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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FRANCES MACIAS; PAUL MACIAS,)	Case No. CV 13-00623 DDP (SHx)
individually and on behalf)	
of all others similarly)	Order Granting Defendant
situated,)	Integrity's Motion to Dismiss and
)	Dismissing all Other Claims for
Plaintiffs,)	Lack of Subject Matter
)	Jurisdiction
v.)	
)	Docket No. 26
INTEGRITY NATIONWIDE)	
INVESTIGATIONS, INC.; WATER)	
AND POWER COMMUNITY CREDIT)	
UNION,)	
)	
Defendants.)	

I. Background

Plaintiffs Frances Macias and Paul Macias, individually and on behalf of all others similarly situated (collectively "Plaintiffs"), have sued Defendant Integrity Nationwide Investigations, Inc., ("Integrity") under the Federal Debt Collection Practices Act ("FDCPA"). See generally First Amended Complaint ("FAC"). Plaintiffs have sued Integrity and Water and Power Community Credit Union ("Water and Power") (collectively "Defendants") under California's Rosenthal Fair Debt Collection

1 Practices Act. (Id.) Plaintiffs assert this Court has federal
2 question jurisdiction and supplemental jurisdiction over the claims
3 in this case. (FAC ¶ 8.) Because Integrity is not a "debt
4 collector" within the meaning of the FDCPA, the Court dismisses the
5 FDCPA claim—the sole federal claim in this case. The Court, thus,
6 no longer has federal question jurisdiction, and supplemental
7 jurisdiction over the remaining state law claims is now improper.

8 Plaintiffs allegedly incurred a debt to Water and Power. (FAC
9 ¶¶ 25-26.) Sometime before September 12, 2012, "Plaintiffs
10 allegedly fell behind in the payments allegedly owed on the alleged
11 debt." (FAC ¶ 28.) On or about September 12, 2012, Integrity sent
12 a letter to Plaintiffs, which they received a few days later, about
13 their alleged debt. (FAC ¶¶ 30-31.) By the time that Integrity
14 sent this letter, the FAC alleges that Plaintiff's debt was
15 "assigned, placed, or otherwise transferred, to INTEGRITY for
16 collection." (FAC ¶ 29.) Integrity was allegedly acting as Water
17 and Power's agent when it sent this letter, which reads:

18 FRANCES MACIAS & PAUL MACIAS
19 RE: Loan [Redacted]
20 Dear Member:

21 Integrity Nationwide Investigations ("Integrity")
22 has been retained by Water & Power Community Credit
23 Union to locate you and deliver this demand letter.
24 Under California and Federal Law, Integrity is
25 obligated to inform you that Water & Power Community
26 Credit Union, on its own behalf, is attempting to
27 collect a debt it alleges is owed by you. Any
28 information obtained as a result of this
correspondence will be used for the purposes of
pursuing satisfaction of that debt.

Water & Power Community Credit Union informs
Integrity that you were granted a loan in good faith,
and that you agreed to make monthly payments of
\$[redacted] until repaid. According to the records
from Water & Power Community Credit Union, you have
failed to make the agreed upon payments.

1 The following is additional information Integrity is
2 obligated to provide to you. as the agent of Water &
3 Power Community Credit Union:

1. The current amount due of the debt is
4 \$[redacted]:

2. The debt is owed by you to Water & Power
5 Community Credit Union:

3. Unless you dispute the validity of this debt
6 or any part thereof.[sic] within thirty (30)
7 days after receipt of this notice, the debt will
8 be assumed to be valid by Water & Power
9 Community Credit Union:

4. If you contact Water & Power Community Credit
10 Union, in writing, within thirty (30) days of
11 receiving this notice and inform Water & Power
12 Community Credit Union that the debt or any
13 portion thereof is disputed, Water & Power
14 Community Credit Union will obtain verification
15 of the debt, and a copy of that verification
16 will be mailed to you by Water & Power Community
17 Credit Union: and

5. Upon your written request, within thirty (30)
18 days of receiving this notice, Water & Power
19 Community Credit Union will provide you with the
20 name and address of the original creditor, if
21 different from the current creditor.

Please contact Water & Power Community Credit
22 Union's Financial Assistance Department at
23 1-800-300-9728 ext. 1759 and ask for SUSAN VALENZUELA,
24 for additional information.

Sincerely,
25 Integrity Nationwide Investigations
26 PI#25684

27 (FAC ¶ 30, Ex.1.) No other communication between Plaintiffs and
28 Integrity is alleged. (See generally id.)

The FAC alleges:

INTEGRITY uses an instrumentality of interstate commerce or
29 the mails in a business the principal purpose of which is
30 the collection of debts, or who regularly collects or
31 attempts to collect, directly or indirectly, debts owed or
32 due or asserted to be owed or due another, and is therefore
33 a debt collector as that phrase is defined by 15 U.S.C. §
34 1692a(6).

. . . .
INTEGRITY's Mission Statement, according to its website,
35 states, "Integrity is the cornerstone of our business and
36 the foundation upon building our success in the private
37 investigation and debt collection industry." Additionally,
38 the website states, "[i]f an investigator works with us, he
or she is one of the best in the private investigation or

1 debt collection industry." Thus, INTEGRITY advertises that
2 it engages in debt collection.

3 (FAC ¶¶ 17, 22, 30.)

4 **II. Legal Standard**

5 A complaint will survive a motion to dismiss when it contains
6 "sufficient factual matter, accepted as true, to state a claim to
7 relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S.
8 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544,
9 570 (2007)). When considering a Rule 12(b)(6) motion, a court must
10 "accept as true all allegations of material fact and must construe
11 those facts in the light most favorable to the plaintiff." Resnick
12 v. Hayes, 213 F.3d 443, 447 (9th Cir. 2000). Although a complaint
13 need not include "detailed factual allegations," it must offer
14 "more than an unadorned, the-defendant-unlawfully-harmed-me
15 accusation." Iqbal, 556 U.S. at 678. Conclusory allegations or
16 allegations that are no more than a statement of a legal conclusion
17 "are not entitled to the assumption of truth." Id. at 679. In
18 other words, a pleading that merely offers "labels and
19 conclusions," a "formulaic recitation of the elements," or "naked
20 assertions" will not be sufficient to state a claim upon which
21 relief can be granted. Id. at 678 (citations and internal
22 quotation marks omitted).

23 "When there are well-pleaded factual allegations, a court should
24 assume their veracity and then determine whether they plausibly
25 give rise to an entitlement of relief." Id. at 679. Plaintiffs
26 must allege "plausible grounds to infer" that their claims rise
27 "above the speculative level." Twombly, 550 U.S. at 555-56.
28 "Determining whether a complaint states a plausible claim for

1 relief" is a "context-specific task that requires the reviewing
2 court to draw on its judicial experience and common sense." Iqbal,
3 556 U.S. at 679.

4 **III. Analysis**

5 Integrity argues it is not a "debt collector" under the FDCPA.
6 "The FDCPA regulates the conduct of debt collectors." Baker v.
7 Trans Union LLC, No. CV-10-8038-PCT-NVW, 2010 WL 2104622, at * 8
8 (D. Ariz. May 25, 2010) (unpublished). The FDCPA's purpose is "to
9 eliminate abusive debt collection practices by debt collectors, to
10 insure that those debt collectors who refrain from using abusive
11 debt collection practices are not competitively disadvantaged, and
12 to promote consistent State action to protect consumers against
13 debt collection abuses." 15 U.S.C. § 1692(e). A debt collector is
14 one "who uses any instrumentality of interstate commerce or the
15 mails in any business the principal purpose of which is the
16 collection of any debts, or who regularly collects or attempts to
17 collect, directly or indirectly, debts owed or due or asserted to
18 be owed or due another." Id. at § 1692(a)(6). Thus, unless (1)
19 debt collection is the principal purpose of a business or (2) a
20 business regularly attempts to collect debts, either directly or
21 indirectly, that business is not a debt collector. See id.;
22 Romine v. Diversified Collection Servs., Inc., 155 F.3d 1142, 1145
23 (9th Cir. 1998). Plaintiffs' brief does not argue that Integrity
24 is a debt collector under the first prong, but it does argue the
25 second applies. (See generally Plaintiff's Opposition Brief at 7-
26 14, Docket No. 34.)

27 In determining whether a business "regularly" collects debts,
28 the Ninth Circuit has sought guidance from the following

1 legislative history of the FDCPA: "The requirement that debt
2 collection be done 'regularly' would exclude a person who collects
3 debt for another in an isolated instance, but would include those
4 who collect for others in the regular course of business." Romine,
5 155 F.3d at 1146. The terms "directly" and "indirectly" appear to
6 turn on whether a debt collector is collecting a debt that it is
7 due to it or whether the debt collector is assisting a debt owner
8 collect a debt. See id. at 1146 n.2, 1146-47.

9 The Ninth Circuit has suggested that an entity engaged in
10 "mere information gathering or message delivery" is not a debt
11 collector. See id. at 1149. In deciding, though possibly in
12 dicta, that Western Union was engaged in more than such activities,
13 the Ninth Circuit in Romine emphasized the FDCPA's purpose, which
14 "is to limit harassing, misleading, and fraudulent contacts and
15 communications with or about consumer debtors." Id. In Romine
16 Western Union sent telegrams to debtors that instructed them to
17 call in and provide their contact information in order to receive
18 their telegram message, which was a recording from a debt
19 collection agency. Id. at 1144. The Ninth Circuit concluded that
20 sending the telegram deceptively created a sense of urgency. Id.
21 at 149. Indeed, Western Union marketed their service as a
22 "revolutionary new collection service," because the "urgency of the
23 Western Union name . . . helps stimulate . . . recoveries from
24 debtors who have not responded to previous collection attempts."
25 Id. at 1147. The Ninth Circuit found that Western Union's
26 activities were "the type that the FDCPA was designed to deter."
27 Id. at 1149. At least one district court in this Circuit relied on
28 Romine to determine a skip tracer, who was "in the business of

1 locating debtors to facilitate the collection of debts by
2 creditors," was not a debt collector when it called a debtor asking
3 for her address and disclosed that the purpose of the call was debt
4 collection. Baker, 2010 WL 2104622 at * 7, 9.

5 In this case, nothing indicates that Integrity engaged in
6 anything beyond information gathering and message delivery.
7 Plaintiffs allege that Integrity markets itself as being "in the
8 private investigation or debt collection industry." (FAC ¶ 22.)
9 However, one could be engaged in nothing more than information
10 gathering and message delivery and still take part in debt
11 collection industry without being a debt collector under the FDCPA.
12 See Romine, 155 F.3d at 1149; Baker, 2010 WL 2104622 at * 9.
13 Integrity's letter to Plaintiffs, which consisted of the sole
14 alleged communication between the parties, states: "Integrity
15 Nationwide Investigations ("Integrity") has been retained by Water
16 & Power Community Credit Union to locate you and deliver this
17 demand letter." This language and the limited interactions between
18 Plaintiffs and Integrity indicate that Integrity's role was to find
19 and deliver a message to Plaintiffs on behalf of Water and Power.

20 Moreover, the FAC does not allege Integrity committed abusive,
21 harassing, or deceptive activities—the type of activities that the
22 FDCPA was designed to prevent. Compare FAC, with 15 U.S.C. § 1692d
23 (listing examples of improper behavior). To the contrary,
24 Integrity's sole communication with Plaintiffs, the letter, was
25 professional and respectful. (See FAC Ex. 2.)

26 Had Integrity tried to collect a debt it owned, its activities
27 might have gone beyond mere information gathering and message
28 delivery. Plaintiffs, indeed, allege that "the alleged debt was

1 assigned, placed, or otherwise transferred, to INTEGRITY for
2 collection" before Integrity sent Plaintiffs the letter (See FAC
3 ¶¶ 29.) This allegation is implausible in light of the rest of the
4 allegations in and exhibits attached to the FAC. For instance, in
5 the paragraph following the previously quoted language, the FAC
6 alleges that Integrity was acting as Water and Power's agent when
7 it sent the letter to Plaintiffs. (FAC ¶ 30.) The letter, which
8 Plaintiffs incorporate into the FAC as an exhibit, states that
9 "Water & Power . . . is attempting to collect a debt," and the
10 "debt is owed by you [Plaintiffs] to Water & Power." (FAC Ex. 2.)
11 Another exhibit to the FAC, dated about one month after Integrity
12 sent its letter, is a letter from Water and Power to Plaintiffs
13 warning that Water and Power would take legal action against
14 Plaintiffs if they did not contact Water and Power about the
15 outstanding debt. (FAC Ex. 1.) The FAC and its exhibits refute
16 that Integrity owned Plaintiff's debt. The Court is not required
17 to accept as true implausible allegations. Twombly, 550 U.S. at
18 555-56.

19 Finally, the FAC recites the FDCPA's definition of "debt
20 collector" and alleges that Integrity meets the requirements.
21 Compare FAC ¶ 17, with 15 U.S.C. § 1692a(6). A "formulaic
22 recitation of the elements" of the FDCPA's definition of "debt
23 collector" is a conclusory allegation that the Court is not
24 required to accept as true. See Iqbal, 556 U.S. at 678. For the
25 reasons discussed, Plaintiffs do not allege that Integrity is a
26 "debt collector" within the meaning of the FDCPA.¹

27
28 ¹Plaintiffs' contrary authority is inapposite. Plaintiff cites three
(continued...)

1 **IV. Conclusion**

2 Plaintiffs' FDCPA claim against Integrity is dismissed. In
3 deciding to dismiss another plaintiff's FDCPA claims with
4 prejudice, a recent District of Arizona court held: "Though the
5 claims may theoretically be cured by alleging additional facts
6 indicating that [defendant's] conduct exceeded the scope of mere
7 information gathering, allowing [plaintiff] to amend the Complaint
8 would be futile because none of her rather specific allegations
9 even remotely reflects conduct that goes beyond mere information
10 gathering." Baker, 2010 WL 2104622 at * 9. The same could be said
11 for Plaintiffs here, so the Court dismisses the FDCPA claim against
12 Integrity with prejudice.

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18 ¹(...continued)

19 post-Romine cases from within this Circuit. Plaintiffs rely on Freeman v. ABC
20 Legal Servs. Inc., 827 F. Supp. 2d 1065 (N.D. Cal. 2011), but that case involved
21 allegations of deceptive and abusive actions. Id. (noting that Plaintiffs
22 alleged that "Defendants have composed and sold false and misleading Proof of
23 Service of Summons documents more than forty times in California in the year
24 preceding the filing of her complaint.") The second is Robinson v. Managed
25 Accounts Receivables Corp., 654 F. Supp. 2d 1051 (C.D. Cal. 2009). That case
26 involved a different issue, as it analyzed whether employees of an undisputed
27 debt collector could be held "personally liable under the FDCPA for acts
28 committed during the scope of employment." Id. at 1057 n.2, 1059. Finally, Oei
v. N. Star Capital Acquisitions, LLC, 486 F. Supp. 2d 1089, 1097-98 (C.D. Cal.
2006) does not analyze or cite Romine's language suggesting that mere
information gathering and message delivery will not qualify an entity as a debt
collector. This language is important, as it was written in response to
concerns that the case's holding "would bring a host of service providers within
the statute's reach." See Romine, 155 F.3d at 1149. Additionally, the issue in
Oei was whether the defendants qualified for one of the FDCPA's listed "debt
collector" exceptions, not whether the defendants were engaged only in
information gathering and message delivery. See Oei, 486 F. Supp. 2d at 1097-
98.

1 Additionally, the action in its entirety is dismissed because
2 the Court declines to exercise supplemental jurisdiction over the
3 remaining claims. Accordingly, the remaining motions (NOS. 17 AND
4 28) are VACATED

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6 IT IS SO ORDERED.

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9 Dated: May 17, 2013



DEAN D. PREGERSON
United States District Judge

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