

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM LEWIS VINTON, III,

Plaintiff,

Case No. 1:10-cv-312

v

HON. JANET T. NEFF

FIRST DATA MERCHANT
SERVICES,

Defendant.

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AMENDED OPINION

This action arises out of an incident in which Plaintiff alleged that a restaurant merchant mistakenly gave Plaintiff the “merchant’s copy” of a sales receipt that contained all of the digits of Plaintiff’s debit card number, as well as the expiration date. Plaintiff then brought this action, alleging violations of the Fair and Accurate Credit Transaction Act, the Michigan Identity Theft Protection Act and the Michigan Consumer Protection Act. On September 7, 2010, Defendant filed a Motion to Dismiss Plaintiff’s Complaint under FED. R. CIV. P. 12(b)(6) (Dkt 8). The Magistrate Judge issued a Report and Recommendation (R & R) on November 30, 2010, recommending that Defendant’s Motion be granted and Plaintiff’s Complaint be dismissed (R & R, Dkt 16). This matter is before the Court on Plaintiff’s Objection to the Magistrate Judge’s Report and Recommendation (Pl. Obj., Dkt 18). Defendant has filed a Response (Dkt 19). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those

portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Judgment. *See* FED. R. CIV. P. 58.

Plaintiff's Objection fails to specify any factual or legal errors in the Magistrate Judge's analysis. *See* FED. R. CIV. P. 72(b)(3). Plaintiff simply adds new conclusory and unsupported factual allegations. Plaintiff asserts that Defendant willfully violated the statutes at issue and that another copy of the sales draft, which had all sixteen digits of Plaintiff's debit card on it, was printed at the same time as the "Merchant's Copy" that Plaintiff received in error.

The Court finds no error in the Magistrate Judge's analysis or conclusions. The Magistrate Judge properly found that Plaintiff had failed to state actionable claims under the Michigan Identity Theft Protection Act (Dkt 16 at 5-6), the Michigan Consumer Protection Act (*id.* at 6), and the Fair Credit Reporting Act (FCRA), (*id.* at 4). Because Plaintiff has failed to show any error in the Magistrate Judge's analysis, his Objection is denied.

For these reasons and because this action was filed *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Opinion and Judgment would not be taken in good faith. *See McGore v. Wigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997) (overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 210-11 (2007)).

A Judgment will be entered consistent with this Opinion.

Date: March 1, 2011

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge