

RECEIVED

51,146
A
4 P.

9:42 A.M.
1017277

Filed

JAN 11 1995
Donna N. P... (50 pp)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

Steven Schmidt,
Plaintiff,

v.

John Doe, a/k/a E.T. Howell, and
Credit Bureau of Athens, Inc.,
Defendants.

*
*
*
*
*

CIVIL ACTION FILE NO.:

95-6-ath (87)

COMPLAINT ANJJ JEMANJJ Poll *JURY TRIAL

I. Introduction

1. This is an action pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. Q 1692 *et seq.*, for actual damages suffered by the Plaintiff, for statutory damages, and for attorneys' fees and costs.

II. Jurisdiction

2. This Court's jurisdiction is conferred by 15 U.S.C. §1692k and 28 U.S.C. 91331 and 51367.

III. Parties

3. The defendant John Doe a/k/a E. T. Howell is a natural person whose true identity and residence address is unknown to Plaintiff, and defendant Credit Bureau of Athens, Inc., (hereinafter sometimes referred to as "*the Credit Bureau*") is a corporation with its principal place of business at 1765 Old West Broad Street, Athens, Georgia. The

defendants regularly attempt to collect dF\$S alleged to be due another and are debt collectors within the terms and within tlqdefinition found in the Fair Debt Collection Practices Act (hereinafter "FDCPA"), at I5 U.S.C. \$1692a(6).

4. Plaintiff is a consumer with~~in~~ the Fair Debt Collection Practices Act, 15 U.S.C. \$1692 a w. (hereinafter "FDCPfi"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices, and requires the making of certain disclosures from debt collectors to **alleged** debtors mandatory in each communication, to the alleged debtor/ consumer.

ACTS AND PRACTICES COMPLAINED OF

5. Defendant John Doe a/k/a E.T. Howell (hereinafter sometimes referred to as "Doe"), on behalf of Defendant Credit Bureau of Athens, Inc., attempted to collect from plaintiff an alleged personal debt ow by plaintiff to one or more creditors.

6. Each defendant, at all times relevant to this complaint, was a debt collector within the meaning of the term found in the cited section of the FDCPA.

d . **Venue**

7. Venue is proper in the Middle istrict of Georgia because the cause of action arose in this district.

: P

V. Fat₁ Allegations

8. On or about January 12, 19\$4, the defendant John Doe sent a communication to the Employer of the Plaintiff, the communication in the form of a letter

allegedly seeking location information about the Plaintiff on behalf of the defendant Credit Bureau regarding one or more alleged consumer debts the Defendant John Doe in his role as a debt collector was attempting to collect from the Plaintiff.

V. *Cause, of Action*

9. The Defendant's violation of the FDCPA for that 'communication include, but are not necessarily limited to, the following:

(4 the use of language the natural consequence of which was give to give to Plaintiff's employer, a third party other than the Plaintiff information that on its face informed the third party employer that the said Defendant John Doe was employed by the Credit Bureau of Athens, Inc., in violation of 15 U.S.C. §1692b (1); and

60 the use of language in the contents of said communication with Plaintiff's employer, which communication was effected by the mails, which language indicated that the debtor collector was ["is" at the time] in the debt collection business, and which implied that the communication related to the collection of a debt, in violation of 15 U.S.C. §1692b (5); and

w any other violation(s) of the FDCPA which upon the trial of this action appears to have been contained in said communication.

10. The communication complained of was sent by Defendant John Doe in his role as agent of the defendant Credit Bureau in attempting to collect on one or more consumer debts owed or allegedly owed to clients/customers of the Credit Bureau.

11. " As the ordinary and proximate result of the Plaintiff-s having received the said communication from the Defendant, the plaintiff suffered actual damages, including emotional distress, and is also entitled to an award of statutory damages, costs and attorneys' fees.

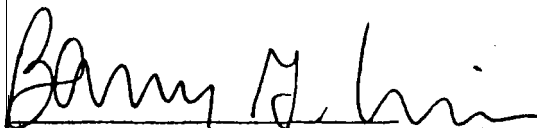
VIII. Jury Demand

14. A JURY TRIAL IS DEMANDED.

IX. Prayer for Relief

WHEREFORE, Plaintiff respectfully requests that judgment be entered against the Defendant for the following:

1. actual damages as the same may be proved at trial of this case before a jury;
2. statutory damages of \$1,000.00 per violation/action pursuant to 15 U.S.C. 91692k; and
3. costs and reasonable attorneys' fees pursuant to 15 U.S.C. 01692k; and
4. For such other and further relief as law and equity may provide.



Barry Gordon Irwin
Attorney for Plaintiff
State Bar No. 384667

suite 101
129 Bryan Street
Athens, Georgia 30601-1801
(706) 548-9500