

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

DENISE BATEY)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.:
)	
ANDERSON CRENSHAW & ASSOCIATES, LLC,)	
)	
Defendant.)	

COMPLAINT

COMES NOW the Plaintiff, by and through counsel, in the above styled cause, and for her Complaint against the Defendant, Anderson, Crenshaw & Associates, states as follows:

Jurisdiction & Venue

1. This is an action brought by a consumer for violations of the Fair Debt Collection Practices Act¹ (15 U.S.C. § 1692 et seq. [hereinafter “FDCPA”]). Therefore, subject matter jurisdiction exists under 28 U.S.C. § 1331.
2. This action is also brought under Alabama state law. These claims are brought under 28 U.S.C. Section 1332 as there exists complete diversity and the amount in controversy exceeds Seventy Five Thousand Dollars (\$75,000), exclusive of costs and interests.

¹ Any reference to the Fair Debt Collection Practices Act or any part thereof encompasses all relevant parts and subparts thereto.

3. Venue is proper in this Court under 28 U.S.C. Section 1391(b) as the events took place in this Judicial District and Defendant is subject to personal jurisdiction in this Judicial District.

Parties

4. The Plaintiff, Denise Batey [“Plaintiff” or “Batey”], is a natural person who resides within this Judicial District.
5. Defendant ANDERSON CRENSHAW & ASSOCIATES [“Defendant”] is a foreign company that engages in the business of collecting on consumer debts (i.e. a debt collector under the FDCPA) and it does business in this Judicial District. Its principle place of business is outside the State of Alabama.

Factual Allegations

6. Within the last twelve months, Plaintiff received numerous harassing phone calls to her work from Defendant about an alleged debt that is over 8 years old. Prior to these phone calls, Plaintiff had never had any sort of relationship with Defendant, had never done business with it and not received any calls or written correspondence from Defendant regarding this account.
7. Plaintiff attempted to investigate Defendant’s alleged claim that she owed them money by contacting Defendant regarding the alleged debt.
8. Batey was upset by the phone calls, called back, and requested that she receive verification of the account in writing. Plaintiff disputed the debt.
9. Batey sent a letter to the Defendant representative asking that they not contact her at work and that they verify and validate the debt.

10. Batey did not receive any documentation, verification or correspondence from Defendant verifying or confirming the debt.
11. Batey continued to receive calls at her office after her oral and written requests that they stop calling her at work. Batey was threatened with a lawsuit on this debt that is not hers and, in any event, this debt is “out of statute” as it is more than three and even more than six years into default which is beyond the statute of limitations under any theory of the Defendant.
12. Batey’s co-workers also spoke with Defendant’s agents and were harassed as well.
13. Defendant called using recorded messages and left them on Plaintiff’s office voicemail. Plaintiff’s co-employees heard these messages as well.
14. After the initial communication, Defendant did not send out the required 1692(g) letter to the plaintiff.
15. Defendant reported and re-aged² the information regarding the alleged debt owed by Batey to a consumer-reporting agency - Experian Information Services, Inc. and failed to report the debt as being in dispute as required by FDCPA.
16. This public reporting to Experian constitutes defamation as Defendant has publicized false information about the alleged money owed it by Plaintiff, which is false.

² “Re-aging” is a particularly dirty trick of debt collectors to show a debt as a recent debt. This is done for several reasons. First, when the debt, as here, is over seven years, then it cannot be on the credit report. Therefore, it is “re-aged” to make it appear on the credit report. Second, it is listed as a recent debt to have the maximum impact on the credit score and credit worthiness of the consumer in order to wrench payment out of the consumer. Finally, it is simply an intimidation tactic (which is very effective) which is used to extort payments from consumers on debts they do not owe or that are long past the seven-year reporting period set forth in the Fair Credit Reporting Act and beyond the statute of limitations.

17. The conduct of Defendant has proximately caused Plaintiff past and future monetary loss, past and future damage to Plaintiff's credit and credit worthiness, past and future mental distress and emotional anguish, and other damages that will be presented to the trier of fact.
18. It is a practice of Defendant to maliciously, willfully, recklessly, wantonly and/or negligently ignore and refuse to follow the requirements of the FDCPA, and state law.
19. All actions taken by employees, agents, servants, or representatives of any type for Defendant were taken in the line and scope of such individuals' (or entities') employment, agency, or representation.
20. All actions taken by Defendant were done with malice, were done willfully, and were done with either the desire to harm Plaintiff and/or with the knowledge that their actions would very likely harm Plaintiff and/or that their actions were taken in violation of the FDCPA and state law and/or that they knew or should have known that their actions were in reckless disregard of the FDCPA and state law.
21. Defendant has engaged in a pattern and practice of wrongful and unlawful behavior with respect to collection activities and the handling of the account as set forth in this Complaint and as such Defendant is subject to punitive damages and statutory damages and all other appropriate measures to punish and deter similar future conduct by this Defendant and similar companies.

FIRST CLAIM FOR RELIEF
Violations of the Fair Debt Collection Practices Act

22. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.
23. Defendant, which is a debt collector under the FDCPA, violated the FDCPA in numerous ways, including, but not limited to the following:
- a. Refusing to send the required 1692(g) notice within five days of contact so that the Plaintiff would be informed of his rights;
 - b. Refusing to verify or to provide validation of the debt;
 - c. Making numerous and frequent harassing phone calls;
 - d. Making numerous and harassing calls to the plaintiffs' place of work after being asked to cease;
 - e. Making numerous and harassing calls to the plaintiffs' work after being sent a request for verification and proof of the debt;
 - f. Threatening to sue on a debt that is not Plaintiff's;
 - g. Threatening to sue on a debt for which the statute of limitations has expired;
 - h. Not showing the account/tradeline as being in "dispute" on Plaintiff's credit report; and
 - i. Re-aging the alleged debt on Plaintiff's credit report.
24. Plaintiff has been damaged as a direct result of these violations of the FDCPA as set forth in this Complaint.

SECOND CLAIM FOR RELIEF
State Law Claims

25. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.

26. Defendant repeatedly called Plaintiff at her work in a harassing manner and defamed her to her co-workers. Plaintiff and her co-workers informed Defendant not to harass her, but her requests were not honored. This constitutes harassment and invasion of privacy.

27. Defendant negligently and/or recklessly hired, supervised, trained, or selected its employees and/or debt collectors who dealt with Plaintiff. Defendant knew that its employees and/or agents were incompetent and knew or should have known that its employees and/or agents would violate state and federal law but yet these incompetent debt collectors were used throughout the dealings with Plaintiffs.

28. Defendant defamed Plaintiff as set forth in this Complaint by publishing untrue statements about Plaintiff.

29. Defendant acted with negligence, malice, wantonness, recklessness, and/or intentional conduct in their dealings with and about Plaintiffs as set forth in this complaint.

30. Such negligence, malice, wantonness, recklessness, and/or intentional conduct proximately caused the damages set forth in this complaint.

RELIEF SOUGHT

31. An award of statutory, actual, compensatory, and punitive damages, and costs of the action including expenses, together with reasonable attorney's fees.

32. Plaintiff also requests all further relief to which she is entitled under Federal or State law, whether of a legal or equitable nature.

Respectfully Submitted,

/s/ John G. Watts
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Attorney for Plaintiff

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PLAINTIFF DEMANDS A TRIAL BY JURY IN THIS CAUSE.

/s/ M. Stan Herring
Attorney for Plaintiff

Serve Defendant via certified mail at the following addresses:

Anderson Crenshaw & Associates
Steven R. Dunn
12801 N. Central Expressway, Suite 250
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