

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

MARIELLEN DONOHUE : CIVIL ACTION  
 :  
 v. : No. 05-5356  
 :  
 C. BLOSENSKI DISPOSAL CO. :

**MEMORANDUM**

**Juan R. Sánchez, J.**

**November 28, 2006**

Defendants C. Blosenski Disposal Co. and Collection Specialists, Inc move for dismissal pursuant to Federal Rule of Civil Procedure 12(b)(6) of all counts brought by Mariellen Donohue. I will grant these Motions because Defendant Blosenski is not regulated by the Fair Credit Reporting Act and Donohue has failed to state a claim against Defendant Collection Specialists under the Fair Credit Reporting Act.

**FACTS**

Mariellen Donohue ordered a dumpster from C. Blosenski Disposal Co. and then cancelled the order. Blosenski sent her a bill for \$55, the truck fee and a late fee, which is now a debt of \$70. Donohue claims she contacted Blosenski immediately to dispute the debt and continued to dispute the debt numerous times between May and July, 2002. After Donohue failed to pay the debt, Blosenski referred the file to Collection Specialists, Inc (CSI) on July 30, 2002. Donohue ignored the collection efforts of CSI in 2002 and on November 1, 2002, CSI reported the delinquent debt to TransUnion. While refinancing her home, Donohue discovered the negative credit report on June 10, 2003. After discovering this blemish on her report, Donohue contacted Blosenski to dispute the charge. It was not until February 10, 2005 that CSI received information from Blosenski Donohue

was disputing the charge. On the same day, CSI contacted TransUnion to have the debt marked disputed. On May 12, 2005, Donohue filed a district justice complaint against Blosenski and CSI. CSI was dismissed by the district justice and the district justice determined the amount in controversy exceeded his jurisdictional limits. The matter was discontinued. Donohue filed or re-filed in federal court on October 12, 2005. A hearing was held before this Court on October 24, 2006 to resolve the Motions to Dismiss.<sup>1</sup>

## **DISCUSSION**

The Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681 *et seq.*, imposes duties on consumer reporting agencies, users of consumer reports, and furnishers of information to consumer reporting agencies. 15 U.S.C. § 1681. Donohue alleges Blosenski is a furnisher of information as defined by the FCRA. While the FCRA does not explicitly define, “furnisher of information,” the Courts have defined the term to mean “an entity which transmits information concerning a particular debt owed by a consumer to a consumer reporting agency.” *Thomasson v. Bank One*, 137 F.Supp. 2d 721, 722 (E.D. La. 2001). *Accord Dimenzza v. First Usa Bank, Inc.*, 103 F.Supp. 2d 1296, 1299 (D.N.M. 2000). In the present case, Blosenski provided information regarding a past due debt to CSI, a collection agency. Because CSI is not a consumer reporting agency,<sup>2</sup> Blosenski is not a furnisher of

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<sup>1</sup> At the hearing, I disclosed to the parties I socialize with Stephen M. Long, counsel for CSI, I was previously an attorney at MacElree Harvey, Ltd., counsel for Blosenski, I am familiar with John F. McKenna, counsel for Blosenski, and my son has recently accepted an offer to work as an attorney at MacElree Harvey. Plaintiff’s counsel responded that he would not object to my presiding over the case as long as my affiliations with defendants’ counsel would not bias my judgment, and I assured him they would not. Although these relationships do not require recusal under Canon 3 of the Code of Conduct for United States Judges, I revealed these relationships in accordance with Section D out of an abundance of caution.

<sup>2</sup> The FCRA defines a “consumer reporting agency” as: “Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of

information and Donohue has failed to state a claim. *See Benak ex rel. Alliance Premier Growth Fund v. Alliance Capital Management L.P.*, 435 F.3d 396, 399 -400 (3rd Cir. 2006) (holding dismissal is appropriate where “it appears to a certainty that no relief could be granted under any set of facts which could be proved.”).

Although I find CSI is a furnisher of information pursuant to the FCRA, Plaintiff fails to state a cause of action. While it is unclear whether Congress intended to create a private right of action for consumers against furnisher’s of information, *Jaramillo v. Experian Information Solutions, Inc.*, 155 F.Supp.2d 356, 363-64 (E.D. Pa. 2001), I need not resolve this issue here. The FCRA prohibits the furnishing of inaccurate information to consumer reporting agencies if the information is known to be inaccurate or if the furnisher consciously avoids knowing the information is inaccurate. *See* 15 U.S.C. § 1681s-2(a)(1)(A). Here, Donohue fails to claim CSI knew or consciously avoided knowing the debt to Blosenski was disputed until the day CSI reported the dispute to the consumer reporting agency, February 10, 2005. Instead, Donohue argues Blosenski’s knowledge should be imputed to CSI, an argument which fails because CSI is a non-agent independent contractor. *See AT&T v. Winback and Conserve Program, Inc.*, 42 F.3d 1421, 1437 (3rd Cir. 1994) (discussing the difference between an agent independent contractor and a non-agent independent contractor); *see also Reifsnyder v. Dougherty*, 301 Pa. 328, 335-36 (1930) (refusing to impute knowledge where no agency relationship existed). Alternatively, a cause of action arises where a furnisher of information receives notice from a consumer reporting agency that the information reported to the agency has been disputed. *See* 15 U.S.C. § 1681s-2b(1). Here, Donohue does not claim she ever notified a

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assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.” 15 U.S.C. § 1681a(f).

consumer reporting agency of her dispute.

I decline to exercise supplemental jurisdiction over the remaining state law claims pursuant to 28 U.S.C. § 1367(c).

An appropriate order follows.