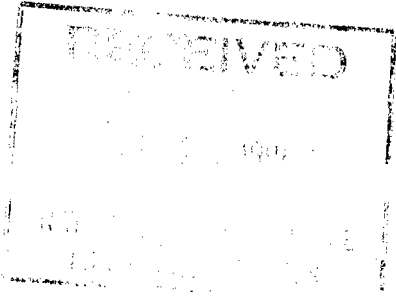


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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ATHENS DIVISION

Steven Schmidt,  
Plaintiff,

\*

\*

CIVIL ACTION FILE NO.:

v.

\*

956-ATH (DF)

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

\*

\*

**MOTION FOR SUMMARY JUDGMENT ON THE PLEADINGS ON  
THE ISSUE OF LIABILITY OF DEFENDANT CREDIT BUREAU ONLY**

COMES NOW PLAINTIFF, and files this his motion for summary  
judgment on the pleadings. In support of said motion, Plaintiff shows as follows:

1.

It is alleged in paragraph nine 111 91 (a) of the complaint that defendants  
violated the Fair Debt Collection Practices Act [hereinafter referred to as  
“FDCPA”] by:

“the use of language the natural consequence of which was give to give to  
Plaintiffs 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. 51692b (1); and

2.

In addition, it was further alleged in paragraph nine [1 91 (a<sup>2</sup>)] of the complaint that defendants violated the FDCPA by:

“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. 51692b (5).

3.

A copy of the letter which forms the basis of this complaint is attached hereto, marked as Exhibit “A”, and incorporated herein by reference. The relevant language of the letter as follows on the next page of this motion:

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<sup>1</sup> Paragraph nine [I. g] (a\*) was erroneously marked as a second paragraph (9 (a)), when it should have been marked as paragraph (9)(b)

'CBA \_\_\_\_\_ 0 [c

Credit Bureau of Athens  
1765 Old West Broad Street  
P.O. Box 1645  
Athens, Georgia 30603- 1645  
(404) 549-2263  
Fax 353-7450

credit bureau  
symbol-unable to reproduce  
here]

DATE  
TO:

Currier Tramcold [hand-printed]  
700 O&yic Dr [hand-printed]  
Athens, GA 30601 [hand-printed]  
~~X26-546-1646D~~ - p r i n t e d ]

THIS IS A REQUEST FOR EMPLOYMENT VERIFICATION ON THE PERSON NAMED BELOW.

NAME: Steven Douglas Schmidt [hand-printed] SOCIAL SECURITY NUMBER: 281-46-298-y

ADDRESS: \_\_\_\_\_

JOOB TITLE: \_\_\_\_\_ DEPARTMENT: \_\_\_\_\_

DATE HIRED: \_\_\_\_\_ MONTHLY INCOME: \_\_\_\_\_

If you have any questions, feel free to call me. 357-9152 [handprinted]

Sincerely,

*E.F. Howell* [signed]

Credit Bureau of Athens, Inc.  
Section Manager

COLLECTION  
CREDIT REPORTING  
MANAGEMENT  
MARKETING  
MORTGAGES

An Equifax Affiliate "

4.

The answer of Defendant Credit Bureau of Athens, Inc., to the Complaint was due on or about March 14, 1995, and the same has not been served upon Plaintiff as of this time. With regard to the foregoing allegations which are listed above in paragraphs one (1), two (2) and three (3) of this motion, no responsive pleading admitting or denying these allegations has been filed [as of 4:35 p.m. on March 30, 1995].

5.

Paragraph one (1) above complains that Defendants used "language, the natural consequence of which was given to Plaintiff's employer, a third party other than the Plaintiff, informant 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. 51692b (1). It is clear from the communication, marked and attached as Exhibit "A", that defendant John Doe a/k/a E.T. Howell was acting as agent for Defendant Credit Bureau of Athens, Inc. (hereinafter sometimes referred to as "credit bureau"). It is also clear that sending a document such as the document attached hereto as Exhibit "A" was notice to the Plaintiff's employer that the defendants were attempting to collect a debt from Plaintiff. The names "Credit Bureau of Athens, Inc.," and "credit bureau" have become synonymous with debt collection actors and the telephone number listed is still today listed as the "COLLECTION DIVISION" of "Credit Bureau of Athens

Inc” in bold print (all capital letters) for both of the two listings. The “**REPORTING**” division is also listed, also in bold and with all capital letters, but with a different telephone number listed for “**REPORTING**”.

6.

Paragraph two (2) above complains that Defendants used “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). ”

Without repeating all of what was referenced in the preceding paragraph, Plaintiff shows that as outlined above, the communication obviously violated the listed statutory provision for the reason that it would hardly have been any plainer if the defendant E.T. Howell, on behalf of the defendant Credit Bureau, had simply called up the human resources department of Plaintiff’s employer and told them that he was attempting to collect a debt and that he wished to receive some personal information about the Plaintiff. For this reason, as well as what has been propounded before, the Plaintiff shows that any denial of the violation of the Fair Debt Collection Practices Act by either of these defendants would surely be a frivolous denial and that is ‘apparently the reason for the delaying tactic of filing the “motion for a more definite statement and to strike” as was previously filed in this

case.

WHEREFORE, Plaintiff prays that this Court grant him Judgment on the Pleadings regarding only the issue of liability, reserving specifically the question of damages including costs and attorney's fees for trial, and also for the granting of such other and further relief as the Court may find to be just and proper.

**j&lluhJL**

Barry Gordon Irwin  
Attorney for Plaintiff  
State Bar No. 384667

CERTIFICATE OF SERVICE

I, Barry Gordon Irwin, hereby certify as follows:

1. I have this day mailed by regular first-class mail a copy of the foregoing pleading to counsel at the below-listed address, in an envelope with sufficient postage affixed thereto and addressed as follows:

Hollis Clifton Cobb, Esquire  
GREER, KLOSIK AND DAUOUI??TY, a t b r n s y s  
4651 -A Roswell Road  
Atlanta, Georgia 30342-3048

This 9th day of April, 1995.

Barry Gordon Irwin

Post Office Box 80506  
Athens, Georgia 30608-0506  
(706) 548-9500