
STATE OF WISCONSIN CIRCUIT COURT OUTAGAMIE COUNTY

NICKOLAS ABATA

Case No.: 2023CV000719

Plaintiff,

vs.

CREDIT SERVICE INTERNATIONAL
CORPORATION,

Defendant.

**FIRST AMENDED COMPLAINT FOR VIOLATIONS OF THE
FAIR DEBT COLLECTION PRACTICES ACT**

Plaintiff, NICKOLAS ABATA (“ABATA”), brings this action against Defendant,
CREDIT SERVICE INTERNATIONAL CORPORATION (“CSI”), as follows:

I. PRELIMINARY STATEMENT

1. Plaintiff brings this action for CSI’s deceptive and misleading practices when attempting to collect consumers debts, which violate the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692-1692p.

2. The FDCPA regulates the behavior of “debt collectors” (including collection agencies, collection attorneys, debt buyers) when attempting to collect a consumer debt. Congress found “abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors” which “contribute to a

number of personal bankruptcies, marital instability, loss of jobs, and invasions of individual privacy.” 15 U.S.C. § 1692(a). The FDCPA was expressly adopted “to eliminate abusive debt collection practices by debt collectors, to ensure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote uniform State action to protect consumers against debt collection abuses.” 15 U.S.C. § 1692(e).

3. When collecting or attempting to collect a debt, the FDCPA bars debt collectors from using (a) harassing, oppressive, and abusive conduct; (b) false, deceptive, or misleading means or representations; and (c) unfair or unconscionable means. 15 U.S.C. §§ 1692d, 1692e, and 1692f. Each of those Sections contain a list of specific *per se* violations but they are nonexclusive and do not limit the general application of each Section’s broad prohibitions.

4. When the collection process starts, the FDCPA requires debt collectors provide consumers with basic debt information and right to debt-verification. 15 U.S.C. § 1692g.

5. Although the FDCPA is not a strict-liability statute, “most infractions result in liability” without proof of *scienter* unless the specific infractions include an element of intent or purpose, or the debt collector can affirmatively prove a *bona fide* error under 15 U.S.C. § 1692k(c). *Oliva v. Blatt, Hasenmiller, Leibsker & Moore LLC*, 864 F.3d 492, 502 (7th Cir. 2017), *cert. denied*, 138 S. Ct. 1283 (2018).

6. A debt collector's conduct violates the FDCPA when viewed from the perspective of an "unsophisticated debtor." *Gammon v. GC Servs. Ltd. P'ship*, 27 F.3d 1254, 1257 (7th Cir. 1994). "The unsophisticated consumer is uninformed, naive, and trusting, but possesses rudimentary knowledge about the financial world, is wise enough to read collection notices with added care, possesses reasonable intelligence, and is capable of making basic logical deductions and inferences." *Williams v. OSI Educ. Servs., Inc.*, 505 F.3d 675, 678 (7th Cir. 2007) (internal editing notations and quotation marks omitted).

7. A single violation is sufficient to establish liability. *Nielsen v. Dickerson*, 307 F.3d 623, 640 (7th Cir. 2002).

8. When a debt collector fails to comply with the FDCPA "with respect to any person," it "is liable to such person in an amount equal to the sum of" "any actual damage sustained," "additional" or statutory damages, costs, and reasonable attorneys' fees. 15 U.S.C. § 1692k(a). Statutory damages are limited: a plaintiff in an individual case such as this may recover no more than \$1,000. *Id*

9. Plaintiff seeks such relief as is allowed under the FDCPA including, without limitation, statutory damages, attorney's fees and costs.

II. PARTIES

10. ABATA is a natural person who, at all times relevant to this lawsuit, was a citizen of, and resided in, the City of Appleton, Outagamie County, Wisconsin.

11. CSI is a for-profit corporation formed under the laws of the State of Wisconsin.

12. CSI maintains its principal place of business at 512 2nd Street, Suite 6, Hudson, St. Croix County, Wisconsin 54016.

III. JURISDICTION & VENUE

13. This Court has subject matter jurisdiction pursuant to Wis. Stat. § 801.04(1) and 15 U.S.C. § 692k(d).

14. The Court has personal jurisdiction over Defendant pursuant to Wis. Stat. §801.05(c) because Defendant is a domestic corporation.

15. Venue is appropriate in Outagamie County pursuant to Wis. Stat. §801.50(2)(a) because the claim arose in Outagamie County.

IV. FACTS

16. CSI regularly engages in the collection of defaulted consumer debts owed to others.

17. CSI is a business the principal purpose of which is the collection of defaulted debts incurred for personal, family, or household purposes.

18. In attempting to collect debts, CSI uses the mails, telephone, the internet, and other instruments of interstate commerce.

19. CSI mailed or caused to be mailed a letter (the "Letter") to ABATA.

20. A true and correct copy of the Letter is attached as *Exhibit A*, except the

undersigned has redacted portions of it to protect Plaintiff's privacy.

21. The Letter alleged ABATA incurred and defaulted on a financial obligation ("Debt").

22. The Debt was incurred with Primary Care Associates of Appleton for personal, family, or household purposes, namely health care.

23. The Letter was the first written communication CSI sent ABATA to collect the Debt.

24. The Letter states the "Total amount of the debt now" but it is impossible to know when "now" is because the Letter is undated.

25. Plaintiff was confused by the Letter because it makes several references to "the total amount of the debt now" but he had no idea what date "now" referred to.

26. The unsophisticated or least sophisticated consumer would likewise be confused by the Letter's reference to "now" when the Letter was undated.

27. As such, the Letter fails to disclose the amount of the Debt as of the date of the Letter as required by the FDCPA.

28. The Letter goes on to state:

The 'total amount of the debt now' stated in the itemization of the debt is the amount due as of the date of this letter. Further interest may be added to the account(s) if the 'total amount of the debt' is not paid.

29. This was additionally confusing both to Plaintiff and the unsophisticated or least sophisticated consumer.

30. The reference to the “as of the date of this Letter” is confusing because the Letter does not have a date.

31. Further, it is unclear from the Letter when interest will begin accruing.

32. The Letter deceived ABATA and deprived him of truthful, non-misleading information in connection with CSI’s attempt to collect the Debt.

V. CAUSE OF ACTION FOR VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

33. The factual allegations in the preceding paragraphs are realleged and incorporated by reference.

34. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

35. The Debt is a “debt” as defined by 15 U.S.C. § 1692a(5).

36. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

37. *Exhibit A* is a “communication” as defined by 15 U.S.C. § 1692a(2).

38. The use and mailing of *Exhibit A* by Defendant violated the FDCPA in one or more following ways:

- (1) Using a false, deceptive, or misleading representation or means in violation of 15 U.S.C. § 1692e;
- (2) Falsely representing the character, amount or legal status of the debt in violation of 15 U.S.C. § 1692e(2)(a);
- (3) Using any false representation or deceptive means to collect or

attempt to collect any debt or to obtain information concerning a consumer, in violation 15 U.S.C. § 1692e(10).

- (4) Failing to disclose the amount of the debt in the initial communication with the consumer in violation of 15 U.S.C. § 1692g(a).

VI. PRAYER FOR RELIEF

39. WHEREFORE, Plaintiff demands judgment against Defendant.

Specifically, Plaintiff seeks entry of an order:

- (1) Awarding statutory damages to Plaintiff pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- (2) Awarding attorney's fees, litigation expenses, and costs pursuant to 15 U.S.C. § 1692k(a)(3);
- (3) Awarding, to the extent the recovery of attorney's fees, litigation expenses, and costs pursuant to 15 U.S.C. § 1692k(a)(3) causes a negative tax consequence to Plaintiff, a sum sufficient to ameliorate such consequences; and
- (4) Ordering such other and further relief as may be just and proper.

VII. JURY DEMAND

40. Trial by jury is demanded on all issues so triable.

Date: August 17, 2023

s/Francis R. Greene

Francis R. Greene (WI Bar #1115577)

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