

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHARLES J. ANTHONY, SR.,

Plaintiff,

v.

5:15-CV-452
(DNH/TWD)

FEIN, SUCH AND CRANE, LLC

Defendant.

APPEARANCES:

CHARLES J. ANTHONY, SR.
Plaintiff, pro se
8819 Gaskin Road
Clay, NY 13041

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Charles J. Anthony, Sr. filed this action on April 15, 2015, and subsequently filed a superseding amended/supplemental complaint. On April 28, 2015, the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, advised by Report-Recommendation that plaintiff's amended complaint be dismissed pursuant to 28 U.S.C. § 1915(e) for failure to state a claim, but that plaintiff be granted leave to file a second amended complaint asserting his claim under the Fair Debt Collection Practices Act. Further, Magistrate Judge Dancks recommended that any claim plaintiff intended to assert under the Debt Collection Procedures Act be dismissed with prejudice. No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Plaintiff's complaint is DISMISSED without prejudice pursuant to 28 U.S.C. § 1915(e) and with leave to file a second amended complaint asserting a claim under the Fair Debt Collection Practices Act;

2. Any claim plaintiff intended to assert under the Debt Collection Procedures Act is DISMISSED with prejudice and without leave to amend;

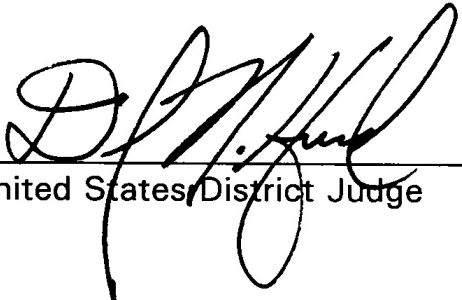
3. If plaintiff wishes to file a second amended complaint curing the deficiencies identified in the Report-Recommendation, he must do so within thirty days of the date of this Decision and Order. Plaintiff is reminded that any second amended complaint will replace his prior complaint in its entirety;

4. In the event plaintiff fails to file a second amended complaint within the time allotted, this case will be closed and judgment entered accordingly without further order; and

5. The Clerk serve a copy of this Decision and Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: May 27, 2015
Utica, New York.


United States District Judge