

IN THE UNITED STATES DISTRICT COURT
THE WESTERN DISTRICT OF PENNSYLVANIA

DARNELLA R. WILSON,
Plaintiff,

v.

**AMERICAN GENERAL FINANCE INC,
A. BRUCE CASTEEL, JEFFREY L.
LEDBETTER, DAVE HIDER, KEVIN
KRESCANKO, LAUREN DOE,**
Defendants.

CIVIL ACTION NO. 10-412

ORDER

CONTI, District Judge

Pending before the court is a motion for judgment on the pleadings (the “Motion”) (Docket No. 16) filed by defendants American General Finance Inc.¹, A. Bruce Casteel, Jeffrey L. Ledbetter, Dave Hider, Kevin Krescanko, and Lauren Doe (collectively, “defendants”). Defendants seek the entry of judgment in their favor with respect to all claims asserted in the complaint (the “Complaint”) (Docket No. 1), filed on March 26, 2010 by plaintiff, Darnella R. Wilson (“plaintiff” or “Wilson”). On April 27, 2010, defendants filed an answer to the Complaint. (Docket No. 7.) On June 23, 2010, defendants filed the Motion and a brief in response. (Docket No. 17.) Plaintiff filed a motion for exception to alternative dispute resolution (“ADR”) assignment on July 2, 2010. (Docket No. 18.) On July 14, 2010, plaintiff filed a response to defendants’ Motion and a motion to strike affirmative defenses. (Docket No.

¹ Named defendant American General Finance, Inc. notes that its proper name is American General Financial Services, Inc.

19.) On July 22, 2010, defendants filed a reply to plaintiff's response to the Motion. (Docket No. 22.)

I. Claims Asserted

The Complaint consists of three counts: Count I, alleging a state common law claim for libel per se; Count II, alleging a state common law claim for intentional infliction of emotional distress; and Count III, alleging a federal claim for violations by defendants of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692 et seq.

II. The Motion

In the Motion, defendants argue, among other things, that plaintiff's sole federal claim alleging a violation of the FDCPA at Count III of the Complaint should be dismissed because plaintiff concedes that this claim was improperly pled. Indeed, in response to defendants' Motion, plaintiff admits that "Count III violations of the Fair Debt Collection Act ("FDCA") [sic], should have been plead properly under Pennsylvania's Unfair Trade Practices and Consumer Protection Act, 73. P.S. [§] 201-9.2." (See Pl.'s Mot. To Strike 11-12.)

III. Order

IT IS HEREBY ORDERED that because plaintiff concedes that her sole federal claim was improperly pled, defendants' Motion (Docket No. 16) is **GRANTED** in part with respect to Count III of the Complaint. Count III of the Complaint (Docket No. 1), alleging violations of the FDCPA by defendants American General Finance Inc., A. Bruce Casteel, Jeffrey L. Ledbetter, Dave Hider, Kevin Krescanko, and Lauren Doe against plaintiff Darnella R. Wilson is hereby **DISMISSED** with prejudice.

IT IS FURTHER ORDERED that as the court dismissed the sole federal claim over which it has jurisdiction in this case, the court declines to exercise supplemental jurisdiction over plaintiff's state claims (Counts I and II). The state claims are **DISMISSED** without prejudice.

IT IS FURTHER ORDERED that plaintiff's motions for exception to ADR assignment (Docket No. 18) and to strike affirmative defenses (Docket No. 19) are **DENIED** as moot. The clerk shall mark this case closed.

Date: August 31, 2010

By the court,

/s/ JOY FLOWERS CONTI
Joy Flowers Conti
United States District Judge