UNITED STATES DISTRICT COURT
WESTERN DISTRICT MISSOURI
SPRINGFIELD DIVISON

JACCOB GAROUTTE Plaintiff, v. ALLIANCE ASSET RECOVERY, INC., Defendant.	))))))))))	Case No. 6:24-cv-3272

<u>PLAINTIFF'S COMPLAINT</u>

Plaintiff, JACCOB GAROUTTE ("Plaintiff"), through his attorneys, Evans & Mullinix, P.A., alleges the following against Defendant, ALLIANCE ASSET RECOVERY, INC. ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. 1692, et seq.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §1331 and 15 U.S.C. §1692k (FDCPA).
3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
4. Venue and personal jurisdiction in this District are proper because Defendant does or transacts business within this District, and a material portion of the events at issue occurred in this District.

PARTIES

5. Plaintiff is a natural person residing in Springfield, Greene County, Missouri.
6. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3).
7. Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).
8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6).
9. Within the last year, Defendant attempted to collect a consumer debt from Plaintiff.
10. Defendant is a collection agency located in Tonawanda, New York.
11. Defendant is a business entity engaged in the collection of debt within the State of Missouri.
12. The principal purpose of Defendant's business is the collection of debts allegedly owed to third parties.
13. Defendant regularly collects, or attempts to collect, debts allegedly owed to third parties.
14. During the course of its attempts to collect debts allegedly owed to third parties, Defendant sends to alleged debtors bills, statements, and/or other correspondence, via the mail and/or electronic mail, and initiates contact with alleged debtors via various means of telecommunication, such as by telephone and facsimile.
15. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

16. Defendant is attempting to collect an alleged consumer debt from Plaintiff originating with Lend You Cash.
17. The alleged debt owed arises from transactions for personal, family, and household purposes.

18. In or around October 2023, Plaintiff received an email from Lend You Cash stating that he owes $1,573.91 but that Lend You Cash was willing to settle the debt for $150.00.

19. On or about October 11, 2023, Defendant sent a text message to Plaintiff:

    a. Jaccob Garoutte This is Alliance Pre Legal contacting you regarding your delinquent loan through LEND YOU CASH. This is the FINAL attempt to allow payment prior to your claim being petitioned. Please contact us immediately at 855-790-4958. Please refer to docket number 262663. Again, this is our FINAL attempt. Please contact us immediately at 855-790-4958. Again, this is our FINAL attempt.

20. Defendant is or should be familiar with the FDCPA.

21. Defendant knows or should know the FDCPA requires a debt collector to disclose that the communication is an attempt to collect a debt when communicating with a consumer.

22. Plaintiff responded to the aforementioned text message asking to speak with someone to resolve the issue.

23. Defendant's representative responded to Plaintiff's text message and requested that Plaintiff call Defendant directly and ask for "Cameron Michaels" ("Cameron"), one of Defendant's representatives.

24. Plaintiff complied and called Defendant at the given number.

25. Plaintiff then requested to speak with Cameron.

26. During Plaintiff's aforementioned conversation with Defendant's representative, Cameron:

    a. Cameron informed Plaintiff that he owed $1,573.91;

    b. Cameron asked Plaintiff if Plaintiff had received anything in the mail;

    c. Plaintiff informed Cameron that he had not received anything in the mail from Defendant or Lend You Cash;

    d. Plaintiff informed Cameron that he "did not want to go to court";

e. Plaintiff informed Cameron Lend You Cash's correspondence and their willingness to settle the alleged debt for $150.00;

f. Cameron put Plaintiff on hold and then told Plaintiff he could settle the alleged debt for $940.00;

g. Cameron then transferred Plaintiff to the collections department.

27. Following Plaintiff's call being transferred to Defendant's collections department, Plaintiff set up a payment plan with Defendant that consisted of four (4) $236.08 payments.

28. On or about October 19, 2023, Defendant called and spoke with Plaintiff.

29. In the aforementioned conversation:

a. Defendant informed Plaintiff that one of Plaintiff's scheduled payments did not go through;

b. Plaintiff informed Defendant that he had not yet gone to the bank yet;

c. Both parties agreed to move the time payment was due to the afternoon.

30. On or about October 19, 2023, Plaintiff called Defendant and spoke with Cameron.

31. In the aforementioned conversation:

a. Plaintiff requested a debt validation for the alleged debt;

b. Cameron requested Plaintiff forward his attorney's information to Defendant;

c. Plaintiff requested that Cameron send the debt validation to Plaintiff directly;

d. Cameron agreed to send Plaintiff the requested paperwork.

32. Following the aforementioned conversation, Plaintiff received an email from Defendant with the arranged payment plan.

33. To date, Defendant has not sent Plaintiff a debt validation letter.

34. The natural consequences of Defendant's statements and actions were to unjustly condemn and vilify Plaintiff for his non-payment of the debt he allegedly owes.

35. The natural consequences of Defendant's statements and actions were to cause Plaintiff mental distress.

36. Defendant's above-referenced conduct further affected Plaintiff in a personal and individualized way by causing Plaintiff to experience anger, stress, worry, frustration, embarrassment, and emotional distress.

37. Defendant's actions constitute an invasion of Plaintiff's individual privacy and Plaintiff has suffered a concrete and particularized injury to his legally protected interest of his individual privacy.

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

38. Defendant violated the FDCPA based on the following:

    a. Defendant violated § 1692e of the FDCPA by using any false, deceptive, or misleading representation or means in connection with the collection of any debt, when Defendant engaged in engaged in, at least, the following discrete violations of § 1692e;

    b. Defendant violated § 1692e(10) of the FDCPA by its use of any false, deceptive, or misleading representation or means in connection with the collection of any debt, when Defendant sent text messages to Plaintiff without receiving Plaintiff's prior consent to use the telephone number to communicate with Plaintiff about the alleged debt;

    c. Defendant violated § 1692e(11) of the FDCPA by failing to disclose that the communication is from a debt collector, with none of the exceptions of this subsection being applicable, when Defendant communicated with Plaintiff on Plaintiff's telephone and did not disclose that the communication is from a debt collector and/or in an attempt to collect an alleged debt;

d. Defendant violated Regulation F of the FDCPA, 12 CFR 1006.6, by sending text messages to Plaintiff on Plaintiff's telephone without receiving directly from Plaintiff his prior consent to use the telephone number to communicate with him about the alleged debt;

e. Defendant violated § 1692g(a) of the FDCPA by failing to send a written notice to Plaintiff pursuant to § 1692g(a) of the FDCPA; and

f. Defendant violated § 1692f of the FDCPA by using unfair or unconscionable means in connection with the collection of an alleged debt when Defendant engaged in the foregoing conduct.

WHEREFORE, Plaintiff, JACCOB GAROUTTE, respectfully requests judgment be entered against Defendant, ALLIANCE ASSET RECOVERY, INC., for the following:

39. Actual damages, to be determined at trial;

40. Statutory damages of $1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k.

41. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k.

42. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

September 20, 2024

By: /s/Mark D. Molner, Esq.
Mark D. Molner, Esq.
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