UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HERSH EINHORN, Plaintiff, v. ALLIED RECOVERY SOLUTIONS, INC., Defendant.	Civil Action No: 7:25-cv-39 **CIVIL ACTION COMPLAINT** **DEMAND FOR JURY TRIAL**

Plaintiff Hersh Einhorn ("Plaintiff") brings this Civil Action Complaint by and through his attorneys, Stein Saks, PLLC, against Defendant Allied Recovery Solutions, Inc. ("Defendant"), based upon information and belief of Plaintiff's counsel, except for allegations specifically pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

INTRODUCTION/PRELIMINARY STATEMENT

1. Congress enacted the Fair Debt Collection Practices Act ("the FDCPA") in 1977 in response to the "abundant evidence of the us e of abusive, deceptive, and unfair debt collection practices by many debt collectors." 15 U.S.C. § 1692(a). At that time, Congress was concerned that "abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy." *Id.* Congress concluded that "existing laws…[we]re inadequate to protect consumers," and that "the effective collection of debts" does not require "misrepresentation or other abusive debt collection practices." *Id.* at §§ 1692(b) and 1692(c).

2. Congress explained that the purpose of the Act was not only to eliminate abusive debt collection practices, but also to ensure "that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged." *Id.* at § 1692(e). After

determining that the existing consumer protection laws were inadequate, *see id.* at § 1692(b), Congress gave consumers a private cause of action against debt collectors who fail to comply with the Act. *Id.* at § 1692k.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692 *et seq*. The Court has pendent jurisdiction over the State law claims in this action pursuant to 28 U.S.C. § 1367(a).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) as this is where the Plaintiff resides, as well as where a substantial part of the events or omissions giving rise to the claim occurred.

NATURE OF THE ACTION

5. Plaintiff brings this action pursuant to § 1692 *et seq.* of Title 15 of the United States Code, commonly referred to as the Fair Debt Collection Practices Act ("FDCPA").

6. Plaintiff is seeking damages and declaratory relief.

PARTIES

7. Plaintiff is a resident of the State of New York, County of Rockland.

8. At all times material hereto, Plaintiff was a "consumer" as said term is defined under 15 U.S.C. § 1692a(3) and as defined under 12 CFR § 1006.2(e).

9. Defendant is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA, as well as defined in 12 CFR § 1006.2(i)(1), and can be served in New York c/o New York Secretary of State with its registered agent as Victor Benedetto, P.O. Box 1011, Port Jefferson Station, MA 11776.

10. Upon information and belief, Defendant is a company that uses the mail, telephone, and facsimile and regularly engages in business, the principal purpose of which is to attempt to collect debts alleged to be due another.

FACTUAL ALLEGATIONS

11. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.

12. At some time prior to January 2, 2024, Plaintiff allegedly incurred an obligation with Geico Insurance ("Geico").

13. Plaintiff denies the existence of these obligations; rather these obligations arose as a result of identity theft.

14. Plaintiff is a victim of fraud and identity theft from sophisticated con-artists in a widespread fraudulent scheme.

15. One or more individuals obtained Plaintiff's personal information.

16. Plaintiff's personal information was used to obtain credit to finance multiple vehicles in Plaintiff's name.

17. Plaintiff was unaware and did not approve of these transactions.

18. Plaintiff only became aware of these transactions when he noticed multiple accounts on his credit report.

19. An affidavit of these events is attached hereto as Exhibit A, hereinafter referred to as "Affidavit."

20. Plaintiff previously explained the occurrence of these events and the resulting fraudulent charges with the vehicle companies prior to any collection activity.

21. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3).

22. The alleged Geico obligation is a "debt" as defined by 15 U.S.C. § 1692a(5) and as defined by 12 CFR § 1006.2(h).

23. Upon information and belief, Geico contracted with Defendant to collect the alleged debt.

24. Defendant collects and attempts to collect debts incurred or alleged to have been incurred for personal, family, or household purposes on behalf of creditors using the United States Postal Services, telephone, and internet.

Violation – January 2, 2024 Collection Letter

25. On or around January 2, 2024, Defendant mailed a collection letter to the Plaintiff to collect on the alleged Geico debt. See "Letter" attached hereto as Exhibit B.

26. The alleged debt that is referenced in the Letter is the result of fraud and identity theft.

27. Pursuant to 15 U.S.C. § 1692e(10), a debt collector violates the FDCPA when it uses "any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer."

28. Accordingly, Defendant violated 15 U.S.C. § 1692e when it made misrepresentations regarding the ownership of the alleged debt.

29. Pursuant to 15 U.S.C. § 1692f, "a debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt."

30. Defendant acted unfairly and unconscionably by stating that the Plaintiff was the owner of the alleged debt, in violation of 15 U.S.C. § 1692f.

31. Thus, Defendant violated multiple provisions of the FDCPA.

32. Based on the prior history surrounding this fraudulent account, Plaintiff also believed this collection attempt to be fraudulent and did not want to send any of his information or speak to the Defendant.

33. Congress is empowered to pass laws and is well-positioned to create laws that will better society at large.

34. The harms caused by Defendant have a close relationship with various harms traditionally recognized as providing a basis for lawsuit in American courts.

35. As it relates to this case, the common-law analogues are to the traditional torts of fraud, negligent infliction of emotional distress, invasion of privacy, and nuisance.

36. For the purposes of this action, only a close relationship to common law harm is needed, not an exact duplicate.

37. Defendant's conduct demonstrated a reckless disregard for causing Plaintiff to suffer from emotional stress.

38. Defendant's violations were knowing, willful, negligent, and/or intentional, and Defendant did not maintain policies and procedures reasonably adapted to avoid any such violations.

39. Defendant's collection efforts with respect to the alleged debt caused Plaintiff to suffer concrete and particularized harm, inter alia, because the FDCPA provides Plaintiff with the legally protected right to not be misled or treated unfairly with respect to any action for the collection of any consumer debt.

40. Defendant's conduct with respect to its collection efforts were material in that the same affected and frustrated Plaintiff's ability to intelligently respond to Defendant' collection efforts.

41. Defendant's communications further caused distress, embarrassment, humiliation, disruption, and other damages and consequences.

42. Defendant's collection efforts with respect to the debt caused Plaintiff to suffer concrete and particularized harm, inter alia, because the FDCPA provides Plaintiff with the legally protected right not to be harassed or treated unfairly in connection with the collection of a debt.

43. Defendant's collection efforts with respect to the debt caused Plaintiff to suffer concrete and particularized harm, inter alia, because the FDCPA provides Plaintiff with a legally protected right to not suffer an invasion of privacy in connection with the collection of a debt.

44. In reliance on Defendant's conduct, Plaintiff expended time and money in an effort to mitigate the risk of future financial harm in the form of dominion and control over his funds.

45. Based on Defendant's failure to comply with the FDCPA, Plaintiff expended time, money, and resources to determine how to respond to Defendant's debt collection activities.

46. As a result of Defendant's deceptive, misleading, unfair, unconscionable, and false debt collection practices, Plaintiff has been damaged.

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692e *et seq.*

47. Plaintiff repeats, reiterates, and incorporates the allegations contained in the paragraphs above herein with the same force and effect as if the same were set forth at length herein.

48. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated the various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692e.

49. Pursuant to 15 U.S.C. § 1692e, "[a] debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt."

50. Pursuant to 15 U.S.C. § 1692e(10), a debt collector violates the FDCPA when it uses "any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer."

51. Thus, Defendant violated 15 U.S.C. § 1692e:

a. by making false representations regarding ownership of the alleged debt; and

b. by failing to maintain policies and procedures to avoid collection communications from being misrepresenting or misleading to the consumer.

52. By reason thereof, Defendant is liable to Plaintiff for judgment in that Defendant's conduct violated 15 U.S.C. § 1692e *et seq.* of the FDCPA, and includes actual damages, statutory damages, costs, and attorneys' fees.

COUNT II

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692f *et seq.*

53. Plaintiff repeats, reiterates, and incorporates the allegations contained in the paragraphs above herein with the same force and effect as if the same were set forth at length herein.

54. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated the various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692f.

55. Pursuant to 15 U.S.C. § 1692f, "a debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt."

56. Thus, Defendant violated 15 U.S.C. § 1692f:

a. By failing to maintain policies and procedures to avoid collection communications from being unfair and unconscionable to the consumer.

57. By reason thereof, Defendant is liable to Plaintiff for judgment in that Defendant's conduct violated 15 U.S.C. § 1692f *et seq.* of the FDCPA, which includes actual damages, statutory damages, costs, and attorneys' fees.

DEMAND FOR TRIAL BY JURY

58. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Hersh Einhorn demands judgment from the Defendant as follows:

1. Awarding the Plaintiff actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. Awarding the Plaintiff statutory damages pursuant to 15 U.S.C. § 1692k(a)(2)(A);
3. Awarding the Plaintiff costs for this Action, including reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3);
4. Providing declaratory relief for the Plaintiff by stating that the Defendant violated the FDCPA pursuant to 28 U.S.C. § 2201; and
5. Awarding the Plaintiff any such other and further relief as this Court may deem just and proper.

Dated: January 2, 2025

Respectfully submitted,

STEIN SAKS, PLLC

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