

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Unhappy debtor : Civil Action No.

:

v. :

Lawrence S. Hecker, Attorney :

Complaint

Jurisdiction

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.

Parties

3. The plaintiff is Unhappy Debtor

4. Defendant Lawrence S. Hecker, Attorney, is an attorney licensed solely in the State of New Jersey.

5. Defendant is a debt collector as defined by the FDCPA, 15 U.S.C. §1692a(6).

6. The plaintiff is a "consumer" as defined 15 U.S.C. §1692a(3).

Factual Allegations

7. Defendant has alleged that plaintiff is or may be liable to Alliance East, a factorer or debt buyer of Discover Card

8. Commencing in or around January 29, 2004, defendant began a series of telephone calls to plaintiff at home and at work.

9. On or about the above date, defendant engaged plaintiff's minor daughter in a reluctant conversation, and using fraud, deceit, deception, or repetitious tactics tricked or unlawfully inveigled her to reveal plaintiff's telephone number at her place of employment.

10. Defendant, by the reluctance to reveal the above telephone number, should have known that plaintiff was not allowed to receive calls of this nature on the job.

11. The same day, defendant telephoned plaintiff at work. Plaintiff, unaware of the nature of the call, or ignorant of her legal rights to avoid such calls, returned the call. Defendant advised plaintiff that unless she paid the amount demanded in full, defendant would “put a lien” on her income tax refund and “garnish [her] wages.”

12. Defendant, in the same conversation, told plaintiff to call the electric and telephone companies and tell them to wait for their money, because she would need to play defendant for their client.

13. Plaintiff advised defendant that she was not permitted to receive such collection calls at her place of employment, and to never to call again.

14. On or about January 20, 2004 defendant phoned plaintiff’s home looking for plaintiff. Not reaching her there, defendant phoned plaintiff at her place of employment once again, knowing that such conduct was prohibited by plaintiff’s employer.

15. Defendant told plaintiff that she should “have [her] lawyer call and settle the case *today*.”

16. Defendant then demanded to speak with the payroll office at plaintiff’s place of employment, which plaintiff refused to do.

17. On February 5, 2004, plaintiff send a letter by certified mail, return receipt requested, to defendant requesting them to cease and desist contacting her. The letter stated, “I would appreciate if your company would not call my place of employment or my home until you hear from me or my attorney.” A copy of the letter is attached hereto and marked Exhibit “A.”

18. On February 27, 2004, defendant sent plaintiff the letter attached hereto as Exhibit “B,” notwithstanding plaintiff’s cease and desist letter.

19. No other letter was received by plaintiff.

20. The said letter contained a demand for full payment.

21. On or about October 4, 2004, defendant's employee, Paul Moore, called plaintiff's place of employment on behalf of defendant. Moore stated to plaintiff, "We need to settle this. You must call me back immediately [with an offer]."

22. Plaintiff reminded Moore of the cease and desist letter sent February 5, 2004 but Moore disregarded plaintiff's admonition.

23. On or about October 6, 2004, Moore called again. Once again, plaintiff reminded Moore that she had sent a cease and desist letter on February 5, 2004 and that he had no business calling.

24. During the course of the phone call, plaintiff's supervisor, who was in the vicinity, asked to speak with Moore directly. The supervisor then advised Moore that plaintiff was not permitted to receive such phone calls, and to cease and desist calling plaintiff. Moore defiantly said to plaintiff's supervisor, "What are you going to do about it?"

25. Ten minutes after the call in the above paragraph terminated, Moore called again and demanded to speak with plaintiff's other supervisor.

26. Moore then advised plaintiff's supervisor that plaintiff was indebted to defendant or his client, and that he wanted to send the sheriff to serve plaintiff with "court papers" at her place of employment.

27. Defendant thereafter contacted another of plaintiff's superiors and requested by fax, or attempted to request personal information respecting plaintiff's salary and other personal information, none of which would be necessary or even desirable to prove a case against plaintiff for a debt action.

28. Defendant, not being admitted to practice law in Pennsylvania, never intended to bring litigation in the Commonwealth.

29. Defendant, not being admitted to practice law in Pennsylvania, was not entitled to recommend or suggest that such an action should be brought in the Commonwealth.

30. Defendant's persistent requests for information of a personal nature was requested solely for the purpose of publishing to others that plaintiff was indebted to the client

of defendant.

31. The plaintiff has been terrorized, traumatized and humiliated by defendant's calls. Plaintiff's family life and household peace have been severely disrupted and thrown into chaos because of the calls. Plaintiff's daughter has likewise been traumatized by the intrusive nature of the calls.

32. Many of the calls were abusive, rude, employed oppressive or obscene tactics.

First Claim for Relief

33. Plaintiff repeats and incorporates by reference the foregoing paragraphs.

34. The defendant violated 15 U.S.C. § 1692e(10) by using a false representation or deceptive means to obtain information concerning a plaintiff's work phone number from her minor daughter.

35. 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 her.

36. The defendant violated 15 U.S.C. § 1692e(11) by neglecting to advise plaintiff and her daughter that the defendant was a collector and that any information obtained will be used for that purpose.

37. The defendant violated 15 U.S.C. § 1692e(5) by threatening a wage attachment; by threatening to "put a lien" on her income tax refund; by threatening suit; by recommending suit; by threatening to have the sheriff serve legal process upon plaintiff, none of which could be legally accomplished by defendant since he was not licensed to practice law in Pennsylvania nor to bring such a case there.

38. The defendant further violated 15 U.S.C. § 1692e(5) since he had no intention of bringing such legal action against plaintiff.

39. The defendant violated 15 U.S.C. § 1692e(10) by advising plaintiff that she could and should skip payments to her basic utilities in order to pay the defendant instead.

40. The defendant violated 15 U.S.C. § 1692c(c) by mailing plaintiff the letter of

February 27, 2004, Exhibit "B".

41. The defendant violated 15 U.S.C. § 1692c(c) by refusing to cease communications with plaintiff by telephoning her repeatedly.

42. The defendant violated 15 USC §1692g by making threats of suit during the debt validation period in a manner that overshadowed the notice of validation rights and would create confusion for a least sophisticated consumer about his rights.

43. The defendant violated 15 USC §1692g by demanding full payment in their letter of February 27, 2004 "because [she had] had ample time to pay your creditor" during the debt validation period in a manner that overshadowed the notice of validation rights and would create confusion for a least sophisticated consumer about his rights.

44. The defendant violated 15 USC §1692c(b) by disclosing to plaintiff's employer that she owed a debt.

45. The defendant violated 15 USC §1692c(b) by disclosing to plaintiff's child that she owed a debt.

46. The defendant violated 15 USC §1692e(5) by telling plaintiff's employer that defendants wished to serve plaintiff with legal process which they had no intention of doing.

47. The defendant violated 15 USC §1692e(10) by using false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a plaintiff when defendant's agent requested to speak with the payroll department to obtain private information in an attempt to embarrass and humiliate plaintiff into paying defendant.

48. The defendant violated 15 USC §1692d(5) by calling plaintiff back within 10 minutes after a prior call, at her place of employment, in a attempt to further harass and intimidate plaintiff.

49. The defendant violated 15 USC §1692c(c) by calling plaintiff at her place of employment when he knew plaintiff's employer would not permit her to receive phone calls of that nature on the job.

50. Any or all of the foregoing actions of defendant would have been more than

sufficient to overcome the will of the least sophisticated consumer to resist such tactics.

51. As a result of defendants' action, plaintiff was terrorized, traumatized, embarrassed and humiliated at her place of employment; diminished in the eyes of her employer; suffered loss of sleep, felt physically sickened, nausea, cephalgia, intense stress and emotional distress, interfering with her ability to care for her daughter as well as inability to concentrate on her job and loss of the enjoyment of her life.

52. As a result of the actions of defendants, plaintiffs hire the undersigned counsel. Counsel has been an attorney in good standing for 26 years. Counsel has 24 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 the reasonable rate of \$250 an hour.

53. The defendant violated 15 U.S.C. §1692f in that their actions were an unfair and/or unconscionable means to collect a debt for the reasons set forth in the paragraphs immediately preceding.

54. As a result of the above violations of the FDCPA, the Defendant is liable to the Plaintiff for declaratory judgment that defendant's conduct violated the FDCPA, and Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

Second Claim for Relief

55. Plaintiff repeats and realleges and incorporates by reference the foregoing paragraphs.

56. Defendant violated the Pennsylvania **Fair Credit Extension Uniformity Act** 73 P.S. § 2270 et seq (the "FCEUA"). Defendant' 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

57. As a result of the above violations of the FCUEUA, the Defendant is liable to the

Plaintiffs 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:

1. Actual damages;
2. Statutory damages pursuant to 15 U.S.C. § 1692k.
3. Statutory damages pursuant to 73 P.S. § 2270.5.
4. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k and 73 P.S. § 2270.5.
5. For such other and further relief as may be just and proper.

s/Lawrence S. Rubin
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