro v. Riddle & Assocs., P.C.*, 240 F. Supp. 2d 287, 290–91 (S.D.N.Y. 2003).

92. As Justice John Paul Stevens lamented in *W. Va. Univ. Hosp. v. Casey*, "[W]e do the country a disservice when we needlessly ignore persuasive evidence of Congress' actual purpose and require it 'to take the time to revisit the matter' and to restate its purpose in more precise English whenever its work product suffers from an omission or inadvertent error." 499 U.S. 83, 115 (1991) (Stevens, J., dissenting), *superseded by statute*, Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1071, *as recognized in* *Landgraf v. Usi Film Prods.*, 511 U.S. 244, 251 (1994).

93. See *Morton*, 467 U.S. at 828; see also *Stafford*, 444 U.S. at 535 (quoting *Brown*, 60 U.S. (19 How.) at 194); *Shapiro*, 240 F. Supp. 2d at 290–91.

94. Compare § 1692g(a)(4)–(5), (b), with *id.* § 1692e(8) (1996), and *id.* § 1692c(a)(1) (1977).

95. *Id.* § 1692g(a)(4)–(5).

create a “bifurcated scheme” whereby some debtors enjoy a fraction of an indivisible set of protections.⁹⁶ Consumers who dispute their debt by oral communication are not afforded the important protections of debt verification, identification of the original creditor, and cessation of debt collection.⁹⁷ Without verification or identification, debt collectors may continue “dunning the wrong person or attempting to collect debts which the consumer has already paid.”⁹⁸ To avoid the very result the FDCPA was designed to prevent, § 1692g(a)(3) should be interpreted in light of the writing requirements imposed by those parallel FDCPA sections dealing with debt validation. When construed in this light, an equivalent writing requirement is impliedly read into § 1692g(a)(3) in order to give effect to those sections *in pari materia*, whose key protections would otherwise exclude oral disputes.

The *Hooks* court erroneously concluded that § 1692g(a)(3) does not require a consumer to contest a debt’s validity in writing. Among the circuits that have addressed the question, the *Graziano* court’s analysis is most consistent with the purpose of the FDCPA. In considering the statutory scheme of § 1692g as a whole, the *Graziano* court read a writing requirement into § 1692g(a)(3) in order to avoid making an “incoherent system” out of § 1692g.⁹⁹

Courts must consider the statutory scheme of § 1692g in its entirety to ensure that the rights therein are enjoyed by all consumers. If courts decline to read a writing requirement into § 1692g(a)(3), some consumers will be deprived of key FDCPA protections. The *Hooks* court’s literal reading leads to absurd results that Congress did not intend when it sought to protect *every* consumer, and not merely those who choose to submit a written dispute. By reading a writing requirement into § 1692g(a)(3), all consumers are guaranteed a right to debt verification, identification of the original creditor, and cessation of debt collection.

96. Specifically, in the Senate Report prepared by the Senate Banking, Housing, and Urban Affairs Committee seeking to amend the Consumer Credit Protection Act to incorporate the FDCPA, Congress sought to “eliminate the recurring problem of debt collectors dunning the wrong person or attempting to collect debts which the consumer has already paid.” S. REP. NO. 95-382, at 4 (1977), reprinted in 1977 U.S.C.C.A.N. 1695, 1699; see also CONSUMER FIN. PROT. BUREAU, *supra* note 2, at 9 (“There is still a need to protect consumers from debt collectors who violate the FDCPA, or who engage in deceptive, unfair, or abusive collection practices.”).

97. See § 1692g.

98. See S. REP. NO. 95-382, at 4.

99. *Graziano v. Harrison*, 950 F.2d 107, 112 (3d Cir. 1991).