

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
COURT FILE NO.: CV -**

Tammy L. Walck,
Plaintiff

v.

The Office of Fredrick's, Goldstein &
Zoe, LLC, James Kelly and Jane Doe
a/k/a Investigator Baker,
Defendants

COMPLAINT

JURY TRIAL DEMANDED

INTRODUCTION

1. The United States Congress has found there is abundant evidence of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined 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. Congress drafted the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq.

(hereinafter “FDCPA”), with the goal to eliminate abusive collection practices utilized by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.
3. This action arises out of Defendant’s violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (“FDCPA”), and violations of the Pennsylvania Fair Credit Extension Uniformity Act, 73 P.S. § 2270.1 et. seq. (FCEUA).
4. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendants transacted business here in Pennsylvania.

PARTIES

5. Plaintiff, Tammy L. Walck is a natural person who resides in the City of Allentown, County of Lehigh, State of Pennsylvania, and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

6. Defendant, The Office of Fredrick's, Goldstein & Zoe, LLC (hereinafter referred to as "FGZ" or "Defendant") is a business entity engaged in the collection of debts with its principal place of business located at 44 Bristol Street, Canandaigua, NY 14424.
7. Defendant, James Kelly, is a natural person employed by Defendant, FGZ as a collection agent and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).
8. Defendant, Jane Doe a/k/a Investigator Baker, is a natural person employed by Defendant, FGZ as a collection agent and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).
9. At all times relevant to this Complaint, Defendants transacted business in the Eastern District of Pennsylvania and at other locations throughout the United States, operating as a collection agency and as a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL ALLEGATIONS

10. Plaintiff, Tammy L. Walck, allegedly incurred a financial obligation that was primarily for personal, family or household purposes and is therefore a "debt" as that term is defined by 15 U.S.C § 1692a(5), namely a debt with Citibank.

11. Plaintiff, Walck allegedly became delinquent on said account and unable to make her monthly payments due to circumstances beyond her control.
12. Upon information and belief, Walck's above-referenced account was placed, sold or otherwise transferred to Defendant, FGZ for collection.
13. On or around April 8, 2009, Walck received a telephone call at her home from an agent/employee of Defendant, FGZ, who identified herself as Investigator Baker.
14. During the telephone call, Defendant, FGZ's agent/employee, who identified herself as Investigator Baker, stated that the reason for her call was that Plaintiff had a court ordered summons in her office being processed, as case number 104152, and that she needed to discuss the matter with Plaintiff or the attorney who would be representing her at Lehigh County Court.
15. Through this conduct, Defendant utilized false and deceptive means in an attempt to coerce Plaintiff into making a payment, specifically, Defendant falsely and deceptively misrepresented the legal status of the alleged debt in violation of numerous provisions of FDCPA, including but not limited to 15 U.S.C. §§ 1692d, 1692d(6), 1692e, 1692e(2), 1692e(4), 1692e(10), 1692f and 1692f(1).

16. On or around April 8, 2009, Defendant, FGZ's agent/employee, Investigator Baker, in an attempt to collect a debt from Plaintiff placed a telephone call to Elaine Finlay.
17. During the telephone call to Elaine Finlay, Defendant, FGZ's agent/employee again identified herself as Investigator Baker, and stated that the reason for her call was because Ms. Finlay was a relative of Tammy Walck. Investigator Baker continued and stated that she would appreciate it if Ms. Finlay could pass a message on to Tammy Walck that there was court ordered summons against her currently being processed. Investigator Baker also requested that Ms. Finlay advise Tammy Walck to have herself or the attorney representing her at Lehigh County Court to contact her office.
18. Defendant, FGZ's communication with Elaine Finlay was made without the prior consent of Plaintiff, disclosed personal information regarding the Plaintiff, and falsely misrepresented the legal status the alleged debt; in violation of numerous provisions of FDCPA, including but not limited to 15 U.S.C. §§ 1692c(a)(1), 1692c(b), 1692d, 1692d(6), 1692e, 1692e(2), 1692e(4), 1692e(10), 1692f and 1692f(1).

19. That same day, an agent/employee of Defendant, FGZ, who identified himself as Investigator James Kelly placed a telephone call to Plaintiff in an attempt to collect a debt.
20. During the subsequent telephone conversation, James Kelly informed Plaintiff that he was calling from the Fredrick, Goldstein & Zoe Law Firm. James Kelly advised Plaintiff that he had a court summons with regard to a Citibank account in the amount of \$2,900.00, but would be willing to settle the matter for \$800.00. James Kelly advised Plaintiff that if she agreed to pay the \$800.00 he would send a fax to Lehigh County to stop the proceedings.
21. As the conversation proceeded, Defendant, James Kelly falsely advised Plaintiff that it was in her best interest to resolve the matter immediately, because he needed to contact Lehigh County before the next day in order to stop the lawsuit. Plaintiff then stated to James Kelly that she would need time review her records and call him back, to which James Kelly responded that he was late for court.
22. Fearful that she would be required to appear in court, Plaintiff called Defendants back later that same day and agreed to make two payments of \$400.00. James Kelly advised Plaintiff that he would fax paperwork to Lehigh County in order to stop the suit.

23. Plaintiff then stated to James Kelly that she would place a check in the mail; however, James Kelly informed Plaintiff that they did not accept payments via mail based upon the events following the 9/11 attacks and the Attorney General's advise.
24. Plaintiff notified James Kelly that she was not comfortable providing her banking information over the telephone and would prefer to send a check through the mail. James Kelly advised Plaintiff that any payments made via U.S. mail would be returned, resulting in a breach of contract. James Kelly then informed Plaintiff that the conversation was being recorded and would be provided to a judge who could ultimately decide to garnish her wages.
25. During Defendants' communication with Plaintiff, Defendants' falsely and deceptively represented to Plaintiff that the individual she was speaking to was an attorney and/or communication was from a law office, in violation of numerous provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692d, 1692e, 1692e(3), 1692e(4), 1692e(10), and 1692f amongst others.
26. Through their conduct, Defendants misrepresented the legal status of the alleged debt and threatened to take action that was not permitted by law or that was not intended to be taken, in violation of numerous

provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692d, 1692e, 1692e(2), 1692e(4), 1692e(7), 1692e(10), and 1692f.

27. While attempting to collect the alleged debt from Plaintiff, Defendants acted in an abusive, harassing and deceptive manner contrary to the standards of civilized society and the standards employed by others in its industry.
28. Defendants' illegal collection tactics have directly and proximately caused Plaintiff to experience extreme emotional distress, mental anguish, fear, embarrassment, humiliation, and frustration.

CAUSES OF ACTION

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES

ACT

15 U.S.C. §1692 et seq.

29. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
30. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(5), 1692e(10), 1692f, 1692g, 1992g(a)(3), and 1692g(a)(5) amongst others.

31. As a result of Defendants' violations of the FDCPA, Plaintiff has suffered out-of-pocket expenses and actual damages, and is therefore entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendants.

COUNT II.

VIOLATIONS OF THE FAIR CREDIT EXTENSION UNIFORMITY

ACT (FCEUA)

73 P.S. § 2270.1 et. seq.

AND THE PENNSYLVANIA UNFAIR TRADE PRACTICES AND

CONSUMER PROTECTION LAW (UTPCPL)

73 P.S. § 201-1 et. seq.

32. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
33. Defendants are "debt collectors" as defined by 73 P.S. § 2270.3 of the FCUEA.
34. Plaintiff is a "consumer" as defined by 73 P.S. § 2270.3 of the FCUEA.
35. All of the above contacts by Defendants were "communications" relating to a debt as defined by 73 P.S. §§ 2270.3 of the FCUEA.

36. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FCEUA and UTPCPL, including but not limited to 73 P.S. § 2270.4(a), as evidenced by the following conduct:

- (a) The use of any false, deceptive, or misleading representation or means in the connection with the debt;
- (b) The false representation of the character, amount or legal status of any debt;
- (c) Without the prior consent of the consumer, communicating with a consumer in connection with the collection of any debt at any unusual time or place;
- (d) Without the prior consent of the consumer, communicating in connection with the collection of any debt, with any person other than the consumer or his attorney;
- (e) The placement of telephone calls without meaningful disclosure of the caller's identity;
- (f) The false representation that any individual is an attorney or that any communication is from an attorney;
- (g) Threatening to take action that cannot legally be taken or that is not intended to be taken;

(h) The use of any false representation or deceptive means to collect a debt;

(i) The use of unfair or unconscionable means to collect or attempt to collect an alleged debt;

(j) Failing to provide written notice to the consumer containing the amount of the debt.

37. Defendants' acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law with the purpose of coercing Plaintiff to pay the debt.

38. As a result of the of the above violations of the FCUEA and UTPCPL, Plaintiff has suffered ascertainable losses entitling her to an award of statutory, actual and treble damages and attorney's fees and costs.

COUNT III.

INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

39. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

40. Defendants intentionally interfered, physically or otherwise, with the solitude, seclusion and or private concerns of affairs of the Plaintiff.

41. Defendants intentionally caused harm to Plaintiff's emotional well being by engaging in highly offensive conduct in the course of collecting a debt, as described herein.
42. Plaintiff's had a reasonable expectation of privacy in their solitude, seclusion, and or private concerns or affairs.
43. The intrusion by Defendants occurred in way that would be highly offensive to a reasonable person in Plaintiff's position.
44. Defendant, FGZ participated in, knew of, approved of, consented to, and/or ratified the acts complained of herein.
45. Defendant, James Kelly participated in, knew of, approved of, consented to, and/or ratified the acts complained of herein.
46. Defendant, Jane Doe a/k/a Investigator Baker participated in, knew of, approved of, consented to, and/or ratified the acts complained of herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendants for:

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES

ACT

15 U.S.C. §1692 et seq.

- For an order declaring that the Defendants' actions as described above are in violation of the FDCPA;
- for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against each Defendant;
- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against each Defendant;
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against each Defendant.

COUNT II.

VIOLATIONS OF THE FAIR CREDIT EXTENSION UNIFORMITY

ACT (FCEUA)

73 P.S. § 2270.1 et. seq.

AND THE PENNSYLVANIA UNFAIR TRADE PRACTICES AND

CONSUMER PROTECTION LAW (UTPCPL)

73 P.S. § 201-1 et. seq.

- For an order declaring that the Defendants' actions as described above are in violation of the FCEUA and the UTPCPL;
- for an order be entered enjoining the defendants from continuing to communicate with Plaintiff in violation of the FCEUA and the UTPCPL;
- for an award of actual damages pursuant to 73 P.S. § 201-9.2(a) against each Defendant;
- for an award of statutory damages pursuant to 73 P.S. § 201-9.2(a) against each Defendant;
- for an award of treble damages pursuant 73 P.S. § 201-9.2(a) against each Defendant;
- for an award of costs of litigation and reasonable attorney's fees pursuant to 73 P.S. § 201-9.2(a).

COUNT III.

INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

- Actual damages from each and every Defendant for the emotional distress suffered as a result of the FDCPA, FCUEA and UTPCPL violations and invasions of privacy in an amount to be determined at trial;

- punitive damages from each and every Defendant for the malicious, intentional, willful, reckless, wanton and negligent violations of the FDCPA, FCUEA and UTPCPL and invasions of privacy in an amount to be determined at trial;
- for such other and further relief as may be just and proper.

TRIAL BY JURY

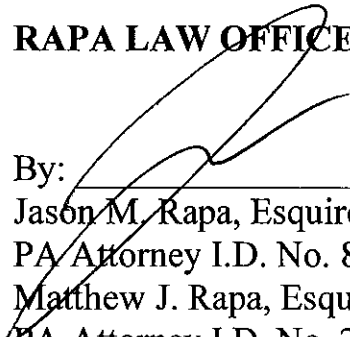
Plaintiff is entitled to and hereby respectfully demands a trial by jury.

US Const. Amend. 7. Fed. R. Civ. Pro. 38.

Respectfully submitted,

Dated: 4/30/09

RAPA LAW OFFICE, P.C.

By: 

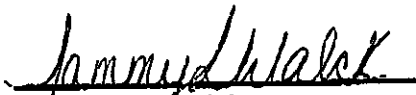
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**VERIFICATION OF COMPLAINT AND CERTIFICATION BY
PLAINTIFF**

I, Tammy L. Walck, depose and say as follows:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.
6. I have provided my attorneys with true and correct copies of each and every exhibit, which has been attached to this Complaint.
7. I have not altered, changed, modified, or fabricated the attached exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Date: 4-30-09



Tammy L. Walck