

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Melvin Evans,)	
)	
Plaintiff,)	
)	
vs.)	Case No.: 1:24-cv-175
)	
Aargon Agency, Inc.,)	
)	
Defendant.)	
)	

**COMPLAINT SEEKING DAMAGES FOR VIOLATION OF
THE FAIR DEBT COLLECTION PRACTICES ACT**

Introduction

1. This is an action for actual and statutory damages, legal fees and costs pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et. seq* (hereinafter referred to as the “FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices. Id.
2. The purpose of the FDCPA is 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 consistent State action to protect consumers against debt collection abuses. Id.
3. If a violation occurs, “the FDCPA is a strict liability statute that makes debt collectors liable for violations that are not knowing or intentional.” Donohue v. Quick Collect, Inc., 592 F.3d 1027, 1030 (9th Cir. 2010).
4. Even a single violation of the FDCPA is sufficient to support liability. Taylor vs. Perrin, Landry, deLaunay, & Durand, 103 F.3d 1232, 1238 (5th Cir. 1997).

Jurisdiction

5. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).

Venue

6. Venue is proper in this Judicial District.

7. The acts and transactions alleged herein occurred in this Judicial District.
8. The Plaintiff resides in this Judicial District.
9. The Defendant transacts business in this Judicial District.

Parties

10. The Plaintiff, Melvin Evans, is a natural person.
11. The Plaintiff is a “consumer” as that term is defined by § 1692a.
12. The Plaintiff is “any person” as that term is used in 15 U.S.C. § 1692d preface.
13. The Defendant, Aargon Agency, Inc., (hereinafter referred to as “Defendant”), is a debt collection agency and/or debt purchaser operating from an address at 8668 Spring Mountain Road, Suite 110, Las Vegas, NV 89117.
14. The Defendant is a debt collection agency; and the Defendant is licensed by the State of Indiana. *See Exhibit “1” attached hereto.*
15. Defendant regularly attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.
16. The Defendant regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another that arose out of transactions in which the money, property or services which are the subject of the transactions are primarily for personal, family or household purposes.

Factual Allegations

17. The Defendant is a debt collection agency attempting to collect debts from Plaintiff.
18. Approximately ten (10) years ago, the Plaintiff incurred debts to that were for primarily for personal, family or household purposes as defined by §1692(a)(5). Specifically, Plaintiff incurred medical debts to Ortho Indy.
19. The debts owed by Plaintiff went into default.
20. The debts were transferred and/or assigned to Defendant for collection.
21. The Plaintiff disputes the debts.
22. The Plaintiff requests that the Defendant cease all further communication on the debts.
23. The Defendant’s collector(s) were employee(s) and/or representative(s) of the Defendant at all times mentioned herein.

24. The Defendant acted at all times mentioned herein through its employee(s) and/or representative(s).
25. In January of 2024, Defendant sought healthcare treatment from Ortho Indy; but, he was refused treatment and Ortho Indy directed him to Defendant.
26. On 10:17AM on January 24, 2024, Plaintiff spoke with Taylor who is an employee of Defendant. *See Exhibit “2” attached hereto.*
27. During this telephone conversation, Taylor stated that the conversation was an attempt to collect a debt and that any information obtained would be used for that purpose. Further, Taylor stated that Plaintiff owed the following debts:

<u>Date of Service</u>	<u>Amount</u>	<u>Aargon Account Number</u>
1/23/13	\$11.34	5040-079-003
3/7/13	\$274.69	5040-079-085
1/30/14	\$61.27	5040-079-010
7/26/13	\$18.36	5040-079-006
2/6/13	\$13.87	5040-079-004

See Exhibit “2” attached hereto.

28. Initially, Plaintiff agreed to pay the debts because he needed medical care. He gave his credit card information to Taylor and they established a payment plan for these debts.
29. However, Plaintiff researched this matter. He took time out of his day to review his financial records. Plaintiff obtained his credit reports to see whether Defendant had placed the debts at issue in this matter on his credit reports. Additionally, after he got off the phone, he called his attorney to see if the debts had been discharged in his bankruptcy case.
30. On June 24, 2020, Plaintiff filed for bankruptcy protection under Title 11, Chapter 7, of the United States Code, bankruptcy case number 20-03636-JJG-7. *See Docket Report of Plaintiff’s Bankruptcy attached hereto as Exhibit “3”.*
31. On August 13, 2020, the chapter 7 trustee in Plaintiff’s bankruptcy case issued a finding that Plaintiff’s chapter 7 bankruptcy case was a “no asset” case. *See Exhibit “3” attached hereto.*
32. On September 29, 2020, the U.S. Bankruptcy Court issued the discharge order in Plaintiff’s bankruptcy case thereby discharging all unsecured debts. *See Exhibit “3” attached hereto.* While Ortho Indy and Aargon were not included in the list of scheduled debts, the debts at issue in this matter are still discharged. Because Plaintiff’s chapter 7 bankruptcy case was a “no asset” case, all debts—listed or not listed in Plaintiff’s

bankruptcy petition—are discharged as a matter of law. *See In re Parker*, 313 F.3d 1267 (10th Cir. 2002); *In re Madaj*, 149 F.3d 467 (6th Cir. 1998); *Judd v. Wolfe*, 78 F.3d 110 (3rd Cir. 1996); *In re Beezley*, 994 F.2d 1433 (9th Cir. 1993); *In re Karras*, 165 B.R. 636 (N.D. Ill. 1994); *In re Mediola*, 99 B.R. 864 (N.D. Ill. 1989).

33. As a result of the discharge order of the U.S. Bankruptcy Court, the debts at issue in this matter were discharged in Plaintiff’s chapter 7 bankruptcy case. Accordingly, Defendant was attempting to collect debts that it is legally enjoined from collecting.
34. According to the Seventh Circuit Court of Appeals, Defendant misrepresented the legal character of the debt; accordingly, Defendant’s conduct constitutes a violation of the FDCPA. *See Turner v. J.V.D.B. & Associates, Inc.*, 330 F.3d 991 (7th Cir. 2003)(Even an unintentional false representation of the legal status of a debt violates §1692e(2)(A)). *See also Ross v. RJM Acquisitions Funding, LLC*, 480 F.3d 493, 495 (7th Cir. 2007)(“Dunning people for their discharged debts would undermine the “fresh start” rationale of bankruptcy . . . and is prohibited by the Fair Debt Collection Practices Act”).
35. Moreover, the debts that the Defendant was attempting to collect are debts that are approximately ten (10) years old. *See Exhibit “2”*.
36. In Indiana, the statute of limitations for actions based on contracts is six (6) years. *See Ind. Code §34-11-2-7*.
37. Accordingly, the debts at issue in this matter are beyond the statute of limitations.
38. During the telephone conversation between Plaintiff and Taylor, Taylor failed to inform the Plaintiff that the debt was beyond the statute of limitations and that he could not be sued for not making payments on this debt. *See Exhibit “2” attached hereto*.
39. During the telephone conversation between Plaintiff and Taylor, Taylor failed to state that making a payment on the debt could re-start the statute of limitations. *See Exhibit “2” attached hereto*.
40. The Seventh Circuit Court of Appeals requires that communications which are attempting to collect debts that are beyond the statute of limitations must include certain disclosures regarding the debts. *See Pantoja v. Portfolio Recovery Associates, LLC*, 852 F.3d 679 (7th Cir. 2017)(holding that a dunning letter was deceptive and misleading because it failed to inform the consumer that making a payment on the debt could re-start the statute of limitations).
41. After Plaintiff finished speaking with Taylor, he took time out of his day and called his attorney to determine whether the debts were discharged in his bankruptcy case. *See Exhibit “2” attached hereto*.
42. After the telephone conversation with Taylor, Plaintiff decided to cancel his payment arrangements with the Defendant. Plaintiff had to take time out of his day to send a letter

to the Defendant. Plaintiff incurred the cost of postage to send the letter. *See Exhibit "4" attached hereto.*

43. Defendant's violations are material and she has been harmed as a result of Defendant's unlawful conduct. By attempting to collect debts that were discharged by Plaintiff's bankruptcy case, Defendant invaded Plaintiff's privacy and intruded upon his seclusion.
44. Defendant's violations caused Plaintiff to take the time to research the debts because he believed that they were discharged by his bankruptcy case.
45. Defendant's acts and omissions in this case are similar to the common law principles of fraud, deception, and misrepresentation; therefore, Plaintiff has standing to bring this case.
46. Because Plaintiff had to take time out of his day to research the issues in this lawsuit, Plaintiff has standing to bring this lawsuit. *See Leung v. XPO Logistics, Inc.*, 154 F.Supp.3d 1032, 1037 (7th Cir. 2015) ("When a Defendant's allegedly wrongful conduct costs the plaintiff time, the plaintiff has suffered an injury in fact"). *See also Lako v. Portfolio Recovery Associates, LLC*, 2021 WL 3403632 (W.D. Wis. 2021).
47. Because Plaintiff had to expend his financial resources to send the aforementioned letter to Defendant, Plaintiff has standing to bring this action. *See Brandt v. Vill. Of Winneka, Ills.*, 612 F.3d 647, 649 (7th Cir. 2011) ("[b]ut standing may be conferred 'when a plaintiff suffers an actual or impending injury, no matter how small; when that injury is caused by defendant's acts'"). *See also Mack v. Resurgent Services, L.P.*, 70 F.4th 395 (7th Cir. 2023).
48. The Defendant's collection communications are to be interpreted under the "unsophisticated consumer" standard. *See Gammon vs. GC Services, Ltd. Partnership*, 27 F.3d 1254, 1257 (7th Cir. 1994).

**First Claim for Relief:
Violation of the FDCPA**

1. The allegations of paragraphs 1 through 48 of the complaint are realleged and incorporated herein by reference.
2. The Defendant's acts and omissions constitute a violation of 15 U.S.C. §1692d.
3. The Defendant's acts and omissions constitute a violation of 15 U.S.C. §1692e.
4. The Defendant's acts and omissions constitute a violation of 15 U.S.C. §1692f.
5. The Defendant's acts and omissions constitute a violation of 15 U.S.C. § 1692g.

- 6 As a result of the above violations of the FDCPA, Defendant is liable to Plaintiff for actual damages, statutory damages of \$1,000 per defendant, attorney fees, and costs.

**Second Claim for Relief:
Violation of Regulation F**

1. The allegations of paragraphs 1 through 48 of the complaint are realleged and incorporated herein by reference.
2. The Defendant's acts and omissions constitute a violation of 12 C.F.R. §1006.18(a).
3. The Defendant's acts and omissions constitute a violation of 12 C.F.R. §1006.30(b).

Prayer for Relief

WHEREFORE, the Plaintiff prays that the Court grant the following:

1. A finding that the Defendant violated the FDCPA and/or an admission from the Defendant that it violated the FDCPA.
2. Actual damages under 15 U.S.C. § 1692k(a)(1).
3. Statutory damages under 15 U.S.C. § 1692k(a)(2)(A).
4. Reasonable attorneys' fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).
5. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ John T. Steinkamp
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