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No. 18-6302

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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DANIEL WHITE, Plaintiff-Appellant, v. UNIVERSAL FIDELITY, LP; LINK REVENUE RESOURCES, LLC; JEWISH HOSPITAL & ST. MARY'S HEALTHCARE, INC., aka Jewish Hospital Shelbyville, Defendants-Appellees.	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY

BEFORE: BOGGS, SUHRHEINRICH, and WHITE, Circuit Judges.

PER CURIAM. Daniel White received a collection letter saying that he owed $475 for his wife's medical debt. He filed this action against the debt collectors and the hospital that treated his wife, alleging violations of the Federal Debt Collection Practices Act (FDCPA) and seeking a declaration that he is not responsible for his wife's medical expenses because the Kentucky statute that makes him liable for the debt is unconstitutional. The district court dismissed his claims and White appeals. We affirm.

I.

White's wife Tammy received medical treatment from Jewish Hospital & St. Mary's Healthcare, Inc. (Jewish Hospital) in August 2014. Several years later, White received a letter from Universal Fidelity, LP (Universal Fidelity), seeking $475 from White for Jewish Hospital's services to Tammy. Universal Fidelity's letter identified Link Revenue Resources, LLC (Link

Revenue), as the "Master Servicer" of the debt; Jewish Hospital as the original creditor; Tammy as the patient; and White as the "Guarantor" of the debt. After White sent a letter to Universal Fidelity seeking additional information, Universal Fidelity provided an account itemization that again listed Tammy as the patient and White as the guarantor of the medical debt incurred by Tammy.

Kentucky Revised Statute § 404.040 provides:

> The husband shall not be liable for any debt or responsibility of the wife contracted or incurred before or after marriage, except to the amount or value of the property he received from or by her by virtue of the marriage; but he shall be liable for necessaries furnished to her after marriage.

White alleges that Defendants relied on that statute as the basis for seeking payment from him for Tammy's medical debt. He filed this action seeking a declaratory judgment that § 404.040 discriminates on the basis of sex in violation of the Equal Protection Clause by imposing liability on husbands, but not wives, and thus White is not liable for the medical debt Tammy incurred. White also alleged violations of the FDCPA by Universal Fidelity and Link Revenue. Universal Fidelity and Link Revenue filed a motion to dismiss the FDCPA claim under Rule 12(b)(6), which the district court granted.

Jewish Hospital remained as a defendant and filed an answer to White's complaint, stating that it "hereby fully and forever releases and relinquishes any right it has to collect the $475 debt at issue in this lawsuit from Plaintiff Daniel White. Plaintiff's claims against Jewish Hospital are therefore moot." (R. 19, PID 169.) Based on this release, Jewish Hospital filed a motion for judgment on the pleadings, arguing that the case should be dismissed as moot. White argued in response that the case was not moot because Jewish Hospital's purported release did not impact whether White owed the debt and did not bind third-party debt collectors or preclude Jewish

Hospital from selling the debt. He further argued that Jewish Hospital could seek to collect from White future medical debts that Tammy incurred. In its reply brief, Jewish Hospital stated:

> Jewish Hospital hereby declares and covenants, on this Court's record, with the intent that these declarations and covenants be binding upon it, that (1) it will not sell the $475 debt underlying this case to *anyone*, and (2) in the future, Jewish Hospital will not attempt to use KRS 404.040 as a basis for holding Plaintiff responsible for *any* debt that his wife incurs with Jewish Hospital. These declarations and covenants are unconditional and irrevocable.

(R. 28, PID 211.)

Based on these representations, the district court agreed that White's claims for declaratory relief were moot but found that White also pleaded a claim for damages, which was not moot. The district court later granted summary judgment to Jewish Hospital on White's damages claim. White now appeals the district court's order dismissing his FDCPA claim against Universal Fidelity and Link Revenue and its order dismissing his claims for declaratory relief against Jewish Hospital.

II.

We review de novo the grant of a motion to dismiss for failure to state a claim, construing the complaint in the light most favorable to the plaintiff and accepting all well-pleaded factual allegations in the complaint as true. *Dougherty v. Esperion Therapeutics, Inc.*, 905 F.3d 971, 978 (6th Cir. 2018). We apply the same standard of review to the grant of a motion for judgment on the pleadings. *Fritz v. Charter Township of Comstock*, 592 F.3d 718, 722 (6th Cir. 2010).

A.

White first argues that the district court erred in dismissing his FDCPA claim alleging that Universal Fidelity and Link Revenue engaged in false, deceptive, misleading, unfair, or unconscionable acts under 15 U.S.C. §§ 1692e and 1692f. To prevail on his FDCPA claim, White must establish that (1) he is a "consumer" under the FDCPA, (2) the "debt" arises out of

transactions entered primarily for personal, family or household purposes, (3) Universal Fidelity and Link Revenue are "debt collectors" as defined by the FDCPA, and (4) the debt collectors violated a provision of the FDCPA in attempting to collect a debt. *See Bauman v. Bank of Am., N.A.*, 808 F.3d 1097, 1100 (6th Cir. 2015) (quoting *Wallace v. Wash. Mut. Bank, F.A.*, 683 F.3d 323, 326 (6th Cir. 2012)). The district court addressed only the last element, and the parties confine their arguments to that element on appeal.

The FDCPA prohibits debt collectors from using "any false, deceptive, or misleading representation or means in connection with the collection of any debt," 15 U.S.C. § 1692e, including a false representation of "the character, amount, or legal status of any debt," *id.* § 1692e(2)(A), or using "unfair or unconscionable means to collect or attempt to collect any debt," *id.* § 1692f. Because it is a remedial statute, we construe the FDCPA broadly and determine whether a statement violates the FDCPA by applying the least-sophisticated-consumer standard. *See Stratton v. Portfolio Recovery Assocs., LLC*, 770 F.3d 443, 448-50 (6th Cir. 2014). "This standard recognizes that the FDCPA protects the gullible and the shrewd alike while simultaneously presuming a basic level of reasonableness and understanding on the part of the debtor, thus preventing liability for bizarre or idiosyncratic interpretations of debt collection notices." *Currier v. First Resolution Inv. Corp.*, 762 F.3d 529, 533 (6th Cir. 2014). Further, "[t]he FDCPA is a strict-liability statute," meaning "[a] plaintiff does not need to prove knowledge or intent, and does not have to have suffered actual damages." *Stratton*, 770 F.3d at 448-49 (internal citations omitted).

White argues that Universal Fidelity and Link Revenue violated the FDCPA in two ways: (1) they attempted to collect a debt based on a facially unconstitutional statute, which constitutes

unfair or unconscionable means under 15 U.S.C. § 1692f; and (2) they falsely listed White as a guarantor of the debt, in violation of § 1692e. We address each argument in turn.

1.

"The FDCPA does not define an 'unfair or unconscionable' practice under § 1692f, but, with the caveat that it is not limiting the general application of the term, it sets forth a non-exhaustive list of conduct that rises to that level." *Currier*, 762 F.3d at 534 (citations omitted). The list includes collecting any amount unless "expressly authorized by the agreement creating the debt or permitted by law," 15 U.S.C. § 1692f(1), "acceptance or solicitation of a postdated check absent certain circumstances, charging any person for communications by concealing the true purpose of the communication, [or] taking or threatening to take an action to dispossess or disable property when there is no present right in the property," *Currier*, 762 F.3d at 534 (citing 15 U.S.C. § 1692f). White does not argue that attempting to collect a debt based on a facially unconstitutional statute falls within any of the subsections of § 1692f; rather, he relies on the general prohibition against "unfair or unconscionable" means.

> [A]ctions that courts have determined to be potentially "unfair" under § 1692f include attaching law-firm generated documents resembling credit card statements to a state collection complaint, sending a collection letter that questioned the debtor's honesty and good intentions, filing for a writ of garnishment against a debtor who was current in payments, and collecting 33% of a debt balance as a collection fee.

Currier, 762 F.3d at 534 (citations omitted).

The district court rejected White's argument, reasoning that because no court has held that Kentucky Revised Statute § 404.040 is unconstitutional, Universal Fidelity and Link Revenue cannot be liable under the FDCPA for engaging in unfair or unconscionable acts by seeking payment of a debt pursuant to the statute:

> Universal Fidelity and Link Re[venue] attempted to collect a debt from Mr. White, incurred by Mrs. White, based on state statutes allowing them to do so. The only

> reason Mr. White claims this practice is false, deceptive, misleading, unfair, or unconscionable is because KRS 404.040 is unconstitutional. However, no court has yet found the statute unconstitutional, and thus, the statute still requires Mr. White to be legally responsible for all Mrs. White's debt. Any determination of unconstitutionality would not apply retroactively to the behaviors of Universal Fidelity and Link Revenue's behavior.

(R. 17, PID 152 (internal citation omitted).)

We agree with the district court that attempting to collect a debt pursuant to this statute, which has not been declared unconstitutional and does not otherwise violate the FDCPA, does not in itself constitute unfair or unconscionable means under § 1692f. Even assuming the statute is unconstitutional, the statute was still on the books and had never been declared unconstitutional; more importantly, many states authorize collection of one spouse's medical debt from the other spouse. *See Landmark Med. Ctr. v. Gauthier*, 635 A.2d 1145, 1150 (R.I. 1994) (explaining that many jurisdictions have expanded the necessaries doctrine to make it reciprocal to wives and husbands); *see also, e.g.*, Conn. Gen. Stat. § 46b–37 (making both spouses liable for medical expenses). The underlying practice is not challenged, only the statute's failure to apply the liability equally to husbands and wives. Under these circumstances, we agree with the district court that any finding that Kentucky Revised Statute § 404.040 is unconstitutional would not make Universal Fidelity and Link Revenue liable under the FDCPA for using "unfair or unconscionable" means.

In arguing otherwise, White relies on three district court cases from other circuits. In the first case, *New v. Gemini Capital Grp.*, 859 F. Supp. 2d 990, 995-96 (S.D. Iowa 2012), the district court first found that Iowa's garnishment-notice statute was unconstitutional and that the defendant debt collectors engaged in "state action sufficient to support [the plaintiff's 42 U.S.C.] § 1983 claim." Accordingly, the district court denied the debt collectors' motion for summary judgment on the § 1983 claim. *Id.* at 997. The plaintiff had also brought an FDCPA claim against the debt collectors, where he "boostrap[ped] his due process claim into a claim for a debt collection

violation, arguing that debt collectors are prohibited from taking action that cannot legally be taken" and that the debt collectors' garnishment of the plaintiff's wages without providing him due process violated the FDCPA. *Id.* at 999. The district court, noting that the debt collectors "offer[] little resistance to this argument besides pointing out that [the plaintiff] cites the wrong provision [of the FDCPA]," merely denied the debt collectors' motion for summary judgment without extensive discussion. Accordingly, *New* is not helpful to White.

The other two cases on which White relies are even less relevant. In *Lensch v. Armada Corp.*, the district court rejected the defendant's argument that its violation of the FDCPA is not actionable because it complied with state law. 795 F. Supp. 2d 1180, 1185 (W.D. Wash. 2011). The district court reasoned that the FDCPA preempted the inconsistent state law and accordingly rejected the defendant's argument that the inconsistent state law is a valid affirmative defense to the FDCPA claim. *Id.* at 1186-87. Similarly, White cites *Coleman v. Daniel N. Gordon, P.C.*, No. 10-CV-0428-TOR, 2012 WL 2374822, at *2 (E.D. Wash. June 22, 2012), for the proposition that compliance with state law is not automatically a valid defense to an FDCPA claim. However, that case ultimately held that the debt collector's "substantial compliance with Washington law governing garnishment proceedings . . . would preclude a reasonable jury from finding that Defendant attempted to collect a debt from Plaintiff in an 'unfair or unconscionable' manner." *Id.* In any event, these cases do not address the relevant issue here because neither case supports finding FDCPA liability based on following a statute that does not otherwise violate the FDCPA.

Accordingly, the district court correctly dismissed White's FDCPA claim alleging a violation of 15 U.S.C. § 1692f.

2.

White next argues that Universal Fidelity and Link Revenue made a false or misleading representation, including as to the character or status of the debt, in violation of 15 U.S.C. § 1692e and e(2)(A), by falsely identifying him as a "guarantor" of his wife's debt. We disagree.

To succeed on this claim, White needed to show that the dunning letter contained a "false, deceptive, or misleading representation . . . in connection with the collection of any debt." 15 U.S.C. § 1692e. White claims that calling him a "guarantor" is false because he never signed any documents agreeing to be responsible for his wife's medical bills. *See* KRS § 371.065. But he did not need to sign any documents because KRS § 404.040 makes him liable by operation of law for his wife's necessaries, including her medical debts. *See, e.g.*, *Mulligan v. Mulligan*, 171 S.W. 420, 424 (Ky. 1914). Section 404.040 predates § 371.065, and there is no indication that the Kentucky legislature intended to repeal the former when it passed the latter. *See Commonwealth v. Reynolds*, 136 S.W.3d 442, 446 (Ky. 2004) ("It is well established that repeal by implication is strongly disfavored and will not be discovered unless the statutes are disharmonious and a subsequent enactment negates the former.").

Applying the "least sophisticated consumer" standard, *see Stratton v. Portfolio Recovery Assocs., LLC*, 770 F.3d 443, 450 (6th Cir. 2014), the dissent reasons that "an unsophisticated consumer would treat payment of a debt he was contractually obligated to pay—e.g., as a guarantor—much differently than a debt he was not contractually obligated to pay; and the false statement that the consumer is a guarantor would tend to frustrate the consumer's ability to intelligently choose how best to respond to the collection notice." Dissent at 2. But the existence of liability—whether by virtue of contract or statute—is the same in the eyes of the law, so a consumer's behavior should not depend on such a distinction.

And even if calling White a "guarantor" was false, it was not material because White is liable under § 404.040, regardless of how that liability is characterized. *See Miller v. Javitch, Block & Rathbone*, 561 F.3d 588, 596 (6th Cir. 2009) (explaining that non-material statements are not actionable under § 1692e). White's argument is that the dunning letter falsely labels him as secondarily liable. However, under § 404.040, White was primarily liable for the medical debts of his wife. It is a somewhat bizarre result that White asks this court to recognize: labelling him as liable only in the event of default of his wife—rather than as liable for her debt in the first instance—should give rise to a claim of an unfair debt collection practice. We have rejected frivolous technical claims like these before, and do so again here. *See, e.g.*, *Miller*, 561 F.3d at 596–97 (rejecting a §1692e claim when it sought to recast credit card payments as accounts receivable instead of loans because it was "common sense" that plaintiff owed the money). At bottom, White owes the money and "we will not countenance lawsuits based on frivolous misinterpretations or nonsensical assertions of being led astray." *Fed. Home Loan Mortg. Corp. v. Lamar*, 503 F.3d 504, 514 (6th Cir. 2007) (citation and internal quotation marks omitted). Therefore, White failed to state a claim under § 1692e of the FDCPA.

B.

White also appeals the district court's dismissal of his claim for declaratory relief, which sought a declaration that Kentucky Revised Statute § 404.040 is unconstitutional and therefore White does not owe the medical debt incurred by Tammy.[1] The district court dismissed the claim for declaratory relief as moot based on representations made by Jewish Hospital in filings with the district court, and accordingly declined to determine the constitutionality of the statute. Those representations stated that "Jewish Hospital hereby fully and forever releases and relinquishes any

[1] To the extent White pleaded a claim for damages against Jewish Hospital, he does not appeal the dismissal of that claim.

right it has to collect the $475 debt at issue in this lawsuit from Plaintiff Daniel White" (R. 19, PID 169); and

> Jewish Hospital hereby declares and covenants, on this Court's record, with the intent that these declarations and covenants be binding upon it, that (1) it will not sell the $475 debt underlying this case to *anyone*, and (2) in the future, Jewish Hospital will not attempt to use Kentucky Revised Statute § 404.040 as a basis for holding Plaintiff responsible for *any* debt that his wife incurs with Jewish Hospital. These declarations and covenants are unconditional and irrevocable.

(R. 28, PID 211.)

Voluntary cessation of allegedly illegal conduct will not moot a case unless "a defendant claiming that its voluntary compliance moots a case [shows] that it is absolutely clear the allegedly wrongful behavior could not reasonably be expected to recur." *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) (quoting *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000)). In *Already*, Nike sued one of its competitors for infringing and diluting one of its trademarks through the competitor's sales of certain shoe lines. *Id.* at 88. The competitor denied Nike's allegations and filed a counterclaim alleging that Nike's trademark is invalid. *Id.* Several months later, Nike issued an unconditional and irrevocable unilateral covenant not to make any claims or demands against the competitor or any related business entities based on "any *possible* cause of action based on or involving trademark infringement, unfair competition, or dilution, under state or federal law . . . relating to the NIKE Mark based on the appearance of *any* of [the competitor's] current and/or previous footwear product designs, and *any* colorable imitations thereof." *Id.* at 93 (first alteration in original). Nike then moved to dismiss its claims with prejudice, and to dismiss the competitor's counterclaim without prejudice on the ground that the counterclaim was moot. *Id.* at 89. The Supreme Court held that Nike had met its burden to establish mootness under the voluntary-cessation doctrine because it had demonstrated "that the covenant encompasses all of [the competitor's] allegedly unlawful conduct," and the competitor

had not shown "that it engages in or has sufficiently concrete plans to engage in activities not covered by the covenant." *Id.* at 93-95.

Citing *Already*, the district court found that White's claims for declaratory relief were moot due to Jewish Hospital's declarations. White first argues Jewish Hospital's declarations are not binding or enforceable because they lack consideration and have no preclusive effect. The reasoning of *Already*, however, forecloses this argument, as the Court found that the unilateral covenant, made without consideration, mooted the case because "Nike, having taken the position in court that there is no prospect of such a shoe, would be hard pressed to assert the contrary down the road." *Id.* at 94. The same reasoning applies here.

White further argues that even if Jewish Hospital's promises are enforceable, he is still entitled to a declaratory judgment to establish that he is not liable for the debt, positing numerous negative consequences that could result in the absence of such a declaration, including a tax bill for a forgiven debt or a bankruptcy estate becoming the owner of the debt if Jewish Hospital declares bankruptcy. Such speculative claims are not alleged in the complaint, were not argued below, and in any event fail to establish anything other than conjecture that Jewish Hospital will go bankrupt or cause a tax consequence for him. This is insufficient to establish a continuing live controversy. *See id.* at 100; *see also Powell v. McCormack*, 395 U.S. 486, 496 (1969) ("[A] case is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome.").

Next, White argues that the district court should address his declaratory claims because otherwise the constitutionality of Kentucky Revised Statute § 404.040 will evade review through "the game plan scripted by Jewish Hospital in this case." (Appellant's Br. 40.) To the extent White is arguing that the exception to mootness for claims that are "capable of repetition but

evading review" applies, the argument fails. "For this exception to apply, 'a challenged action must satisfy two requirements. First, it must be too short in duration to be fully litigated before it ceases. Second, there must be a *reasonable* expectation that the *same parties* will be subjected to the same action again.'" *Wilson v. Gordon*, 822 F.3d 934, 951 (6th Cir. 2016) (quoting *Appalachian Reg'l Healthcare, Inc. v. Coventry Health & Life Ins. Co.*, 714 F.3d 424, 430 (6th Cir. 2013)). White does not address the first requirement. Regarding the second requirement, "[w]hen the suit involves two private parties, however, the complaining party must show a reasonable expectation that he would again be subjected to the same action by the *same defendant.*" *Chirco v. Gateway Oaks, L.L.C.*, 384 F.3d 307, 309 (6th Cir. 2004) (citations omitted). Given Jewish Hospital's declarations in this case, there is no reasonable expectation that White will be subjected to the same action by Jewish Hospital.

Finally, White argues that his declaratory claims are not moot because, "[h]ad the District Court entered judgment in his favor, Mr. White would have had the right to recover his costs from Jewish Hospital as the prevailing party." (Appellant's Br. at 40.) In the absence of a legal controversy about the merits of his claims, however, a court will not rule on the merits based solely on a party's potential entitlement to costs. *See Lewis v. Cont'l Bank Corp.*, 494 U.S. 472, 480 (1990); *Heitmuller v. Stokes*, 256 U.S. 359, 362–63 (1921); *Demis v. Sniezek*, 558 F.3d 508, 513 (6th Cir. 2009).

Accordingly, the district court did not err in dismissing White's claims for declaratory relief and declining to rule on the constitutionality of Kentucky Revised Statute § 404.040. *See Alvarez v. Smith*, 558 U.S. 87, 92-93 (2009) (finding moot a case seeking declaratory and injunctive relief even though the parties continued to dispute the lawfulness of the state's hearing

procedures because "there was no longer any dispute about the ownership or possession of the relevant property").

III.

For the reasons set out above, we affirm.

HELENE N. WHITE, Circuit Judge, concurring in part and dissenting in part. I join in the court's opinion except as to section II.A.2. I do not agree that White failed to state a claim against Universal Fidelity and Link Revenue under § 1692e of the FDCPA.

Under Kentucky law, a guaranty must comply with Kentucky Revised Statute § 371.065,[2] which did not occur in this case. *See Wheeler & Clevenger Oil Co. v. Washburn*, 127 S.W.3d 609, 613 (Ky. 2004) (citing Ky. Rev. Stat. § 371.065). And, as White points out, a guarantor is not primarily liable for payment of a debt under Kentucky law, *see Intercargo Ins. Co. v. B.W. Farrell, Inc.*, 89 S.W.3d 422, 426 (Ky. Ct. App. 2002), whereas § 404.040 does not use the terms "guarantor" or "guaranty" and imposes primary liability on the husband for necessaries furnished to his wife during marriage, *see Hardiman's Adm'r v. Crick*, 115 S.W. 236, 237 (Ky. 1909). Dictionary definitions also support White's argument that the least sophisticated consumer would interpret "guarantor" as suggesting a contractual obligation through an express agreement. *See* Merriam-Webster Online, https://www.merriam-webster.com/dictionary/guaranty (defining "guaranty" as (1) "an undertaking to answer for the payment of a debt or the performance of a duty of another in case of the other's default or miscarriage"). Thus, White has plausibly alleged that the letter Universal Fidelity and Link Revenue sent him contained a false, deceptive, or misleading statement.

But, to violate the FDCPA, the statement must also be material. *See Miller v. Javitch, Block & Rathbone*, 561 F.3d 588, 596-97 (6th Cir. 2009). "The materiality standard simply means that in addition to being technically false, a statement would tend to mislead or confuse the

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[2] Kentucky Revised Statute § 371.065 provides in part:

> (1) No guaranty of an indebtedness which either is not written on, or does not expressly refer to, the instrument or instruments being guaranteed shall be valid or enforceable unless it is in writing signed by the guarantor and contains provisions specifying the amount of the maximum aggregate liability of the guarantor thereunder, and the date on which the guaranty terminates.

reasonable unsophisticated consumer." *Wallace v. Wash. Mut. Bank, F.A.*, 683 F.3d 323, 326-27 (6th Cir. 2012); *see also Kistner v. Law Offices of Michael P. Margelefsky, LLC*, 518 F.3d 433, 441 (6th Cir. 2008) ("[C]ollection notices can be deceptive if they are open to more than one reasonable interpretation, at least one of which is inaccurate." (internal quotation mark and citation omitted)). "[T]he materiality requirement . . . effectuates the purpose of the FDCPA by precluding only claims based on hypertechnical misstatements under § 1692e that would not affect the actions of even the least sophisticated debtor." *Jensen v. Pressler & Pressler*, 791 F.3d 413, 422 (3d Cir. 2015) (citation omitted). "In assessing FDCPA liability, we are not concerned with mere technical falsehoods that mislead no one, but instead with genuinely misleading statements that may frustrate a consumer's ability to intelligently choose his or her response." *Donohue v. Quick Collect, Inc.*, 592 F.3d 1027, 1034 (9th Cir. 2010).

Although Defendants argue that White's claim to have been misled by being labeled a guarantor is "hyper-technical" and "pure fiction" (Appellees' Br. at 26, 27), taking the allegations in the complaint as true and drawing all reasonable inferences in White's favor, White has plausibly alleged "conduct that falls within the broad scope of practices prohibited by the FDCPA." *Currier v. First Resolution Inv. Corp.*, 762 F.3d 529, 533 (6th Cir. 2014). As White argues, an unsophisticated consumer would treat payment of a debt he was contractually obligated to pay—e.g., as a guarantor—much differently than a debt he was not contractually obligated to pay; and the false statement that the consumer is a guarantor would tend to frustrate the consumer's ability to intelligently assess his options and choose how best to respond to the collection notice. *See Hochberg v. Lenox, Socey, Formidoni, Giordano, Cooley, Lang & Casey, P.C.*, No. CV 16-5307-BRM-LHG, 2017 WL 1102637, at *4 (D.N.J. Mar. 24, 2017) (finding that the plaintiff plausibly alleged a violation of § 1692e where the defendant stated, in part, that the plaintiff had

agreed to pay for the medical expenses of his wife, even though the plaintiff was only indirectly liable for the debt due to the doctrine of necessaries). Further, White plausibly alleges that he was confused by being labeled a guarantor, worried how it would impact his credit rating, and contacted his attorney to determine how to respond. *See Wallace*, 683 F.3d at 327-28.

I would reverse the district court's dismissal of White's § 1692e claim based on falsely being labeled a guarantor of Tammy's debt.