

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Michael XXXX : Civil Action

v. :

Enhanced Recovery Corp. :

Complaint

Jurisdiction & Venue

1. This is an action under the **Fair Debt Collection Practices Act**, hereinafter "FDCPA," 15 U.S.C. §1692a, et seq, as well as under the Pennsylvania **Fair Credit Extension Uniformity Act** 73 P.S. § 2270, et seq.
2. Jurisdiction in this case is founded upon 15 U.S.C. 1692k which grants the United States District Courts jurisdiction to hear this action without regard to the amount in controversy.
3. Venue is founded upon 28 U.S.C. §1391(b)(2).

Parties

4. The plaintiff is Michael XXXX, sui juris adults, residing at 1234 XXXXX St., Philadelphia, PA.
5. Defendant Enhanced Recovery Corp. is a corporation doing business in Pennsylvania and throughout the nation, whose principal office is located at 8014 Bayberry Road, Jacksonville, FL 32256, primarily as a consumer debt collection company.
6. Since the defendant's regular business is the collection of consumer debts, the defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6).
7. The plaintiffs are "consumers" as defined by 15 U.S.C. §1692a(3).

Factual Allegations

8. Plaintiffs repeats, realleges and incorporates by reference the foregoing paragraphs.
9. Defendant is a collection agency, collecting the debt of others.

10. During the late spring and early summer of 2006, plaintiff received a series of phone calls from defendant at work for collection purposes.
11. All of the phone calls were received at plaintiff's place of employment.
12. At the time of the first call and at virtually each successive phone call, plaintiff informed defendant that he did not wish to be called at work, and that he was not permitted to receive such phone calls at his jobsite.
13. In July, 2006, plaintiff was in a meeting with his employer which was interrupted by a receptionist at his workplace, who stated that a representative of defendant had instructed her to "interrupt the meeting," further stating that she could not leave a message, and that it was "an important financial matter."
14. The receptionist was aware, based upon the tone of the caller and the use of the phrase "important financial matter" that the caller was a debt collector.
15. Plaintiff thereupon took the call while in the meeting.
16. At that time, the caller, a representative of defendant identifying herself as "Amanda," yelled so loudly into the receiver that other people in the room with plaintiff could hear what was said.
17. Defendant's representative used such language in that call so as to alert others in the room that she was a debt collector.
18. Defendant's representative insisted that plaintiff "make time" right then to speak with her, and proceeded to list every credit account owed by the plaintiff, along with the balances owed.
19. Defendant's representative during that call, loudly and openly ridiculed plaintiff, calling him rude, degrading and humiliating names, all of which could be heard by others in the room.
20. At that point plaintiff hung up, however, the others in the room observed the whole transaction, adding to the embarrassment and humiliation suffered by the plaintiff.

21. On or about August 25, 2006, the same representative again phoned plaintiff's place of employment, while plaintiff was with his customer.
22. At that time, the representative refused to leave a message when she was told that plaintiff could not speak with her, stating that she would "wait on hold all day if necessary."
23. By insisting on this course of conduct, defendant's representative disturbed the operation of plaintiff's business and further humiliated plaintiff in front of his business associates, since they were already familiar with the prior goings on between plaintiff and defendant's representative.
24. The representative further compounded and exacerbated the situation by demanding to be "transferred to [plaintiff's] supervisor, which was done.
25. Defendant's representative thereupon implied to plaintiff's supervisor that she had to speak with plaintiff immediately about "financial matters" and then made derogatory remarks about plaintiff to the supervisor.
26. Thereafter, plaintiff's supervisor confronted plaintiff about the issue, which was known to be about debt collection issues, based upon the prior occurrences and the familiar pattern and code words used by debt collectors, e.g. "Important financial matter."
27. Plaintiff's standing in his company was diminished by the incident and as well he suffered extreme humiliation and degradation in front of his employer and other employees, all of which severely affected his standing and reputation before his business peers.
28. On or about August 28, 2006, another representative of defendant, identifying himself as "Dave Welsh," phoned plaintiff's workplace.
29. The aforesaid representative was immediately advised again that phone calls of this nature could not be accepted at plaintiff's workplace, and that defendant and its representatives should cease and discontinue all such calls.

30. Welsh insisted upon speaking with plaintiff despite the above request, and engaged plaintiff in another embarrassing and humiliating discussion, reviewing each credit card owed by plaintiff and their balances.
31. During the course of the conversation, Welsh used derogatory and oppressive language calculated to belittle and humiliate plaintiff.
32. Welsh was again advised that plaintiff was on the job and that the phone call was interfering with plaintiff's workday and not permitted by plaintiff's employer.
33. Welsh again called the following day and made a settlement offer, which he refused to put in writing. When plaintiff requested time to review the offer with his father, Welsh chided plaintiff about the said request, further belittling and humiliating him.
34. The same day, plaintiff was called a second time by another representative, identifying himself as "Kevin", with whom plaintiff refused to speak.
35. "Kevin" thereupon telephoned plaintiff's sister in Maryland, advised her that he was calling from a collection agency and that he was "looking for" plaintiff.
36. The next week, defendant again contacted plaintiff's sister and harassed her about plaintiff's debt.
37. Plaintiff was not and never was residing with his sister and defendant was aware of this fact.
38. Defendant did not need nor seek locator information, but merely sought to harass and humiliate plaintiff further, and embarrass plaintiff into paying defendant.
39. On August 29, 2006 plaintiff advised a representative of defendant that he would be seeking counsel. The representative stated to plaintiff that he "should be arrested" because he "did not pay his debts."
40. As a result of the above degrading and oppressive course of conduct visited

upon plaintiff, he was unable to discharge his employment obligations and duties to the full extent of his abilities, lost sleep, suffered stress symptoms including headaches and irritability, all of which interfered with his home and family life to his great detriment.

41. Based upon the above conduct, defendant has employed false, misleading, oppressive and deceptive tactics to collect its debts.

First Claim for Relief

42. Plaintiff repeats and realleges and incorporates by reference the foregoing paragraphs.
43. Defendants violated the FDCPA. Defendants' violations include, but are not limited to the following:
 - a. The defendant violated 15 U.S.C. § 1692d by causing plaintiffs' telephone to ring and engaging plaintiffs in telephone conversations repeatedly or continuously with intent to annoy, abuse, or harass them.
 - b. The defendant violated 15 U.S.C. § 1692d by using language the natural consequence of which was to abuse plaintiffs.
 - c. The defendant violated 15 USC 1692c(b) by repeatedly contacting plaintiff at the plaintiff's place of employment after defendant knew or had reason to know that the plaintiff's employer prohibited the plaintiff from receiving such communication.
 - d. The Defendants violated 15 U.S.C. § 1692c(b) by contacting a third party, the Plaintiff's employer, without the Plaintiff's prior consent.
 - e. The defendant repeatedly and maliciously violated 15 USC 1692c by continually phoning plaintiff at her place of employment knowing that plaintiff's employer prohibited plaintiff from receiving such communication.
 - f. The defendants violated 15 U.S.C. § 1692c(c) by contacting the plaintiff

after the plaintiff had requested the defendants cease communication with the plaintiff.

- g. The defendant violated 15 USC 1692e by indicating that plaintiff should be arrested for owing refusing to pay what was alleged to be owed, implying that plaintiff had committed a crime.
- h. The defendant repeatedly violated 15 USC 1692c(b) by contacting a third party about the debt allegedly owed by plaintiff.

- 44. As a result of the actions of defendants, plaintiffs have been required to hire the undersigned counsel. Counsel has been an attorney in good standing for 28 years. Counsel has 26 years of experience in handling consumer law cases. Counsel is known in his field as a competent, experienced consumer law attorney. As a result, counsel's time is billed at a rate of \$275 an hour, which is reasonable in the community.
- 45. As a result of the above violations of the FDCPA, the Defendant is liable to the Plaintiff for actual damages, statutory damages, and costs and attorney's fees.

Second Claim for Relief

- 46. Plaintiff repeats and realleges and incorporates by reference the foregoing paragraphs.
- 47. Defendant violated the Pennsylvania **Fair Credit Extension Uniformity Act** 73 P.S. § 2270 et seq (the "FCEUA"). Defendants' violations of the FCEUA include, but are not limited to, the following:
 - a. The Defendant violated 73 P.S. §§ 2270.4(a) by violating the Fair Debt Collection Practices Act (Public Law 95-109, 15 U.S.C. § 1692 et Seq.)
 - b. Defendant' acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt
- 48. As a result of the above violations of the FCEUA, the Defendant is liable to the Plaintiffs for injunctive and declaratory relief and for actual damages, statutory

damages, and attorney's fees and costs.

WHEREFORE, Plaintiffs respectfully prays that judgment in a sum less than \$150,000 be entered against the Defendant for the following:

- A. Actual damages;
- B. Statutory damages pursuant to 15 U.S.C. § 1692k.
- C. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k and 73 P.S. § 2270.5.
- D. Exemplary damages based upon defendant's defiant, persistent, outrageous and malicious conduct.
- D. For such other and further relief as may be just and proper.

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