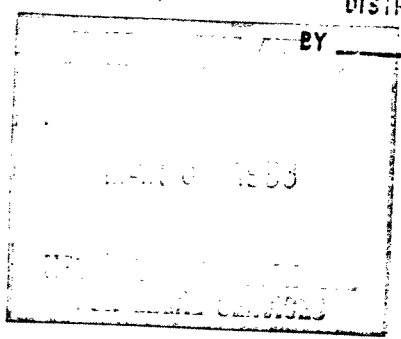


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CLERK, U.S. DISTRICT COURT  
DISTRICT OF OREGON

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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

10 DANELLE MARIE CASE, on her own behalf )  
11 and on behalf of all persons similarly )  
12 situated, )

12 Plaintiff,

13 v.

Civil No. 82-1107FR

14 THE CREDIT BUREAU, INC. of GEORGIA, )  
15 dba C.B.I. COLLECTIONS, a foreign )  
16 corporation, )

16 Defendant. )

OPINION AND ORDER

17 Frank J. Dixon  
18 Sanders & Dixon  
19 1727 NW Hoyt  
Portland OR 97209  
Attorneys for Plaintiff

20 James L. Hiller  
21 Spears, Lubersky, Campbell & Bledsoe  
22 520 SW Yamhill, Suite 800  
Portland OR 97204  
Attorneys for Defendant

23 FRYE, Judge:

24 This is an action under the Fair Debt Collection  
25 Practices Act, 15 U.S.C. §§ 1692, et seq. This court earlier  
26 denied defendant's motion to dismiss, holding that the defendant

1 may have violated § 1692e(11), and § 1692e(16) by using the  
2 phrase "credit bureau" in its name when it carries on no consumer  
3 reporting activities in Oregon and by failing to disclose in com-  
4 munications to the plaintiff that it was attempting to collect a  
5 debt and that any information received would be used for that  
6 purpose.<sup>1</sup>

7 Defendant has filed a motion to reconsider this ruling.

8 Defendant first asks the court to reconsider that part  
9 of its ruling holding that use of the phrase "credit bureau" in  
10 defendant's name may violate the Fair Debt Collection Practices  
11 Act (FDCPA) because defendant does not engage in consumer  
12 reporting activities in Oregon, even though it does engage in  
13 consumer reporting activities in other parts of the country. The  
14 basis for the motion to reconsider on this point is a Federal  
15 Trade Commission informal staff letter of March 27, 1978. This  
16 letter indicates that a collection agency may use the phrase  
17 "credit bureau" in its name if it "regularly engages" in consumer  
18 reporting activity, even if the consumer reporting activity is  
19 not a majority of the collection agency's business.

20 However, it appears from the letter and the request for  
21 the opinion that the collection agency was engaged in consumer  
22 reporting activities within the same location (New Jersey) as it  
23 was engaged in collection agency activities. It does not appear  
24 that the letter precisely addresses the issue that the court  
25 decided earlier: that it is a violation for a company that only  
26 operates a collection agency within a state to use the phrase

1 "credit bureau" in its name without some sort of disclaimer even  
2 though it may engage in consumer reporting activities in other  
3 states.

4 Even if this court were to accept defendant's argument  
5 that because it operates a consumer reporting service and a  
6 collection agency, it cannot violate § 1692e(16) because it can-  
7 not falsely imply that it is a consumer reporting agency when in  
8 fact it is one, this still would not mean that defendant has not  
9 violated the general prohibition of § 1692e against all "false,  
10 deceptive, or misleading representations." In Wright v. Credit  
11 Bureau of Georgia, Inc., 548 F. Supp. 591 (N.D. Ga. 1982), the  
12 court was presented with the precise situation as is before this  
13 court. Plaintiff was sent a form letter substantially identical  
14 to the one in the present case, with the phrase "CBI the credit  
15 bureau incorporated of georgia" in large print at the top of the  
16 page and the name "CBI COLLECTIONS -- ATLANTA" in smaller print  
17 at the bottom. The plaintiff in that case alleged a violation of  
18 § 1692e(16) and § 1692e. The court held that because defendant  
19 did operate a consumer reporting service, it could not violate  
20 § 1692e(16).<sup>2</sup> However, the court went on to say:

21 Ms. Wright argues that it is deceptive for CBI to  
22 imply, however truthfully, that it is a consumer  
23 reporting agency and at the same time to not disclose  
24 that its business is composed of two separate and inde-  
25 pendent divisions, one a consumer reporting agency and  
26 the other a debt collection service. Ms. Wright thus  
contends that section 1692e requires CBI to make no  
disclosure, even by implication, of the consumer  
reporting aspect of its business unless it clearly  
explains the relationship that aspect bears to its  
collection efforts, or otherwise dispels any false

1 threat that a failure to pay a debt will result in harm  
2 to the consumer's credit rating. The court agrees.

3 548 F. Supp. at 598. Hence, in the present case, by using the  
4 phrase "credit bureau" on the form letter with no further  
5 explanation, the defendant may have violated § 1692e even  
6 assuming that § 1692e(16) has not been violated.

7 The second issue the defendant wishes the court to  
8 reconsider is its ruling that defendant may have violated the  
9 FDCPA by failing to disclose in communications with plaintiff  
10 that defendant was attempting to collect a debt and that any  
11 information received would be used for that purpose. Defendant  
12 has submitted an informal Federal Trade Commission staff letter  
13 of March 7, 1978 that indicates that the words "we are attempting  
14 to collect a debt" or their equivalent need not be contained in  
15 communications to a debtor as long as the communication "clearly  
16 indicates" that the purpose of the communication is to collect a  
17 debt.

18 More importantly, the Federal Trade Commission letter  
19 seems to imply that the disclosure requirement regarding any  
20 information obtained applies only to collection agency com-  
21 munications with third parties, and not to communications with  
22 debtors.

23 Plaintiff counters this with several arguments. First,  
24 plaintiff argues that if Congress intended the disclosure  
25 requirement regarding information to operate only with respect to  
26 third parties, the requirement would have been placed in

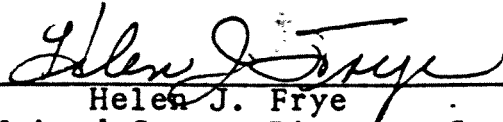
1 15 U.S.C. § 1692c(b), which deals with third-party  
2 communications. Second, the plain language of the section  
3 [§ 1692e(11)] runs counter to the Federal Trade Commission's  
4 interpretation. Finally, plaintiff has submitted a copy of the  
5 decision in Beaulieu v. American National Education Corp.,  
6 CV79-L-271 (D. Neb. January 22, 1981), in which the court ruled  
7 that a collection agency must clearly disclose that any infor-  
8 mation obtained will be used for the purposes of collecting the  
9 debt even when the communication is to the debtor himself. That  
10 court read 15 U.S.C. § 1692e(11) the same way this court read the  
11 section in the earlier order:

12 [§ 1692e(11)] requires the clear disclosure of two facts  
13 in all communications made either to collect a debt or  
14 to obtain information about a consumer; such com-  
15 munications must disclose that the debt collector is  
16 attempting to collect a debt and that any information  
17 obtained will be used for that purpose. None of the  
18 communications [at issue] clearly discloses that infor-  
19 mation obtained by the debt collector will be used for  
20 the purpose of collecting the debt. Summary judgment on  
21 this claim will be granted. . . .

22 Id. at 3. Plaintiff's arguments are persuasive with respect to  
23 the disclosure requirement regarding the use of information. The  
24 language of the section is clear, unambiguous, and direct.

25 IT IS ORDERED that defendant's motion to reconsider the  
26 court's previous rulings is DENIED.

DATED this 10 day of January, 1983.

  
Helen J. Frye  
United States District Court

FOOTNOTES

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1. Defendant is "troubled" by language in the court's earlier opinion that use of the phrase "credit bureau" in the defendant's name "is" a violation of the act, arguing that the issue is one of fact and hence not appropriately decided on a motion to dismiss. The court has not decided that defendant has violated the act. Had the court so decided, the court would have granted plaintiff summary judgment on its own motion, which was not done.

2. The court did not address the issue of whether or not a violation of § 1692e(11) occurs when a debt collector that does not operate a consumer reporting service in a particular state or area uses the phrase "credit bureau" in its name. It is not entirely clear from the opinion whether or not the defendant operates both its collection agency business and its consumer reporting business in Georgia.