

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ANDRE BECKLES,

Plaintiff,

v.

ALDRIDGE & CONNORS, LLP,

Defendant.

CIVIL ACTION NO.

1:12-cv-3377-JEC-WEJ

**ORDER AND OPINION**

This case is before the Court on the Magistrate Judge's Report and Recommendation [8] recommending granting defendant's Motion to Dismiss [4] and dismissing the complaint without prejudice. No objections to the Report and Recommendation [8] have been filed.

In his Report and Recommendation ("R&R"), the magistrate judge has done a thorough job analyzing the complaint and the defendant's arguments in support of its motion to dismiss plaintiff's claim under the Fair Debt Collection Practices Act ("FDCPA"). The magistrate judge has initially concluded that the plaintiff has not adequately alleged that the defendant law firm was a "debt collector," which is an element of the claim, because he has failed to allege that the defendant is engaged in the business of collecting debts or that defendant regularly attempts to collect debts. ((R&R [ ] at 11-12.)

The magistrate judge notes that this deficiency in pleading is sufficient to prompt a dismissal without prejudice of the complaint, which would allow the plaintiff to refile a complaint that properly alleges the above facts. In so recommending, however, the magistrate judge notes that plaintiff was perhaps not alerted to this deficiency, as the defendant did not focus on it in its motion to dismiss. Further, the magistrate judge suggests that the above allegation is certainly one that the plaintiff could plausibly make, as the defendant has appeared on the docket of this court in a "significant number" of foreclosure cases.<sup>1</sup> *Id.* at 14.

Accordingly, the magistrate judge notes that the undersigned may choose not to dismiss the claim on this ground. *Id.* The magistrate judge correctly prognosticated the Court's leaning on this issue. The Court concludes that the claim should not be dismissed based on this deficiency in pleadings.

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<sup>1</sup> Likewise, this Court has gone onto the web site of the defendant and notes that, as of September 23, 2013, the section of the site that is "About the Firm," indicates that the firm "represents financial institutions, including banks, mortgage servicing concerns and institutional investors, in connection with mortgage defaults....Aldridge Connors' comprehensive mortgage default practice, includes, but is not limited to, residential and commercial foreclosure and eviction proceedings." See <http://aclawllp.com/about.us.html>. While this would likely be insufficient to prove that defendant regularly attempts to collect debt, it is sufficient to allow an inference that plaintiff might be able to demonstrate that fact after discovery.

Having correctly predicted that the Court might conclude that the plaintiff has sufficiently alleged that defendant is a debt collector, the magistrate judge went on to analyze the arguments made by defendant in support of its motion to dismiss, and rejects those arguments. (*Id.* at 14-19.) The Court agrees with the magistrate judge's reasoning and his alternative recommendation to deny defendant's motion to dismiss.

Accordingly, the Court **ADOPTS** the Magistrate Judge's alternative recommendation in his Report and Recommendation [8] and **DENIES** defendant's Motion to Dismiss [4]

SO ORDERED, this 23rd day of SEPTEMBER, 2013.

/s/ Julie E. Carnes  
JULIE E. CARNES  
CHIEF UNITED STATES DISTRICT JUDGE