

IN THE COURT OF COMMON PLEAS OF  
SUSQUEHANNA COUNTY, PENNSYLVANIA


PATTY SCRO, :  
Plaintiff, :  
 :  
vs. :  
 :  
FIRST NATIONAL COLLECTION :  
BUREAU, INC., and : No. 2023 – 583 C.P.  
LVNV FUNDING, LLC, :  
Defendants. :

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ORDER

NOW, this 29<sup>th</sup> day of April, 2024, upon consideration of defendant First National Collection Bureau, inc.'s preliminary objections, and the submissions of the parties, and after oral argument, and for the reasons set forth in the attached opinion, **IT IS HEREBY ORDERED THAT:**

1. Defendant First National Collection Bureau, Inc.'s preliminary objection under Pennsylvania Rule of Civil Procedure 1028(a)(5) is **SUSTAINED** as plaintiff Patty Scro has failed to plead sufficient facts to confer the necessary standing.

  
Jason J. Legg  
President Judge

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SUSQUEHANNA COUNTY  
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<b>LVNV FUNDING, LLC,</b>	:	
<b>Defendants.</b>	:	

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**OPINION**

**I. Statement of Case**

On August 18, 2023, plaintiff Patty Scro (hereinafter referred to as Scro) filed a civil complaint against defendant First National Collection Bureau, Inc. (hereinafter referred to as First National) and defendant LVNV Funding, LLC (hereinafter referred to as LVNV). In her complaint, Scro alleges that defendants violated the Unfair Debt Collections Act, 15 U.S.C. § 1692c(b). (Plf. Cmp. ¶ 32.) Scro alleges that LVNV provided First National with Scro’s name, address, status as a debtor, and a precise debt that LVNV contended was owed. (Id. ¶ 19.) Scro alleges that First National then hired another firm, Compumail, to prepare and mail a debt collection letter to Scro.<sup>1</sup> (Id. ¶¶ 21-25.) Scro further alleges that First National provided Compumail with Scro’s name, address, status as a debtor and the amount of the alleged debt owed to LVNV. (Id. ¶ 25.) Scro finally alleges that Compumail utilized the debtor information provided by First National to prepare a dunning letter to Scro and to mail that dunning letter to the

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<sup>1</sup> A debt collection letter is commonly known as a “dunning letter” and that designation will be used throughout this opinion.

address provided by First National. (Id. ¶ 27.) Scro contends that both LVNV and First National violated § 1692c(b) by communicating Scro's debtor status and debt information to a third party.

On November 13, 2023, First National filed preliminary objections to Scro's complaint. First National raised the following objections: (1) Scro lacked standing as she suffered no actual injury (Pa. R. Civ. P. 1028(a)(5)); (2) Scro lacked standing under federal law (Pa. R. Civ. P. 1028(a)(5)); (3) Scro lacks standing under Pennsylvania law (Pa. R. Civ. P. 1028(a)(5)); (4) Scro failed to state a viable claim (demurrer) (Pa. R. Civ. P. 1028(a)(4)). On November 14, 2023, First National filed a motion to stay the proceedings pending a ruling on the outstanding preliminary objections. On November 17, 2023, LVNV filed an answer to Scro's complaint.

On February 21, 2024, oral argument was conducted on the First National's preliminary objections and motion to stay. First National and Scro agreed to a stay all discovery pending resolution of First National's preliminary objections and the court entered an order consistent with that stipulation. The parties then engaged in oral argument and were provided time to file supplemental briefs. The matter is now ripe for disposition.

## **II. Discussion**

### **a. Standing**

Scro alleges that First National utilized a third-party vendor for purposes of preparing a dunning letter to collect the alleged debt that Scro owed to LVNV. First National contends that Scro cannot demonstrate that she suffered concrete harm sufficient to provide her standing to sue. Federal courts have largely determined that

the receipt of a dunning letter from a third-party collection agency is insufficient to demonstrate the harm necessary to invoke standing to sue in federal court. See Hunstein v. Preferred Collection & Management Services, Inc., 48 F.4<sup>th</sup> 1236, 1250 (11<sup>th</sup> Cir. 2022); Bassett v. Credit Bureau Services, Inc., 2023 WL 2198798, at \*4 (8<sup>th</sup> Cir. 2023) (finding that merely receiving a debt collection letter “without a concrete injury in fact” was insufficient to confer standing); Shields v. Professional Bureau of Collections of Maryland, Inc., 55 F.4<sup>th</sup> 823, 829 (10<sup>th</sup> Cir. 2022) (finding no standing to sue where litigant suffered no “concrete tangible or intangible harms” from debt collectors use of a third-party vendor to prepare dunning letters); Jackson v. I.C. System, Inc., 2023 WL 157517, \*3-4 (D.N.J. 2023) (finding no standing to sue under § 1692c(b) where debt collector confers “confidential information and status as a debtor to a third-party vendor who mailed” a dunning letter); Gonzales v. Receivables Performance Management, LLC, 2022 WL 167513307, at \*2 (M.D. Fla. 2022) (finding litigant lacked standing under § 1692c(b) where only alleged violation resulted from the use of a “third-party vendor to send out debt collection letters”); Burris v. Weltman, Weinberg & Reis, Co., 2022 WL 3580766, at 8 (M.D. Pa. 2022) (“By and large, courts have concluded that a debt collector’s use of a third-party vendor does not, without more, confer standing to pursue a claim for violations of § 1692c(b).”); Nyanjom v. NPAS Solutions, LLC, 2022 WL 168222, at \*6 (D. Kan. 2022) (finding that allegations that debt collector used a third-party vendor to create dunning letter failed “to establish a concrete and particularized injury-in-fact sufficient to establish Article III standing”).

Significantly, the United States Third Circuit Court of Appeals recently considered the identical issue in the case of Barclift v. Keystone Credit Services, LLC, 93 F.4<sup>th</sup> 136 (3d Cir. 2024). In that case, the plaintiff alleged that the defendant had provided her personal information concerning her debt to a third-party vendor and that the third-party vendor then prepared a debt collection demand letter and mailed it to her. Id. at 139-40. In determining that the plaintiff lacked standing, the Third Circuit concluded: “[Plaintiff] cannot demonstrate that the injury resulting from [defendant’s] communication of her personal information to a third-party mailing vendor bears a close relationship to a harm traditionally recognized by American courts.” Id. at 145.<sup>2</sup>

Article III standing in a federal court, however, is separate and distinct from standing in a state court proceeding. While standing under Pennsylvania law is a judicial creation, as opposed to a constitutional one, Pennsylvania courts generally follow an injury-in-fact analysis to determine whether standing exists. See In re Hickson, 821 A.2d 1238, 1243 (Pa. 2003) (finding that a litigant must demonstrate that he is “aggrieved” in order to demonstrate standing in Pennsylvania courts); William Penn Parking Garage, Inc. v. City of Pittsburgh, 346 A.2d 269, 282 (Pa. 1975) (noting that an “aggrieved” party must demonstrate a “direct interest” that results in “harm to his interest by the matter of which he complains”); Pennsylvania State Lodge of Fraternal Order of Police v. Commonwealth, 571 A.2d 531, 532 (Pa. Cmwlth. 1990) (“Where a plaintiff fails to allege an injury which he has suffered as a result of the defendant’s conduct, the plaintiff lacks standing to maintain the suit.”); cf. Housing Authority of

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<sup>2</sup> The Third Circuit conducted an extensive analysis of the different theories of potential harm that the plaintiff was advocating – and rejected all of them. Id. at 145-48 (concluding that the plaintiff “lacks a concrete injury and cannot establish Article III standing”).

County of Chester v. Pennsylvania State Civil Service Commission, 730 A.2d 935, 941 (Pa. 1999) (“Accordingly, if a statute properly enacted by the Pennsylvania legislature furnishes the authority for a party to proceed in Pennsylvania courts, the fact that the party lacks standing under traditional notions of our jurisprudence will not be deemed to bar an exercise of this Court’s jurisdiction, since the Pennsylvania legislature constitutionally may enhance or diminish the scope of this Court’s jurisdiction.”).

For standing to exist under Pennsylvania law, a plaintiff must demonstrate that she is “aggrieved,” which means that the plaintiff must establish “a substantial, direct and immediate interest in the outcome of the litigation.” Allegheny Reproductive Health Center v. Pennsylvania Department of Human Services, 2024 WL 318389, at \*11 (Pa. 2024). The Supreme Court has provided additional guidance on what constitutes a substantial, direct and immediate interest:

A ‘substantial’ interest is an interest in the outcome of the litigation that surpasses the common interest of all citizens procuring obedience of the law. A ‘direct’ interest requires a showing that the matter complained of caused harm to the party’s interest. An ‘immediate’ interest involves the nature of the casual connection between the action complained of and the injury to the party challenging it.

In re Hickson, 821 A.2d 1238, 1243 (Pa. 2003).

Scro has demonstrated that she has a “substantial interest” in that the alleged violation of § 1692c(b) implicated her specific privacy rights. Not all members of the general public are debtors facing credit collection action and those members of the general public would have little interest in this alleged violation of § 1692c(b). Scro’s interest in compliance with § 1692c(b) exceeds that of members of the public.

Scro’s interest, however, is not a “direct” interest as there are no allegations in the complaint that First National’s conduct “caused harm” to Scro’s interests. First

National utilized a third-party vendor to assist in its debt collection efforts. Scro's personal information was not widely publicized nor was her private information publicized privately to a large audience. Scro has simply alleged that her personal information was shared with the third-party for the ministerial purpose of creating and mailing a donning letter. There are no allegations whatsoever as to what, if any, harm this caused to Scro. See Barcliff, 93 F.4<sup>th</sup> at 146 ("When the communication of personal information only occurs between a debt collector and an intermediary tasked with contacting the consumer, the consumer has not suffered the kind of privacy harm traditionally associated with public disclosure.").

Likewise, Scro has also failed to demonstrate an "immediate" interest as she has alleged no casual connection between the communication between First National and the third-party vendor that has caused any injury to her. Indeed, there appears to be little difference between First National preparing a collection letter internally and hiring an outside vendor to perform the same work. Scro has alleged no harm to herself from this conduct aside from the facial statutory violation of § 1692c(b).<sup>3</sup> In the absence of some kind of injury to Scro from First National's conduct, Scro has failed to allege an immediate interest necessary to confer standing. See Barcliff, 93 F.4<sup>th</sup> at 148 ("Information transmission that neither travels beyond a private intermediary nor creates

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<sup>3</sup> Scro cites Five Star Bank v. Chipego, \_\_\_ A.3d \_\_\_, 2024 WL 1100815 (Pa. Super. 2024) to support its position that the mere violation of a statutory provision confers standing on the party whose statutory rights were violated. (Plf. Supp. Br., at 1.) Chipego, however, involved allegations as to a violation of the New York UCC which specifically included a statutory provision that conferred a right to a private legal action and damages for the statutory violation. Id. at \*6. Thus, the New York UCC specifically did two things: (1) conferred standing by creating a private cause of action for violation; and (2) create statutory liability "regardless of any injury that may have resulted." Id. Chipego has no applicability to the facts of this case as § 1692c(b) does not create a private cause of action nor provide for statutory liability if a violation occurs.

a substantial likelihood of external dissemination cannot compare to a traditionally recognized harm that depends on the humiliating effects of public disclosure.”).<sup>4</sup>

### III. Conclusion

Scro has failed to allege sufficient facts to demonstrate that she has been aggrieved by First National's conduct. As such, Scro has failed to allege sufficient facts to confer standing for this litigation. For these reasons, First National's preliminary objection under Pennsylvania Rule of Civil Procedure 1028(a)(5) will be sustained.

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<sup>4</sup> The court recognizes its prior decision in Mosher v. United Collections Bureau, Inc. No. 2021 – 1200 C.P. (Susq. Ct. Common Pl. Mar. 14, 2023). Barclift was decided after Mosher. Prior to Barclift, the federal district courts in Pennsylvania had reached inconsistent rulings as to the standing question. Compare Barclift v. Keystone Credit Services, LLC, 585 F. Supp.3d 748, 760 (E.D. Pa. 2022) (finding that allegations of use of a third-party vendor to create a dunning letter was insufficient to confer standing under § 1692c(b)) with Khimmat v. Weltman, Weinberg & Reis Co., LPA, 585 F. Supp.3d 707, 716 (E.D. Pa. 2022) (holding that § 1692c(b) “does not permit communications to third parties, including letter vendors”). This court relied upon Khimmat in Mosher but such reliance can no longer be sustained given that the Third Circuit's recent decision in Barclift effectively overrules Khimmat.