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# Court of Appeals Finds no Litigation Privilege for Law Firm Acting as Debt Collection Agency

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Division I of the Washington Court of Appeals in Seattle recently held that the litigation privilege does not apply to a law firm acting as a debt collection agency. *Tavaglione v. Dehkhoda & Qadri, P.C.*, 2025 WL 1499135 (Wn. App. May 27, 2025), involved a professional corporation that was both a law firm and a registered debt collection agency under state law. Acting as a debt collection agency, the firm had attempted to collect a debt from Tavaglione. Tavaglione, however, argued that he was not responsible for the debt concerned and a trial court in an earlier proceeding agreed. Tavaglione then sued the firm as a debt collection agency for, among other theories, violations of the Washington Collection Agency Act.

In Tavaglione's lawsuit against the firm, the firm argued that it was immune from liability by virtue of the "litigation privilege," which is the doctrine that generally provides immunity from civil suit for statements made in the course of judicial proceedings. The trial court agreed and dismissed Tavaglione's lawsuit on the pleadings. The Court of Appeals reversed.

In doing so, the Court of Appeals first noted that a law firm can be sued as a debt collection agency under the WCAA if the primary purpose of the firm's activities were the collection of a consumer debt. Because Tavaglione's lawsuit

had been dismissed on the pleadings, the Court of Appeals reviewed the dismissal based on the facts alleged in the pleadings alone. The complaint alleged that the firm had been acting as a debt collection agency rather than a law firm in attempting to collect the debt Tavaglione did not owe.

The Court of Appeals next looked at the litigation privilege. The Court of Appeals noted that for the litigation privilege to apply, the statements must be made during judicial proceedings and must be pertinent to the litigation. The Court of Appeals found that although the collection activity culminated in a judicial proceeding, the principal conduct at issue was as a "debt collector" rather than a law firm. Therefore, the Court of Appeals concluded that the litigation privilege did not bar Travaglione's subsequent lawsuit against the firm acting in its capacity as a debt collection agency.

**ABOUT THE AUTHOR**

Mark J. Fucile of Fucile & Reising LLP advises lawyers, law firms and legal departments throughout the Northwest on professional responsibility and risk management. Mark has chaired both the WSBA Committee on Professional Ethics and its predecessor, the WSBA Rules of Professional Conduct Committee. Mark has served on the Oregon State Bar Legal Ethics Committee and is a member of the Idaho State Bar Section on Professionalism & Ethics. Mark writes the Ethics Focus column for the Multnomah (Portland) Bar's *Multnomah Lawyer*, the Ethics & the Law column for the WSBA *Bar News* and is a regular contributor on legal ethics to the WSBA *NWSidebar* blog. Mark is a contributing author and the editor-in-chief for the WSBA *Legal Ethics Deskbook* and is a contributing author and principal editor for the OSB *Ethical Oregon*

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