

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHERYL A. DEZIEL,

Plaintiff,

v.

FRONTLINE ASSET STRATEGIES,
LLC,

Defendant.

CIVIL COMPLAINT

CASE NO. 4:23-cv-11251

DEMAND FOR JURY TRIAL

COMPLAINT

NOW comes CHERYL A. DEZIEL (“Plaintiff”), by and through the undersigned, complaining as to the conduct of FRONTLINE ASSET STRATEGIES, LLC (“Defendant”), as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action for damages under the Fair Debt Collection Practices Act (“FDCPA”) pursuant to 15 U.S.C. § 1692 *et seq.*, for Defendant’s unlawful conduct.

JURISDICTION AND VENUE

2. This action arises under and is brought pursuant to the FDCPA. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C § 1692, as well as 28 U.S.C. §§ 1331 and 1337, as the action arises under the laws of the United States.

3. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391, as Defendant conducts business in the Eastern District of Michigan and a substantial portion of the events or omissions giving rise to the claims occurred within the Eastern District of Michigan.

PARTIES

4. Plaintiff is a consumer over 18 years of age residing in Howell, Michigan, within the Eastern District of Michigan.

5. Defendant is a “third-party collection company”¹ collecting or attempting to collect, directly or indirectly, debts owed or due, or asserted to be owed or due, to others, using the mail and telephone, from consumers across the country, including from those in the state of Michigan. Defendant is a limited liability company organized and existing under the laws of the state of Minnesota with its principal place of business located at 2700 Snelling Avenue North, Suite 250, Roseville, Minnesota 55113.

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers at all times relevant to the instant action.

FACTS SUPPORTING CAUSES OF ACTION

¹ <https://frontlineas.com/>

7. The instant actions arise out of Defendant's attempts to collect upon a Citibank credit obligation ("subject consumer debt") purportedly owed by Plaintiff.

8. On or about March 20, 2023, Plaintiff received a collection letter from Defendant, seeking to collect upon the subject consumer debt.

9. In response, Plaintiff called Defendant, worked out a settlement arrangement for the subject consumer debt, informed Defendant that she would call back to make the payment, and further instructed Defendant not to call her.

10. Subsequently, Defendant sent Plaintiff an email ("Email") to Plaintiff's personal email address, seeking to collect upon the subject consumer debt, on or about March 29, 2023.

11. The email did not contain any statement describing any method by which Plaintiff could opt out of further electronic communications or attempts to communicate by Defendant to Plaintiff's email address.

12. Frustrated and distressed over Defendant's conduct, Plaintiff spoke with the undersigned regarding her rights, exhausting time, money, and resources.

13. Plaintiff has been unfairly and unnecessarily harassed by Defendant's actions.

14. Plaintiff has suffered concrete harm as a result of Defendant's actions, including, but not limited to, aggravation that accompanies unwanted collection tactics resulting in increased blood pressure, loss of time, being subjected to harassing debt collection communications, and violations of her federally-protected

interests to be free from harassing, deceptive, oppressive, and abusive debt collection conduct.

COUNT I – VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15. Plaintiff repeats and realleges paragraphs 1 through 14 as though fully set forth herein.

16. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3) of the FDCPA.

17. Defendant is a “debt collector” as defined by § 1692a(6) of the FDCPA, because it regularly use the mail and/or the telephone to collect, or attempt to collect, delinquent consumer accounts originally owed to others. Defendant is similarly a business whose principal purpose is the collection of debts.

18. Each subject consumer debt is a “debt” as defined by FDCPA § 1692a(5) as they arises out of a transaction due, or asserted to be owed or due, to another for personal, family, or household purposes.

a. Violations of FDCPA § 1692c

19. The FDCPA, pursuant to 15 U.S.C. § 1692c(c), prohibits a debt collector from further communicating with a consumer after being notified in writing that the consumer wishes the debt collector to cease further communication with the consumer.

20. The newly amended Regulation F provides further guidance on prohibited practices with debt collector communications. Regulation F states:

“A debt collector who communicates or attempts to communicate with a consumer electronically in connection with the collection of a debt using a specific email address, telephone number for text messages, or other electronic-medium address must include in such communication or attempt to communicate a clear and conspicuous statement describing a reasonable and simple method by which the consumer can opt out of further electronic communications or attempts to communicate by the debt collector to that address or telephone number. The debt collector may not require, directly or indirectly, that the consumer, in order to opt out, pay any fee to the debt collector or provide any information other than the consumer’s opt-out preferences and the email address, telephone number for text messages, or other electronic-medium address subject to the opt-out request. 12 C.F.R. § 1006.6(e).

21. Defendant violated 15 U.S.C. § 1692c(c) and 12 C.F.R. § 1006.6(e) by sending the Email to Plaintiff without including any statement describing any method by which Plaintiff could opt out of further electronic communications or attempts to communicate by Defendant to Plaintiff’s email address.

b. Violations of FDCPA § 1692d and 12 C.F.R. § 1006.14

22. The FDCPA, pursuant to 15 U.S.C. § 1692d, prohibits a debt collector from engaging “in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.”

23. Defendant violated § 1692d through the harassing and noncompliant collection campaign directed towards Plaintiff. It is inherently harassing to communicate electronically with consumers and to not give them a way to opt out of further electronic communications – as occurred here - especially a convenient way through the electronic communication that was received. At the very least, such

behavior forces the consumer to call into the debt collector to demand that the same ceases, whom is someone that the consumer could not want to talk to at all, as was the case here and evinced by Plaintiff already having told Defendant not to call her. Defendant engaged in this harassing and noncompliant conduct in an effort to harass and annoy Plaintiff into addressing the subject consumer debt.

c. Violations of FDCPA § 1692e

24. The FDCPA, pursuant to 15 U.S.C. § 1692e, prohibits a debt collector from using “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

25. In addition, this section enumerates specific violations, such as:

“The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.” 15 U.S.C. § 1692e(10).

26. Defendant violated 15 U.S.C. §§ 1692e and 1692e(10) when it used deceptive means to attempt to collect the subject consumer debt by not including directions or a way that Plaintiff could opt out of further electronic communications in the Email that it sent Plaintiff. Through its conduct, Defendant misleadingly represented to Plaintiff that it had a legal ability to contact Plaintiff electronically and without clear directions on how to opt out of further communications despite the regulations governing collection emails clearly prohibiting such.

d. Violations of FDCPA § 1692f

27. The FDCPA, pursuant to 15 U.S.C. § 1692f, prohibits a debt collector from using “unfair or unconscionable means to collect or attempt to collect any debt.”

28. Defendant violated § 1692f when it unfairly and unconscionably attempted to collect on the subject consumer debt by harassing Plaintiff with an electronic communication that didn’t include clear instructions on how Plaintiff could opt out. Such conduct is unfair to a consumer who is forced to deal with further electronic communications or at best forced to call into a debt collector that the consumer may not want to talk to – as was the case here – to demand further electronic communications cease.

29. Defendant’s violations of the FDCPA and Regulation F caused Plaintiff harm in the form of stress and frustration, and physical manifestations of the same, fearing that she would be burdened by harassing debt collection conduct without being able to opt out of future communications to her email address.

WHEREFORE, Plaintiff, CHERYL A. DEZIEL, respectfully requests that this Honorable Court enter judgment in her favor as follows:

- a. Declaring that the practices complained of herein are unlawful and violate the aforementioned bodies of law;
- b. Awarding Plaintiff statutory damages of \$1,000.00, as provided under 15 U.S.C. §1692k(a)(2)(A);
- c. Awarding Plaintiff actual damages, in an amount to be determined at trial, as provided under 15 U.S.C. §1692k(a)(1);

- d. Awarding Plaintiff costs and reasonable attorney fees, as provided under 15 U.S.C. §1692k(a)(3); and
- e. Awarding Plaintiff any other relief as this Honorable Court deems just and appropriate.

Dated: May 26, 2023

Respectfully submitted,

s/ Nathan C. Volheim

Nathan C. Volheim, Esq. #6302103

Counsel for Plaintiff

Admitted in the Eastern District of Michigan

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