BERKERY v. VERIZON COMMUNICATIONS, INC. et al Doc. 39

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN C. BERKERY SR.,	:	**CIVIL ACTION**
Plaintiff,	:	
	:	**No. 2:15-cv-1085**
v.	:	
	:	
VERIZON COMMUNICATIONS, INC., et. al,	:	
Defendants.	:	

MCHUGH, J. **OCTOBER 29, 2015**

ORDER

This 29th day of October, 2015, for the reasons stated in the foregoing Memorandum Opinion, Defendants' Motion to Dismiss is **GRANTED.** If facts exist to support a plausible claim for relief under the Fair Credit Reporting Act (Count Six), Plaintiff may amend his Complaint without leave of Court within **21 days** of the entry of this Order. Plaintiff does not have leave to amend any of the remaining Counts, as it appears that amendment would be futile. Defendants' request to compel arbitration is **DENIED AS MOOT**, subject to renewal by Defendants should Plaintiff successfully amend Count Six of his Complaint.

Plaintiff filed a Motion to Strike Defendants' Reply to Plaintiff's Opposition to the Motion to Dismiss. Although titled a "Motion to Strike," the substance of Plaintiff's Motion serves as a sur-reply to the Motion to Dismiss, as it contains additional arguments to buttress Plaintiff's opposition to Defendants' Motion. Because none of the arguments in Plaintiff's Motion to Strike serve to cure the legal deficiencies identified in my foregoing analysis, Plaintiff's Motion to Strike is **DENIED**.

/s/ Gerald Austin McHugh
United States District Court Judge

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