

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

ELISA HUGHES,

Plaintiff,

ORDER

v.

16-cv-103-wmc

DARNIEDER & SOSNAY and SACOR
FINANCIAL, INC.,

Defendants.

In her amended complaint, plaintiff Elisa Hughes alleges that defendants Darnieder & Sosnay and SACOR Financial, Inc., violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, and the Wisconsin Consumer Act, Wis. Stat. § 427.104(1), by obtaining process from a Wisconsin court to garnish wages from an out-of-state (here, Minnesota) employer, which plaintiff refers to as “extra-territorial garnishment.” (Am. Compl. (dkt. #13).) In her complaint, plaintiff seeks review of that garnishment action and an award “enjoining the defendants from further violations of the FDCPA and Wisconsin Consumer Act, relative to the defendants’ unlawful use of extra-territorial garnishment.” (*Id.* at p.10.)

Defendants have moved to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) (dkt. #15), but before the court can take up that motion, it first must be satisfied subject matter jurisdiction exists over plaintiff’s claims. *See Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006) (explaining that federal courts “have an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party”). In particular, this court previously dismissed two other cases that similarly asserted claims under the FDCPA and Wisconsin Consumer Act

based on allegations of extra-territorial garnishment of wages, finding both were barred by the *Rooker-Feldman* doctrine.¹ See *Kobilka v. Cottonwood Fin. Wis., LLC*, No. 14-CV-268-WMC, 2015 WL 1137471, at *3 (W.D. Wis. Mar. 12, 2015); *Bourdeau v. Credit Acceptance Corp.*, No. 14-cv-144-wmc (W.D. Wis. Mar. 12, 2015) (dkt. #28); see also *Harold v. Steel*, 773 F.3d 884, 886 (7th Cir.2014) (affirming dismissal on *Rooker-Feldman* grounds of an FDCPA claim on the basis that it sought to challenge an Indiana state-court garnishment order).

The court sees no factual or legal basis to distinguish plaintiff's claims from these other cases. In an abundance of caution, the court will nonetheless provide the parties with an opportunity to explain why this case should not be dismissed for lack of subject matter jurisdiction.

IT IS ORDERED that the parties may have until January 18, 2017, to file briefs explaining why this case should not be dismissed for lack of subject matter jurisdiction.

Entered this 4th day of January, 2017.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge

¹ See *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923).