

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

STAN MITCHELL,

Plaintiff,

v.

SANTANDER CONSUMER USA, INC.
and CEDRIC GAUSE,

Defendants.

OPINION AND ORDER

13-cv-97-bbc

In this lawsuit, plaintiff Stan Mitchell is suing defendants Santander Consumer USA, Inc. and Cedric Gause under the Fair Debt Collection Practices Act. Because plaintiff is proceeding in forma pauperis, I must screen the complaint to determine whether it states a claim upon which relief may be granted. 28 U.S.C. § 1915(e)(2). In addressing any pro se litigant's complaint, the court must read the allegations of the complaint generously. Haines v. Kerner, 404 U.S. 519, 521 (1972). Having reviewed the complaint, I conclude that plaintiff may proceed on his claim under the Fair Debt Collection Practices Act.

In his complaint, plaintiff alleges the following facts.

ALLEGATIONS OF FACT

Defendant Santander Consumer USA filed a lawsuit against plaintiff Stan Mitchell for replevin of plaintiff's 2006 Nissan Altima. In April 2011, defendant Cedric Gause,

working for Santander Consumer, offered to plaintiff a “total settlement package” of \$6,000 on the car. Under the terms of the agreement, plaintiff would pay \$4,500 immediately and the remaining \$1,500 in installments. Santander Consumer accepted plaintiff’s \$4,500 cashier’s check. Gause then told plaintiff that the settlement was no longer valid and instead he would be seeking the entire remaining loan value. Ultimately, Santander Consumer repossessed the car.

OPINION

The Fair Debt Collection Practices Act, codified at 15 U.S.C. § 1692-1692p, is a consumer protection statute that prohibits certain abusive, deceptive, and unfair debt collection practices. One prohibited practice is the use of “false, deceptive, or misleading representation[s] or mean[s] in connection with the collection of any debt. In the present case, plaintiff alleges that defendants misled plaintiff into thinking they had reached a settlement on his debt in order to obtain a large payment, and then reneged on the deal. At this point in the proceedings, plaintiff’s allegations are sufficient to state a claim upon which relief may be granted.

ORDER

IT IS ORDERED that

1. Plaintiff Stan Mitchell is GRANTED leave to proceed on his claim that defendants Santander Consumer USA and Cedric Gause violated the Fair Debt Collection Practices Act.

2. Copies of plaintiff's complaint and this order are being forwarded to the United States Marshal for service on defendants.

3. For the time being, plaintiff must send defendants a copy of every paper or document that he files with the court. Once plaintiff has learned what lawyer will be representing defendants, he should serve the lawyer directly rather than defendants. The court will disregard any documents submitted by plaintiff unless plaintiff shows on the court's copy that he has sent a copy to defendants or to defendants' attorney.

4. Plaintiff should keep a copy of all documents for his own files. If plaintiff does not have access to a photocopy machine, he may send out identical handwritten or typed copies of his documents

Entered this 22d day of April, 2013.

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