

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KATHLEEN WYSS,

Plaintiff,

v.

BANK OF AMERICA, N.A.,

Defendant.

ORDER

14-cv-742-bbc

In this civil action, plaintiff Kathleen Wyss alleges that defendant Bank of America, N.A., accessed her credit report five times without her permission and at a time when she and defendant no longer had a relationship that would entitle it to access to her credit report. Because plaintiff is proceeding in forma pauperis under 28 U.S.C. § 1915, I must screen her complaint to determine whether it states a claim upon which relief may be granted. Plaintiff contends that defendant's actions violated the Fair Credit Reporting Act, 15 U.S.C. §§ 1681b, n, and q, and Wisconsin's privacy rights statute, Wis. Stat. § 995.50.

Under the Fair Credit Reporting Act, consumers' credit reports may be accessed only for permissible purposes, which include for use

in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; . . . for employment purposes; . . . in connection with the underwriting of insurance involving the consumer; . . . in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality

required by law to consider an applicant's financial responsibility or status; . . . in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; . . . in connection with a business transaction that is initiated by the consumer; . . . [or] to determine whether the consumer continues to meet the terms of the account

§§ 1681b(a)(3)(A)-(F). Plaintiff alleges that “[a]t no time material hereto did [she] ever have a relationship with Defendant of the kind specified [in the statute].” Dkt. #1, at 3. Further, she alleges that she received “a discharge in bankruptcy that discharged any personal monetary obligation or liability she might otherwise have owed to [defendant].” *Id.* Plaintiff's allegations provide little detail, but I conclude that they are minimally adequate to state a claim upon which relief may be granted under the Fair Credit Reporting Act. However, at summary judgment or trial, plaintiff must specify with more detail why her relationship with defendant was insufficient for it to have a permissible purpose to access her credit report under §§ 1681b(a)(3)(A)-(F). As explained in Germain v. Bank of America, N.A., No. 13-cv-676-bbc, 2014 WL 5802018, at *6 (W.D. Wis. Nov. 7, 2014), a business or credit relationship under §§ 1681b(a)(3)(A)-(F) may remain in place after the discharge of a debt in bankruptcy.

Wisconsin's privacy rights statute is violated when one's “privacy is unreasonably invaded,” such as in the event of the “intrusion upon the privacy of another of a nature highly offensive to a reasonable person, in a place that a reasonable person would consider private” Wis. Stat. §§ 950.50(1)-(2)(a). Plaintiff alleges that defendant did not have reason to access her credit report under the Fair Credit Reporting Act or because of a court order and that plaintiff did not give defendant permission to access her credit report. These

allegations are sufficient to allege an unreasonable invasion of privacy in violation of the statute.

Accordingly, plaintiff will be granted leave to proceed on both claims.

ORDER

IT IS ORDERED that

1. Plaintiff Kathleen Wyss is GRANTED leave to proceed on her claims under the Fair Credit Reporting Act and Wisconsin's right to privacy statute.
2. The clerk of court is directed to forward completed Marshals Service and summons forms to the U.S. Marshal, who will serve plaintiff's complaint on defendant Bank of America, N.A.

Entered this 5th day of December, 2014.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge