IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

MADELINE OSPINA,
Plaintiff,

v.

AMSHER COLLECTION SERVICES, INC.,
Defendant.

Case No.:

COMPLAINT
JURY TRIAL DEMAND

COMPLAINT & JURY DEMAND

NOW COMES the Plaintiff, Madeline Ospina, by and through her counsel, and for her Complaint pleads as follows:

JURISDICTION

1. This is an action for damages brought against a debt collector for violating the Fair Debt Collection Practices Act ("FDCPA") at 15 U.S.C. §1692 *et seq*. and the Florida Consumer Collection Practices Act ("FCCPA") at §559.55 *et seq*., Fla. Stat.

2. Pursuant to 28 U.S.C. §1367(a), this Court has supplemental jurisdiction over the FCCPA claims because they are so related to Plaintiff's claims under the FDCPA that they form part of the same case or controversy under Article III of the United States Constitution.

VENUE

3. The transactions and occurrences which give rise to this action occurred in the City of Coral Springs, County of Broward, State of Florida.

4. Venue is proper in the Southern District of Florida.

PARTIES

4. Plaintiff is a natural person residing in the City of Coral Springs, County of Broward, State of Florida.

5. Defendant AmSher Collection Services, Inc. ("Defendant") is a foreign corporation that conducts business in the State of Florida.

GENERAL ALLEGATIONS

6. Defendant is attempting to collect a consumer debt from Plaintiff allegedly owed by Plaintiff to a third party (the "Alleged Debt").

7. Plaintiff disputes the Alleged Debt.

8. In December 2023, Plaintiff obtained her credit disclosures and noticed Defendant reporting the alleged debt.

9. Shortly thereafter, Plaintiff disputed the alleged debt to Defendant by letter.

10. On or about February 26, 2024, Plaintiff obtained her Experian credit disclosure and noticed that Defendant reported the alleged debt as "Account previously in dispute, investigation complete, reported by data furnisher."

11. On or about February 26, 2024, Plaintiff sent Defendant another letter and again disputed the alleged debt. In her letter, Plaintiff explained that she disputed the alleged debt to Defendant, that Defendant is falsely reporting the alleged debt as previously disputed, and that Defendant's reporting is false because Plaintiff still disputes the alleged debt.

12. Defendant received Plaintiff's letter on or about March 4, 2024.

13. On or about April 18, 2024, Plaintiff obtained her Experian credit disclosure, which showed that Defendant updated its tradeline on April 1, 2024, but that Defendant continued to report the alleged debt as "Account previously in dispute, investigation complete, reported by data furnisher."

14. Defendant reported false credit information about Plaintiff by reporting that Plaintiff previously disputed the alleged debt and/or that the dispute was resolved, rather than correctly reporting that Plaintiff still and currently disputes the alleged debt.

15. In addition to being false, Defendant's reporting of the alleged debt negatively impacts Plaintiff's credit scores and creditworthiness.

16. In the credit reporting industry, data furnishers, such as Defendant, communicate electronically with the credit bureaus.

17. Plaintiff suffered pecuniary and emotional damages as a result of Defendant's actions. Because Defendant failed or refused to report the alleged debt

as disputed, Plaintiff's credit score has been improperly depressed, making it harder for her to obtain employment, housing, and credit for her day-to-day needs. Her credit report continues to be damaged due to Defendant's failure to correctly report the alleged debt as disputed.

18. Plaintiff has suffered emotional damages such as stress, anxiety and depression, and other forms of emotional distress. Plaintiff also suffered physical harms such as pain, nausea, and stomach issues.

COUNT I – VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

19. Plaintiff reincorporates the preceding allegations by reference.

20. At all relevant times, Defendant, in the ordinary course of its business, regularly engaged in the practice of collecting debts on behalf of other individuals or entities.

21. Plaintiff is a "consumer" for purposes of the FDCPA, and the account at issue is a consumer debt.

22. Defendant is a "debt collector" as defined by the FDCPA.

23. Defendant's foregoing acts in attempting to collect the alleged debt violated the FDCPA at 15 U.S.C. §1692e(8) by reporting credit information which Defendant knew to be false, including the failure to communicate that a disputed debt is disputed.

24. Plaintiff has suffered harm at the hands of Defendant as this harm was one specifically identified and intended to be protected against on behalf of a consumer, such as Plaintiff, by Congress.

25. Defendant's failure and/or refusal to report the alleged debt as disputed in Plaintiff's credit files is humiliating and embarrassing to Plaintiff, as it creates a false impression to users of her credit reports that she has simply ignored the alleged debt when, in fact, she disputes its validity.

26. As a direct and proximate cause of Defendant's negligent failure to perform its duties under the FDCPA, Plaintiff has suffered stress, anxiety, depression, and other forms of emotional distress. Plaintiff also has suffered physical harms, including loss of sleep, inability to concentrate, and stress headaches.

WHEREFORE, PLAINTIFF PRAYS that this Court grant her a judgment against Defendant for actual damages, statutory damages, costs, interest, and attorneys' fees as provided by the Fair Debt Collection Practices Act.

COUNT II – VIOLATION OF THE FLORIDA CONSUMER COLLECTION PRACTICES ACT

27. Plaintiff reincorporates the allegations in paragraphs 1 through 18 by reference.

28. At all relevant times, Defendant, in the ordinary course of its business, regularly uses any instrumentality of commerce for the principal purpose of

collecting of consumer debts, or regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.

29. Plaintiff is a "consumer" for purposes of the FCCPA, and the account at issue is a consumer debt.

30. Defendant is a "debt collector" as defined by the FCCPA.

31. Defendant's foregoing acts in attempting to collect the alleged debt violated the FCCPA at §559.72(6) by disclosing information concerning the existence of a debt known to be reasonably disputed by Plaintiff without disclosing that fact.

32. Plaintiff has suffered harm at the hands of Defendant as this harm was one specifically identified and intended to be protected against on behalf of a consumer, such as Plaintiff, by the Florida Legislature.

33. Defendant's failure and/or refusal to report the alleged debt as disputed in Plaintiff's credit files is humiliating and embarrassing to Plaintiff, as it creates a false impression to users of her credit reports that she has simply ignored the alleged debt when, in fact, she disputes its validity.

34. As a direct and proximate cause of Defendant's negligent failure to perform its duties under the FCCPA, Plaintiff has suffered stress, anxiety, depression, and other forms of emotional distress. Plaintiff also has suffered physical harms, including loss of sleep, inability to concentrate, and stress headaches.

WHEREFORE, PLAINTIFF PRAYS that this Court grant her a judgment against Defendant for actual damages, statutory damages, costs, interest, and attorneys' fees as provided by the Florida Consumer Collection Practices Act.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Respectfully submitted,

Dated: June 10, 2024.

/s/ Santiago J Teran
Santiago J Teran
Florida Bar # 1018985
2125 Biscayne Blvd., Suite 206
Miami, FL 33137
Telephone: (347) 946-7990
santiago@sjteran.com
Attorneys for Plaintiff