

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

MORENA GARLAND : CIVIL ACTION  
 :  
 v. :  
 :  
 ENTERPRISE LEASING CO. OF :  
 PHILADELPHIA, et al. : NO. 99-CV-4013

**MEMORANDUM & ORDER**

**J.M. KELLY, J.**

**NOVEMBER , 1999**

Defendant, Enterprise Leasing Company of Philadelphia ("Enterprise"), has filed the present Motion to Dismiss the Amended Complaint filed by Morena Garland ("Garland"). Garland alleges in her Complaint that Enterprise violated the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692-1692o (1994) ("FDCPA"). She also alleges pendant state law statutory and common law claims.

**BACKGROUND**

Garland rented a car from Enterprise and was involved in an accident. There apparently is some dispute as to whether Garland properly applied a \$250.00 credit towards a \$500.00 insurance deductible. The disputed \$250.00 appeared on Garland's credit report and adversely effected her subsequent attempt to obtain credit.

## DISCUSSION

In considering whether to dismiss a complaint for failing to state a claim upon which relief can be granted, the court must consider only those facts alleged in the complaint and must accept those facts as true. Hishon v. King & Spalding, 467 U.S. 69, 73 (1983). Moreover, the complaint is viewed in the light most favorable to the plaintiff. Tunnell v. Wiley, 514 F.2d 971, 975 n.6 (3d Cir. 1975). In addition to these expansive parameters, the threshold a plaintiff must meet to satisfy pleading requirements is exceedingly low: a court may dismiss a complaint only if the plaintiff can prove no set of facts that would entitle the plaintiff to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). When a contract is attached to a complaint, a defendant may move to dismiss the complaint where the contract clearly prohibits recovery. 5A Charles A. Wright & Arthur R. Miller, Federal Practice and Procedure § 1357, at 347 (2d ed. 1990); cf. Flight Sys., Inc. v. Electronic Data Sys., 112 F.3d 124, 127 (3d Cir. 1997).

The purpose of the FDCPA is to prevent abusive practices by a debt collector in attempting to collect a debt. 15 U.S.C § 1692(e). A debt collector is defined by the FDCPA as any person whose principal business is to collect debts owed to a third party. Id., § 1692a(6). A creditor is a debt collector only when it uses another name so as to indicate that a third party is

trying to collect a debt. Id.

Garland alleges that Enterprise is a debt collector, but the Court is only required to accept Garland's pleaded facts, not her conclusions of law. A copy of her contract with Enterprise is attached to Garland's Complaint. Even the most cursory reading of this contract indicates that any collection activity by Enterprise arose from her rental of an automobile from Enterprise. Garland has made no allegations of Enterprise using the name of a third party to collect a debt. Accordingly, the FDCPA claim against Enterprise will be dismissed.

The Court may decline to exercise its supplemental jurisdiction where "the district court has dismissed all claims over which [it] has original jurisdiction." 28 U.S.C. § 1367(c)(3). As the only source of federal jurisdiction asserted against Enterprise was the FDCPA, the Court declines to exercise supplemental jurisdiction over Garland's pendant state law claims. Accordingly, Garland's Complaint will be dismissed.

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VENGRAFF WILLIAMS & ASSOCIATES: NO. 99-CV-4013

O R D E R

AND NOW, this 24th day of November, 1999, upon consideration of the Motion to Dismiss of Defendant, Enterprise Leasing Company of Philadelphia ("Enterprise"), the Response of Plaintiff, Morena Garland, and the Reply thereto of Enterprise, it is ORDERED that:

1. The Motion to Dismiss is GRANTED. the Complaint of Morena Garland against Enterprise is DISMISSED.

2. Pursuant to an agreement among the parties at a scheduling conference in this matter, the Clerk of Court shall refer Morena Garland's case against Defendant, Vengraff Williams & Associates to Arbitration.

BY THE COURT:

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JAMES MCGIRR KELLY, J.