

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEFAN INGRAM,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
v.	:	No. 18-3776
	:	
EXPERIAN INFORMATION SOLUTIONS, INC., <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	

Goldberg, J.

June 30, 2021

MEMORANDUM OPINION

Plaintiff Stefan Ingram originally brought suit against Defendants Experian Information Solutions, Inc. (“Experian”), Equifax Information Services, LLC (“Equifax”), Waypoint Resource Group, LLC (“Waypoint”), and Comcast Cable Communications, LLC (“Comcast”) in connection with a Comcast account allegedly opened using Plaintiff’s name and for which Waypoint acted as a debt collector. Plaintiff sets forth claims under the Fair Credit Reporting Act (“FCRA”) and Fair Debt Collection Practices Act (“FDCPA”).

Following various settlements, Waypoint is the sole remaining defendant. Waypoint moves for summary judgment on all claims against it. For the following reasons, I will grant the Motion in its entirety.

I. STATEMENT OF UNDISPUTED FACTS

A. The Comcast Account

Unless so indicated, the following facts are uncontested.¹

¹ References to the parties’ submissions will be made as follows: Defendants’ Statement of Undisputed Facts (“DSUF”), Plaintiff’s Response (“PR”), Plaintiff’s Counter-Statement of Undisputed Facts (“PCSUF”), and Defendant’s Response (“DR”). To the extent a statement is undisputed by the parties, I will cite only to the parties’ submissions. If a statement is disputed and can be resolved by

According to Plaintiff, a Comcast account was fraudulently opened in his name for service at 1330 N 53rd Street, Philadelphia, Pennsylvania 19131. (DSUF ¶¶ 2–3; PR ¶¶ 2–3.) Plaintiff is not aware of anyone that has resided at that address, and according to his tax returns from 2016–2018, his credit reports from October and December 2019, and his current driver’s license, he never lived at that address. (DSUF ¶¶ 4–6; PR ¶¶ 4–6.) Plaintiff claims that he did not authorize anyone to open the Comcast account in his name. (Def.’s Mot. Summ. J., Ex. A, Dep. of Stefan Ingram (“Ingram Dep.”), 29:12–22, 70:21–71:18.)

When the account became delinquent, Comcast placed it with Stellar Recovery, Inc. for collection. (DSUF ¶ 12; PR ¶ 12.) Sometime thereafter, Plaintiff checked his credit report and learned of the account’s existence. (DSUF ¶ 13; PR ¶ 13.) On October 19, 2017, Plaintiff’s attorney sent a letter to Comcast advising that the debt was inaccurate, requesting that Comcast perform a reasonable investigation of the debt, and demanding that Comcast report to the credit reporting agencies that the account is disputed. (DSUF ¶ 15; PR ¶ 15.) Specifically, the letter stated, in pertinent part:

Mr. Ingram does not believe the above-referenced alleged debt to be accurate and therefore disputes it. In accordance with the Fair Debt Collection Practices Act codified under 15 U.S.C. § 1692(a–p), we are asking for, and you are required to provide validation of this alleged debt. In accordance with the Fair Credit Reporting Act codified under Title 15 United States Code Section 1681, we are asking for (1) a reasonable investigation; (2) that you report the results of this reasonable investigation to my office; and (3) that you notify each credit bureau to mark this account “disputed.” Additionally, and if applicable, please provide this letter to the company for whom you are collecting so that they have notice of my dispute. Please also provide the amount it is alleged Mr. Ingram owes on this debt. If this alleged account has been transferred to or from another agency, please provide that agency’s name and address.

It is Mr. Ingram’s position that this is not his account. Please investigate and validate the credit information your agent, Stellar Recovery Inc., has furnished in Mr. Ingram’s credit reports, or instruct Stellar Recovery Inc.

reference to the exhibits, I will cite the supporting exhibits. I will not rely on any statement of fact that is unsupported by reference to a specific exhibit.

to delete the tradelines. If you claim that late payments are verified, we hereby demand strict proof of every alleged late payment.

(Def.'s Mot. Summ. J., Ex. C.)

In a November 6, 2017 letter, Comcast responded to Plaintiff's letter and requested various pieces of information:

We are sending this letter in response to your letter dated October 19, 2017 regarding your client Stefan Ingram.

If you believe Mr. Ingram has been a victim of fraud or identi[t]y theft he will need to submit a claim to Comcast. Please advise your client to obtain the fraud and identi[t]y theft affidavit available from the Federal Trade Commission (FTC) website at www.consumer.gov/idtheft. The completed affidavit must be notarized and submitted to Comcast, not the FTC, along with proof of residence during the time being disputed, in this case proof of residence from July 15, 2016 through November 18, 2016 is required. A police report or incident report is required along with a valid government-issued photo identification card such as a driver's license, state-issued ID card or passport. Please return all paperwork to Comcast Customer Security Assurance, Attention: Fraud Department, 101 Woodcrest Road, Suite 141, Cherry Hill, New Jersey 08003. Mr. Ingram may also return the paperwork via facsimile at (844) 335-8719. Please be advised that the entire process, start to finish, may take up to 30 days. During the investigation Comcast will suspend collection activity and request that all credit bureaus are notified that this account is under investigation for identity theft. If Comcast concludes the suspect account was the result of identi[t]y theft, Comcast will request the removal of this information from Mr. Ingram's credit report.

(Def.'s Mot. Summ. J., Ex. C-1.) Plaintiff did not submit a police report at or near that time and never provided the required affidavit to Comcast. (DSUF ¶¶ 20–21; PR ¶¶ 20-21; Ingram Dep. 54:2–56:9.)

Comcast never made any determination that the Comcast account dispute was opened as a result of fraud or that Plaintiff was not responsible for the account. (Ingram Dep. 57:8–17.) As such, Comcast continued to attempt to collect the alleged debt for this account. (Id. at 57:18–22.) Although the account was removed from his trade line with Stellar Recovery Group, it has continued to be listed on his credit report. (Id. at 57:23–8:20.)

B. The Waypoint Trade Line

On November 27, 2017, Comcast referred the account to Waypoint for collection. (Def.’s Mot. Summ. J., Ex. F, Dep. of Virginia Lozano (“Lozano Dep.”) 50:6–12.) Virginia Lozano, who originally handled this account on behalf of Waypoint, testified that Waypoint was not informed of Comcast’s prior collection efforts or the correspondence from Plaintiff’s counsel. (Id. at 101:10–25; Def.’s Mot. Summ. J., Ex. G.) According to Waypoint’s account notes, on November 30, 2017, Comcast requested that the account be placed on hold as “under investigation” and with the legal team. (Def.’s Mot. Summ. J., Ex. G.) Later that same day, however, Comcast informed Waypoint that Plaintiff had not submitted the requested “fraud packet” and that collections could resume until that “fraud packet” was received. (Id.) Ms. Lozano, who had made the November 30, 2017 entry, could not recall any other circumstances related to that notation. (Lozano Dep. 57:8–24, 101:10–102:5.)

In the meantime, Plaintiff checked and confirmed that his date of birth and social security number, provided by Comcast to Waypoint, matched his identifying information. (DSUF ¶ 37; PR ¶ 37.) Although Waypoint’s records and account notes indicated that it made attempts to contact Plaintiff, Plaintiff testified that (a) he never actually talked to anyone at Waypoint and (b) he last used the phone number listed on Waypoint’s records over ten years ago. (Ingram Dep. 87:1–24; DSUF ¶ 39; PR ¶ 39.) Plaintiff also received no letters from Waypoint. (DSUF ¶ 40; PR ¶ 40.)

On June 29, 2018, Plaintiff, through counsel, disputed Waypoint’s trade line² on Experian’s website. (DSUF ¶ 41; PR ¶ 41.) The report generated by Experian described Plaintiff’s dispute as stating, “THIS IS NOT MY ACCOUNT. PLEASE REMOVE THIS FROM MY CREDIT.” (Def.’s Mot. Summ. J., Ex. J.) Aside from this report, Plaintiff did not otherwise have any communication with Waypoint prior to suit being filed. (Lozano Dep. 102:1–5.)

² “A tradeline is information about a consumer account that is sent, generally on a regular basis, to a consumer reporting agency. Tradelines contain data such as account balance, payment history, and status of the account.” <https://www.consumerfinance.gov/data-research/research-reports/market-snapshot-third-party-debt-collections-tradeline-reporting>.

On July 16, 2018 Waypoint received the dispute—known as an “Automated Credit Dispute Verification” or “ACDV”—from Experian through the e-OSCAR platform, which is an electronic system for handling disputes made to credit reporting agencies regarding collection accounts. (DSUF ¶ 64; Lozano Dep. 31:17–33:11.) The dispute was assigned to Waypoint’s employee, Samantha Pelfrey, an “Administrative Wage Garnishment Analyst.” (PCSUF ¶ 18; DR ¶ 18; Def.’s Mot. Summ. J., Ex. K, Dep. of Samantha Pelfrey (“Pelfrey Dep.”) 14:1–16:9.) Ms. Pelfrey understood that, based on the dispute code, Plaintiff’s account was simply “asking for the account information and the balance.” (Pelfrey Dep. 24:14–25:7.) Ms. Pelfrey observed that the listed dispute code was “112: consumer states inaccurate information. Provide or confirm complete ID and verify all Account Information.” The ACDV did not have the consumer dispute code 103, which is associated with a fraud claim. (Def.’s Mot. Summ. J., Ex. J.; Pelfrey Dep. 38:2–17.) Ms. Pelfrey noted that, as part of the investigation for dispute code 112, “[t]he information would just be verified through the Artvita system,” which is a Waypoint internal database containing information about Waypoint’s accounts. (Pelfrey Dep. 24:8–12; Lozano Dep. 26:8–25.) Ms. Pelfrey updated Plaintiff’s address in the system and confirmed the account name and social security number. (Pelfrey Dep. 37:1–14.) Ms. Pelfrey testified that had there been a dispute code 103, indicating fraud, she would have taken different steps when reviewing Plaintiff’s account. (*Id.* at 38:2–17.)

When responding to the ACDV, Waypoint’s system automatically marked Plaintiff’s account with compliance code “XB,” indicating that “Account information disputed by consumer under the Fair Credit Reporting Act Definition.” (DSUF ¶¶ 76–77; PR ¶¶ 76–77.) Waypoint’s trade line was then marked as disputed. (DSUF ¶ 78; PR ¶ 78.)

Plaintiff eventually obtained a police report from the Philadelphia Police Department on July 18, 2018. (Def.’s Mot. Summ. J., Ex. E.) The report indicated that the date of the incident was September 1, 2017. (DSUF ¶ 25; PR ¶ 25; Def.’s Mot. Summ. J., Ex. E.) The police told Plaintiff that because the

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