

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Robert W. XXXXX : Civil Action No.
and
Dolores M XXXXX :
v. :
Nasty Law Firm (not the real name!) :

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 plaintiffs are Robert W. XXXXX (hereinafter "plaintiff") and Dolores XXXXX, (hereinafter, "wife"), husband and wife, sui juris adults residing at xxxxxxxxxxxxxx, xxxxxxxx, Pennsylvania.

4. Defendant Nasty Law Firm is a professional corporation doing business in Pennsylvania as primarily a consumer debt collection law firm.

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

6. Although the plaintiff may not liable to Defendant, the plaintiff is a "consumer" as defined 15 U.S.C. §1692a(3).

Factual Allegations

7. Plaintiff and wife entered into a contract for a vehicle lease with Ford Motor Credit which, by agreement between the parties terminated in October 2003, at such time the plaintiff and wife would return the vehicle to Ford and in doing so, all obligations to Ford would cease.

8. Plaintiff missed the final lease payment to Ford in the amount of \$665. As such,

plaintiff was obligated to defendant in an amount not in excess of that amount or such other approximate sum within a reasonable margin of error.

9. Plaintiff brought the vehicle back to the dealership in accordance with the terms of the contract in October 2003.

10. Ford refused the vehicle and told plaintiff to bring the car home to his house.

11. Ford then sent a repo agent to repossess the vehicle.

12. Ford then assessed plaintiff and wife with repo charges in the amount of \$500.

13. On January 30, 2004, plaintiff and wife received a letter dated January 29, 2004 from xxxxx, an attorney employed by defendant. A copy of the letter is attached hereto as Exhibit "A."

14. On or around January 29, 2004 at approximately 7:00 p.m., the defendant, by its authorized agent contacted plaintiff by telephone.

15. At the time of the call, defendant was employed the use of an individual who identified himself as Orlando Perez.

16. Perez stated to plaintiff that he was working at and employed by defendant and that "his" "client" was Ford Motor Credit.

17. Perez stated plaintiff "was being sued" for \$8,000, and that he, the plaintiff, "would be served in 15 days."

18. Perez, in the same conversation, stated, that he was "putting a lien on [plaintiff's] personal property and his home."

19. Plaintiff then requested an explanation of the above sentence. Perez, stated that someone would be out to his house to "do an inventory" and an immediate seizure of plaintiff's personal property.

20. The next telephone contact from defendant was on February 4, 2004. Plaintiff was again contacted by defendant's agent, Perez, above.

21. In that conversation Perez stated, "I must have an answer from you by Friday, the 6th of February by 10:30 a.m., if not, then by 4:30 p.m. [of that day] an agent will be out to do an

asset assessment of your property.” Plaintiff asked Perez, “do you guys use the sheriff?” Perez replied, “No, in Pennsylvania, we don’t use the sheriff, we use a private contractor.”

22. Perez’s conversation with plaintiff of February 4th, above, ignored and overshadowed the validation notice in the defendant’s letter of January 29, 2004.

23. Plaintiff asked defendant’s agent, Perez, “what is an asset assessment.” Perez replied, “First we put a lien on your house, and the we assess the value of your personal property.

24. No agent appeared at plaintiff’s home on February 6, 2004 and no lawsuit was commenced. As of the date of filing of this complaint, no lawsuit has ever been commenced against plaintiff.

25. On February 9, 2004, Perez against called plaintiff. Perez asked plaintiff what he intended to do. Plaintiff told Perez “nothing.” Plaintiff then said that no one came out to do the assessment. Perez then stated that he never said that, but that he did say that “we were filing court papers on Friday.”

26. The said letter was an initial contact from defendant and afforded plaintiff and wife the requisite 30 day validation period pursuant to 15 U.S.C. §1692g.

27. Defendant demanded payment from plaintiff and wife in a sum of approximately nine times what the plaintiffs actually owed.

28. Defendant next telephoned plaintiff on February 24, 2004.

29. Defendant’s agent, a Mrs. Green, stated to plaintiff the following: “This is your last chance before we sue you. I will have the sheriff come and serve you. We will do a personal property check and if you are buying your home, we will put a lien on that, too. The judge will put his gavel down and say ‘judgment for Ford Motor Credit’. We always tack on \$2,000 for interest and fees and your credit will be ruined for life. You will never get a house or car again, and this will haunt you for life. Didn’t you read your contract, we can do anything we want! You will not win!”

30. Defendant’s repeated phone calls to the plaintiffs’ home caused severe and

intense emotional distress in both plaintiff and wife.

31. Plaintiff and especially wife were terrorized by defendant in that they feared an invasion of their home by strangers.

32. Plaintiffs lost sleep and suffered sever humiliation by defendant's unlawful tactics.

33. No legal action was ever commence by defendant and no lawsuit was ever contemplated by them.

First Claim for Relief

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

35. In demanding the sum of \$8000, defendant violated 15 U.S.C.§1692e(2) in that it repeatedly falsely represented the character and amount of the debt.

36. The Defendant violated 15 U.S.C. § 1692e(2)(A), (5) and (10) by repeatedly misrepresenting the imminent nature of legal action by Defendant.

37. The Defendant violated 15 U.S.C. § 1692g by making a threat of suit during the debt validation request period in a manner that overshadowed the notice of validation rights and would create confusion for a least sophisticated consumer about his rights.

38. The Defendant violated 15 U.S.C. § 1692f(6) by threatening to take nonjudicial action to effect dispossession or disablement of property where it did not have a security interest or other possessory right and in fact did not actually intend to take such possession.

39. The Defendant violated 15 U.S.C.§1692e(11) in that in no telephone contract did they advise either plaintiff that they were attempting to collect a debt and information would be used for that purpose.

40. The Defendant violated 15 U.S.C.§1692e(4) in that it threatened and unlawful private, non-judicial seizure, "asset assessment," or lien, where such action was not contemplated, was unlawful to take and not permitted by any contractual right, and stated for the sole purpose of terrifying the plaintiffs.

41. 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.

42. The Defendant violated 15 U.S.C. §1692e(10) by stating plaintiffs would be sued by February 6, 2004, when, in fact, no lawsuit was intended.

43. The Defendant violated 15 U.S.C. §1692e generally by having a non-attorney imply that he controlled the timing or scope of litigation allegedly to be filed against plaintiffs.

44. The Defendant violated 15 U.S.C. §1692e by making statements to plaintiff in paragraph 9 above, indicating that excessive fees and costs would be collected, that plaintiffs had no chance to defend, that defendant, or its clients always won, no matter what, that a lien would be placed on their home and personalty, and that plaintiffs' credit would be "ruined for life," which statements were untrue, false, deceptive and/or misleading and would be deceptive or misleading to the least sophisticated consumer.

45. 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

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"). 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

48. As a result of the above violations of the FCUEUA, 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. Declaratory judgment that Defendant' conduct violated the FDCPA, and declaratory and injunctive relief for the Defendant' violations of the state Act;

B. Actual damages;

C. Statutory damages pursuant to 15 U.S.C. § 1692k.

D. Statutory damages pursuant to 73 P.S. § 2270.5.

E. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k and 73 P.S. § 2270.5.

F. For such other and further relief as may be just and proper.

Lawrence S. Rubin, Esquire
Attorney for plaintiff
337 W State Street
Media, PA 19063
610-565-6660
Fax 610-565-1912