UNITED STATES DISTRUCT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION

DEBORAH A. SMITH, Plaintiff, v. CAINE & WEINER COMPANY, LLC and PROGRESSIVE CASUALTY INSURANCE COMPANY, INC. Defendants.	Case No. 2:25-cv-00177

COMPLAINT

NOW COMES, DEBORAH A. SMITH ("Plaintiff"), by and through the undersigned counsel, complaining as to the conduct of the Defendants, CAINE & WEINER COMPANY, LLC ("C&W") and PROGRESSIVE CASUALTY INSURANCE COMPANY, INC. ("Progressive" or collectively as "Defendants"), as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action seeking redress for C&W's violations of the Fair Debt Collection Practices Act ("FDCPA") pursuant to 15 U.S.C. §1692, and for Defendants' violations of the Pennsylvania Fair Credit Extension Uniformity Act ("PFCEUA"), pursuant to 73 P.S. 2270.1 *et seq.*, and the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("PUTPCPL") pursuant to 73 P.S. 201-1 *et seq*., stemming from Defendants' unlawful conduct.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 as the FDCPA is a federal statute.

3. This Court has supplemental jurisdiction over Plaintiff's state law claim pursuant to 28 U.S.C. §1367(a).

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

PARTIES

5. Plaintiff is a natural person over 18-years-of-age who, residing in Ernest, Pennsylvania.

6. Progressive is a nationwide insurance provider that offers its services to consumers throughout the country and maintains its principal place of business located at 6300 Wilson Mills Road. Mayfield Village, Ohio 44143.

7. C&W is a collection agency that claims to "enhance cash flow for the global business community through the creative and effective utilization of accounts receivable management systems and innovative solutions." C&W is a limited liability company that collects third party debts from consumers throughout the country, including in the state of Pennsylvania, and maintains its principal place of business at 1699 E. Woodfield Road, #360, Schaumburg, Illinois 60173.

8. At all times relevant, Progressive had a consensual agency relationship with C&W whereby Progressive (as the principal) had the right to control and direct the activities of C&W, and C&W had the authority to act on behalf of Progressive. Progressive as the principal of C&W, is liable for the acts of C&W and its agents.

9. Defendants acted through its agents, employees, officers, members, directors, heirs, successors, vendors, assigns, principals, trustees, sureties, subrogees, vendors, third-party contractors, representatives, and insurers at all times relevant to the instant action.

FACTS SUPPORTING CAUSES OF ACTION

10. In or around 2022, Plaintiff insured her Honda Ridgeline vehicle with Progressive while living in the state of New York ("Progressive policy").

11. In October 2023, Plaintiff contacted Progressive and informed its representative that she was planning on moving to Pennsylvania.

12. In response, the Progressive representative explained that Plaintiff's Progressive policy would be cancelled once she moves to Pennsylvania, and further informed Plaintiff she would be issued a refund of approximately $230.

13. Approximately two (2) days after Progressive issued Plaintiff a refund, Progressive notified Plaintiff that she allegedly owed approximately $230 ("subject debt").

14. Confused, Plaintiff contacted Progressive, spending significant time disputing the subject debt with Progressive's customer service team and eventually filing a formal complaint with the Consumer Financial Protection Bureau ("CFPB").

15. Sometime thereafter, the subject debt was sent to C&W for collection, who subsequently sent Plaintiff a dunning letter attempting to collect the same.

16. Plaintiff immediately contacted C&W disputing the subject debt. During the call, C&W informed Plaintiff that it would investigate the subject debt and further instructed Plaintiff to send all relevant documentation.

17. Approximately ten (10) days later, Plaintiff contacted C&W for an update on the investigation, however, C&W told Plaintiff that it was unaware of any dispute or active investigation of the subject debt.

18. Subsequently thereafter, C&W continued contacting Plaintiff to collect the subject debt and informed Plaintiff that C&W would begin reporting the subject debt to the credit reporting agencies if Plaintiff did not make a payment.

19. Frustrated with the amount of time spent disputing the subject debt and concerned for her consumer credit standing, Plaintiff contacted C&W explaining that she is unable to pay the subject debt until January 2024, to which C&W replied by assuring Plaintiff that C&W would not report the subject debt if Plaintiff agreed to schedule her subject debt payments to be automatically withdrawn.

20. Specifically, C&W informed Plaintiff that it would not report the subject debt on her credit reports if Plaintiff agreed to schedule two automatic payments towards the subject debt to be charged on February 2, 2024, and March 6, 2024, respectively. Plaintiff agreed and scheduled the payments to be withdrawn by C&W from her checking account accordingly.

21. On February 2, 2024, C&W charged Plaintiff $115.90 for the subject debt as agreed upon.

22. On February 25, 2024, despite C&W withdrawing the first subject debt payment as agreed upon, Plaintiff discovered C&W reported the subject debt to the credit reporting agencies, as it was now reflecting negatively on her consumer credit reports.

23. On March 6, 2024, C&W charged Plaintiff $115.90 for the second payment towards the subject debt as agreed upon, satisfying the entire amount owed.

24. Despite C&W promising Plaintiff that it would not report the subject debt if she maintained the automatically scheduled payments, C&W proceeded to report the subject debt after Plaintiff paid the first payment and continued to report it after the subject debt was completely repaid.

25. On March 9, 2024, Plaintiff contacted C&W and requested it stop reporting the subject debt.

26. In that call, C&W assured Plaintiff that the reporting was an error, and the subject debt would no longer be reflected on her credit reports within three (3) days. C&W further explained that it would send Plaintiff an email confirming that it was no longer reporting the subject debt within three (3) days.

27. Approximately ten (10) days later, the subject debt was still being reported on Plaintiff's credit reports and she never received an email from C&W, despite C&W assuring Plaintiff it would no longer report it.

28. Ultimately, Plaintiff disputes of the subject debt fell on deaf ears and she was given the run around from Defendants each time she attempted to resolve the subject.

29. Unfortunately, Defendants failed to remove the subject account from Plaintiff's credit reports as it continues to negatively impact her credit worthiness until today.

30. After each dispute, Defendants failed to reasonably investigate Plaintiff's credit dispute. Although Plaintiff satisfied the subject account in March 204, C&W verified the erroneous subject account and continued to report subject account to Plaintiff's credit files.

31. Although the trade line should have been removed, C&W has been reporting derogatory and inaccurate information relating to Plaintiff and Plaintiff's credit history to one or more third parties. The inaccurate information consists of the subject debt that C&W deceptively promised it would not report before Plaintiff satisfied the debt on March 6, 2024, but reported proceeded to report anyway.

32. Despite Progressive receiving notice of Plaintiff's disputes of the subject debt, Progressive failed to conduct a reasonable investigation of the subject debt and proceeded to send the debt to C&W for collection.

33. Moreover, despite Plaintiff contacting C&W on March 9, 2024, and confirming that the debt was satisfied, C&W continues to report the subject debt to Plaintiff's credit reports.

34. To this date, C&W continue to inaccurately report the subject debt as derogatory.

35. The reporting of the Progressive trade line is patently inaccurate and materially misleading because Plaintiff satisfied the trade line pertaining to the subject debt in March 2024, and therefore the subject debt is not owed by Plaintiff.

36. Despite having actual knowledge that Plaintiff had satisfied the subject debt and was not owed by Plaintiff, C&W failed to remove the subject debt from Plaintiff's credit files.

37. Any reasonable investigation by C&W would have revealed the materially inaccurate nature of the information on Plaintiff's consumer credit report.

38. The inaccurate reporting of the subject account is misleading as it demonstrates that Plaintiff is not a trustworthy consumer.

39. Concerned about the violations of her rights, Plaintiff was forced to seek the assistance of counsel to file this action to prevent Defendants from further deception in the future, thus incurring costs and expenses.

COUNT I – VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT (AGAINST C&W)

40. Plaintiff restates and realleges paragraphs 1 through 39 as though fully set forth herein.

41. Plaintiff is a "consumer" as defined by FDCPA §1692a(3).

42. C&W is a "debt collector" as defined by 15 U.S.C. § 1692a(6), as its principal business purpose is the collection of defaulted debts owed to others.

43. The subject debt in which C&W attempting to collect upon is a "debt" as defined by FDCPA §1692a(5) as it arises out of a transaction due or asserted to be owed or due to another for personal, family, or household purposes.

44. C&W is a "debt collector" as defined by §1692a(6) because its primary business purpose is to collect defaulted debts and uses the mail and/or the credit reporting agencies to collect delinquent consumer accounts.

45. C&W is a "debt collector" as defined by §1692a(6) because it regularly collects defaulted debts owed or asserted to be owed or due to another.

46. C&W used the credit reporting agencies to collect the subject account and, as such, engaged in "communications" as defined in FDCPA §1692a(2).

47. C&W violated 15 U.S.C. §§1692e, e(8), e(10), and f through its unlawful collection practices.

a. Violations of FDCPA §1692e

48. C&W violated 15 U.S.C. § 1692e, by using false, deceptive, and misleading representations in connection to collection of the subject debt. C&W deceptively reported the subject debt to the credit reporting agencies after Plaintiff satisfied the subject debt and without conducting any reasonable investigation to confirm Plaintiff owed the subject debt. Further, C&W deceptively reported the subject debt without taking any reasonable steps to confirm whether Plaintiff owed the debt when she initially sent documents disputing the subject debt.

49. C&W violated 15 U.S.C. § 1692e(8) by communicating false and inaccurate credit reporting information regarding the subject debt after it knew the subject debt was no longer owed by Plaintiff.

50. C&W violated §1692e(10) when it used deceptive means to collect and/or attempt to collect the alleged debt. C&W deceptively reported the subject debt to Plaintiff's credit report after promising Plaintiff it would not if she agreed to schedule to automatic payments in connection with the subject debt. Plaintiff agreed to schedule such payments yet C&W proceeded to report the debt after Plaintiff paid the first payment on February 2, 2024.

b. Violation of FDCPA §1692f

51. C&W violated §1692f when it used unfair and unconscionable means to collect the subject account. C&W unfairly attempted to collect the subject debt without taking any reasonable steps to investigate the subject debt or report the results of the investigation to Plaintiff. Plaintiff disputed the subject debt with Progressive before C&W acquired the right to collect and continued that dispute with C&W directly. Despite C&W being made aware of Plaintiff's dispute and assuring Plaintiff that it would conduct an investigation, C&W provided no record that it conducted any investigation or took any steps to confirm the validity of the subject debt. Instead, C&W gave Plaintiff the run around by instructing Plaintiff to send relevant documents so it may investigate the subject debt, only to turn around and claim that it has no record of any disputes by Plaintiff. Upon information and belief, C&W knowingly misrepresented that it would investigate the subject debt collect in hopes that Plaintiff would grow tired of disputing the subject debt and make a payment.

52. As an experienced debt collector, C&W should be aware of the ramifications for implementing such unfair collection practices to collect a consumer debt.

53. Upon information and belief, C&W systemically attempts to collect debts through unreasonable conduct and has no procedures in place to assure compliance with the FDCPA.

54. As pled above, Plaintiff has been harmed and suffered damages as a result of C&W's illegal actions.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor as follows:

a. Declare that the practices complained of herein are unlawful and violate the aforementioned statute;

b. Award Plaintiff statutory and actual damages, for the underlying FDCPA violations;

c. Award Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692k; and

d. Award any other relief as this Honorable Court deems just and appropriate.

COUNT II – VIOLATIONS OF THE PENNSYLVANIA FAIR CREDIT EXTENSION UNIFORMITY ACT
(AGAINST DEFENDANTS)

55. Plaintiff restates and realleges paragraphs 1 through 54 as though fully set forth herein.

56. Plaintiff is a "consumer" as defined by 73 P.S. § 2270.3.

57. Progressive is a "creditor" as defined by 73 P.S. § 2270.3.

58. C&W is a "debt collector" as defined by 73 P.S. § 2270.3.

59. The subject debt is a "debt" as defined by PA ST 73 P.S. § 2270.3 as it is an obligation, or alleged obligation, arising from a transaction for personal, family, or household purposes.

a. C&W's Violations of PFCEUA § 2270.4(a)

60. The PFCEUA, pursuant to 73 P.S. § 2270.4(a), provides that an act by a debt collector "... .shall constitute an unfair or deceptive debt collection act or practice under this act if a debt collector violates any of the provisions of the Fair Debt Collection Practices Act."

61. Therefore C&W violated the PFCEUA by violating 15 U.S.C. §§1692e, e(8), e(10), and f, as mentioned above.

b. Progressive's Violations of PFCEUA § 2270.4(b)(5)

62. The PFCEUA, pursuant to 73 P.S. § 2270.4(b)(5), broadly prohibits a creditor from using "any false, deceptive, or misleading representation or means in connection with the collection of any debt."

63. Progressive violated 73 P.S. § 2270.4(b)(5) when it deceptively disregarded Plaintiff's attempts to dispute the subject debt after it failed to investigate Plaintiff's inquiry as to whether she owed the subject debt in the first place. Moreover, it was misleading and deceptive of Progressive to subsequently assign the subject debt to C&W when it knew Plaintiff was actively disputing the subject debt. Further it was unfair and deceptive for Progressive to refund Plaintiff the approximate amount of the subject debt, only to turn around and request it back without reasonably clarifying the reason for its conduct after Plaintiff repeatedly requested such information.

c. Progressive's Violations of PFCEUA § 2270.4(b)(6)

64. The PFCEUA, pursuant 73 P.S. § 2270.4(b)(6) prohibits a creditor from using "unfair or unconscionable means to collect or attempt to collect any debt."

65. Progressive violated the above referenced provision through its unfair and unconscionable manner in which it transferred the subject debt to C&W for collection. It was unfair for Progressive to assign the subject to C&W before conducting a reasonable investigation and providing the results of that investigation to Plaintiff instead of ignoring her disputes. Further, Progressive should have provided information regarding Plaintiff's disputes and other information detailing the nature of the subject debt when it transferred the debt to C&W.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor as follows:

a. Declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations;

b. Awarding Plaintiff actual damages pursuant to 73 P.S. § 2270.5(a) and 73 P.S. § 201-9.2(a);

c. Award Plaintiff treble damages pursuant to 73 P.S. § 2270.5(a) and 73 P.S. § 201-9.2(a);

d. Award Plaintiff reasonable attorney's fees and costs pursuant to 73 P.S. § 2270.5(a) and 73 P.S. § 201-9.2(a);

e. Enjoining Defendants from further violations of law; and,

f. Awarding any other relief as this Honorable Court deems just and appropriate

COUNT III – VIOLATIONS OF PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW
(AGAINST DEFENDANTS)

66. Plaintiff restates and realleges paragraphs 1 through 65 as though fully set forth herein.

67. Plaintiff is a "person" as defined by 73 P.S. § 201-2(2).

68. Defendants' conduct in connection with the subject debt constitutes "trade" and "commerce" as defined by 73 P.S. § 201-2(3) of the PUTPCPL.

69. The PUTPCPL prohibits entities from:

> "Engaging in any . . . fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding." 73 P.S. 201-2(4)(xxi).

a. Violations of the PUTPCPL through violations of the PFCEUA

70. The PFCEUA, pursuant to 73 P.S. § 2270.5(b), provides that any violation of the PFCEUA constitutes an unfair or deceptive act in violation of the PUTPCPL.

71. By virtue of Defendants' repeated violations of the PFCEUA, Defendants' have similarly violated the PUTPCPL.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in her favor as follows:

a. Declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations;

b. Awarding Plaintiff actual damages pursuant to 73 P.S. § 2270.5(a) and 73 P.S. § 201-9.2(a);

c. Award Plaintiff treble damages pursuant to 73 P.S. § 2270.5(a) and 73 P.S. § 201-9.2(a);

d. Award Plaintiff reasonable attorney's fees and costs pursuant to 73 P.S. § 2270.5(a) and 73 P.S. § 201-9.2(a);

e. Enjoining Defendants from further violations of law; and

f. Awarding any other relief as this Honorable Court deems just and appropriate.

Dated: February 6, 2025

Respectfully Submitted,

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