

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

Kenneth Bramlett,

Plaintiff,

v.

Southwest Credit Systems, LP,

Defendant.

Case No. 1:23-cv-02196

**COMPLAINT FOR DAMAGES  
UNDER THE FAIR DEBT  
COLLECTION PRACTICES ACT, THE  
INDIANA DECEPTIVE CONSUMER  
SALES ACT AND OTHER EQUITABLE  
RELIEF**

**JURY TRIAL DEMANDED**

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**PARTIES**

1. Plaintiff, Kenneth Bramlett (“Kenneth”), is a natural person who resided in Elwood, Indiana, at all times relevant to this action.
2. Defendant, Southwest Credit Systems, LP (“SWC”), is a Texas limited partnership that maintained its principal place of business in Carrollton, Texas, at all times relevant to this action.

**JURISDICTION AND VENUE**

3. Pursuant to 28 U.S.C. §1331, this Court has federal question jurisdiction over this matter as it arises under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 et seq.
4. Pursuant to 28 U.S.C. §1367(a), the Court also has Supplemental Jurisdiction over Plaintiff’s claims under the Indiana Deceptive Consumer Sales Act, I.C. 24-5-0.5 et seq. (“IDCSA”), because they share a common nucleus of operative fact with Plaintiff’s claims under the FDCPA.

5. Pursuant to 28 U.S.C. § 1391(b), venue is proper because a substantial part of the events giving rise to this claim occurred in this judicial district.

### **STATEMENT OF FACTS**

6. At all times relevant to this action, SWC collected consumer debts.
7. SWC regularly uses instrumentalities of interstate commerce and the mails to collect consumer debts owed or due or asserted to be owed or due another.
8. The principal source of SWC's revenue is debt collection.
9. SWC is a "debt collector" as defined by 15 U.S.C. § 1692a(6).
10. SWC is a "supplier" as defined by § 24-5-0.5-2(a)(3) of the IDCSA.
11. As described, *infra*, SWC contacted Kenneth to collect a debt that was incurred primarily for personal, family, or household purposes.
12. This alleged obligation is a "debt" as defined by 15 U.S.C. § 1692a(5).
13. Kenneth is a "consumer" as defined by 15 U.S.C. § 1692a(3).
14. On May 19, 2023, SWC telephoned Kenneth (hereinafter the "Initial Call") to collect an alleged debt on behalf of Comcast.
15. Kenneth was a one-time Comcast customer as part of a money-back offer, which he canceled within the provided 30-day timeframe and does not owe Comcast for the cancelled service.
16. In the Initial Call, Kenneth explained to SWC that he didn't owe the debt, to not contact him by phone, and then SWC terminated the telephone call.
17. The explanation that he didn't owe the debt served as notice to SWC that Kenneth disputed the debt.
18. The Initial Call showed on Kenneth's smartphone as from an "Unknown Caller."

19. Unknown Caller is displayed on a mobile phone when the manufacturer can't identify the incoming call number, typically due to an action taken by the Unknown Caller.
20. About an hour later on May 19, 2023, SWC telephoned Kenneth again. The call was again shown as Unknown Caller.
21. Kenneth answered the telephone call and as soon as the caller identified as SWC, Kenneth terminated the telephone call.
22. In the proceeding days, SWC continued to call Kenneth after he requested it stop calling him.
23. Due to SWC's concealment of its calls to Kenneth, the telephone calls continued to show as Unknown Caller.
24. When Kenneth's telephone rang and showed Unknown Caller, Kenneth answered because he could not know who the call was from and if it was important.
25. On one of the calls from an unknown source or number, Kenneth answered and told SWC to mail him information related to the debt and again re-stated to stop contacting him by phone.
26. SWC continued to call Kenneth two or three times in a day.
27. Because SWC's method for collecting debts are telephone calls with a technical process that does not allow the caller to be identified, Kenneth was frustrated in his ability to determine if SWC called him again unless he answered its call and spoke with SWC once again over the phone against his verbal request.
28. Upon information and belief, SWC's policies and procedures includes contacting consumers regarding an alleged debt via telephone calls that are not identifiable unless answered.
29. The policies and procedures of SWC includes omitting notes of consumers that request not to be contacted via telephone or who verbally request validation of an alleged debt.

30. Despite Kenneth's dispute of the alleged debt, SWC continued calling him as an Unknown Caller.
31. Because of the hidden nature of SWC's calls to Kenneth, he could not be certain when SWC called or when someone else who may or may not have reason to obfuscate their telephone number called him.
32. Due to the misleading and deceptive nature of the hidden calls from SWC, the least sophisticated consumer would believe that the repeated calls from Unknown Caller belonged to SWC.

### **ARTICLE III STANDING**

33. Kenneth has Article III standing to bring his FDCPA claim against SWC because SWC's communications in attempt to collect an alleged debt constitute an unwanted intrusion upon his solitude, seclusion, and peace and quiet, which are common law analogues to the FDCPA violations asserted below. *See Vazzano v. Receivable Mgmt. Servs., LLC*, 621 F. Supp. 3d 700, 709 (N.D. Tex. 2022) (receiving an unwanted letter "has a 'close relationship' to the type of harm protected by the common law tort of intrusion upon seclusion (protecting against intrusion into private solitude)) (citing *TransUnion LLC v. Kennethrez*, — U.S. —, 141 S. Ct. 2190, 2204 (2021)) (also citing *Gadelhak v. AT&T Servs., Inc.*, 950 F.3d 458, 462 (7th Cir. 2020) (Barrett, J.) ("The harm posed by unwanted text messages is analogous to that type of intrusive invasion of privacy.")).
34. SWC's collection efforts with respect to the alleged debt caused Kenneth to suffer concrete and particularized harm, *inter alia*, because the FDCPA provides Kenneth with the legally protected right not to be misled about the legal status of a debt or treated unfairly with respect to any action for the collection of any consumer debt.

35. Moreover, the emotional distress Kenneth experienced is a sufficient concrete injury to establish Article III standing. See *Mayfield v. LTD Fin. Servs., L.P.*, No. 4:20-CV-01966, 2021 WL 4481089, at \*4 (S.D. Tex. Sept. 30, 2021) (citing *Rideau v. Keller Indep. Sch. Dist.*, 819 F.3d 155, 169 (5th Cir. 2016) (“[E]motional harm satisfies the ‘injury in fact’ requirement of constitutional standing.”)) (additional internal quotation marks omitted); see also *Smith v. Moss Law Firm, P.C.*, No. 18-2449, 2020 WL 584617, at \*5 (N.D. Tex. Feb. 6, 2020) (“legal costs, anxiety, and worry” caused by defendant’s alleged FDCPA violation were concrete and particularized injuries for purposes of FDCPA claim).
36. SWC’s deceptive, misleading, and unfair representations and/or omissions were material misrepresentations that affected and frustrated Kenneth’s ability to intelligently respond to SWC’s collection efforts because Kenneth could not adequately or informatively respond to SWC’s demand for payment of this alleged debt.

**COUNT ONE**

**Violation of the Fair Debt Collection Practices Act**

**Violation of Regulation F, 12 C.F.R §1006.14(h)(1)**

37. Plaintiff re-alleges and incorporates by reference Paragraphs 6 through 36 above as if fully set forth herein.
38. Defendant violated 15 U.S.C. § 1692c(c) by communicating with Plaintiff with respect to the debt notwithstanding its receipt of instructions to cease communications with Plaintiff.
39. The implementation of Regulation F, specifically 12 CFR § 1006.14(h)(1), requires debt collectors to cease communication through a medium if a person requests the debt collector not use that medium to communicate with the person.

40. Under the implementation of Regulation F, a verbal request to cease telephone communications is effective to a request to cease communication under 15 U.S.C. § 1692c(c).

## COUNT TWO

### **Violation of the Fair Debt Collection Practices Act**

41. Plaintiff re-alleges and incorporates by reference Paragraphs 6 through 36 above as if fully set forth herein.
42. A debt collector's intent to violate the FDCPA may be inferred by its maintenance of policies and procedures which, in themselves, violate the FDCPA. *See Anchondo v. Anderson, Crenshaw & Associates, L.L.C.*, 256 F.R.D. 661, 671 (D.N.M. 2009); *see also Kromelbein v. Envision Payment Sol., Inc.*, 2013 WL 3947109, \*7 (M.D. Penn. Aug. 1, 2013) (“company policy can be just as much a violation of [FDCPA] as the rogue act of an individual employee. If anything, a company policy that violates the FDCPA is a more egregious transgression because it indicates endemic, rather than isolated, disregard for debtor rights.”); *citing Edwards v. Niagara Credit Sol., Inc.*, 586 F. Supp. 2d 1346, 1354 (N.D. Ga. 2008) (awarding maximum damages in part because conduct was company policy, thereby making it routine and frequent).
43. Defendant's policies and procedures, as described, *supra*, constitutes “conduct the natural consequence of which is to harass, oppress, or abuse” consumers.
44. Defendant's practice, therefore, violates Section 1692d of the FDCPA, which provides:
- A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
- See* 15 U.S.C. §1692d.
45. Because Defendant's practice, in itself, violates the FDCPA, it reflects an intent to harass consumers generally.

46. Defendant violated 15 U.S.C. § 1692d(5) by causing Plaintiff's telephone to ring or engaging Plaintiff in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass Plaintiff from an unidentifiable, unblock-able source despite Plaintiff's request to stop.

**COUNT THREE**

**Violation of the Fair Debt Collection Practices Act**

47. Plaintiff re-alleges and incorporates by reference Paragraphs 6 through 36 above as if fully set forth herein.
48. Defendant violated 15 U.S.C. § 1692e by using false, deceptive, or misleading representations or means in connection with the collection of the debt.

**COUNT FOUR**

**Violation of the Fair Debt Collection Practices Act**

49. Plaintiff re-alleges and incorporates by reference Paragraphs 6 through 36 above as if fully set forth herein Defendant violated 15 U.S.C. § 1692f by using unfair or unconscionable means to collect the debt.

**COUNT FIVE**

**Violation of the Fair Debt Collection Practices Act**

50. Plaintiff re-alleges and incorporates by reference Paragraphs 6 through 36 above as if fully set forth herein.
51. Defendant violated 15 U.S.C. §1692g by failing to send Plaintiff the required notice within five days of Defendant's initial communication with Plaintiff.

**COUNT SIX**

**Violation of the Indiana Deceptive Consumer Sales Act**

52. Plaintiff re-alleges and incorporates by reference Paragraphs 6 through 36 above as if fully set forth herein.

53. The IDCSA states, in relevant part:

“A supplier may not commit an unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction. Such an act, omission, or practice by a supplier is a violation of this chapter whether it occurs before, during, or after the transaction. An act, omission, or practice prohibited by this section includes both implicit and explicit misrepresentations.” I.C. § 24-5-0.5-3(a).

“Without limiting the scope of subsection (a), the following acts, and the following representations as to the subject matter of a consumer transaction, made orally, in writing, or by electronic communication, by a supplier are deceptive acts: The violation by a supplier of the federal Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.), including any rules or regulations issued under the federal Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.)” I.C. § 24-5-0.5-3(b)(20).

“A person relying upon an uncured or incurable deceptive act may bring an action for the damages actually suffered as a consumer as a result of the deceptive act or five hundred dollars (\$500), whichever is greater. The court may increase damages for a willful deceptive act in an amount that does not exceed the greater of: (1) three (3) times the actual damages of the consumer suffering the loss; or (2) one thousand dollars (\$1,000).” I.C. § 24-5-0.5-4(a)(1)(2).

54. Defendant’s collection activity in connection with the Subject Debt is a “consumer transaction” as that term is defined by the IDCSA at I.C. § 24-5-0.5-2(a)(1)(C).

55. Defendant engaged in unfair, abusive, and deceptive conduct in its transactions with Plaintiff, in violation of I.C. §§ 24-5-0.5-3(20), violating the FDCPA.



56. Defendant intended that Plaintiff rely on its unlawful behavior in order to procure immediate payment of the debt. As such, Defendant committed a “willful deceptive act” as that term is used and/or contemplated within the IDCSA.
57. Plaintiff has been harmed and has suffered damages as a result of Defendant’s unlawful collection practices as described herein.
58. Plaintiff is therefore entitled to relief pursuant to I.C. § 24-5-0.5-4(a)(1)(2).

**JURY DEMAND**

59. Plaintiff demands a trial by jury.

**PRAYER FOR RELIEF**

60. Plaintiff prays for the following relief:
- a. Judgment against Defendant for actual damages, statutory damages, and costs and reasonable attorney’s fees pursuant to 15 U.S.C. § 1692k.
  - b. Judgment against Defendant for statutory damages as provided under I.C. § 24-5-0.5-4(a)(1)(2).
  - c. For such other legal and/or equitable relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED,

Date: December 7, 2023

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