

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

IRIS CALOGERO, individually and on behalf of all others similarly situated, and MARGIE NELL RANDOLPH, individually and on behalf of all others similarly situated

v.

SHOWS, CALI & WALSH, LLP, a Louisiana limited liability partnership; MARY CATHERINE CALI, an individual; and JOHN C. WALSH, an individual

CIVIL ACTION

NO. 2:18-cv-06709

6 (& 7 , 2 1 3 0 ; 9 , 6 , 2 1 3 ')

JUDGE: BARRY W. ASHE

MAGISTRATE JUDGE:
DANA M. DOUGLAS

3 / \$, 1 7 ,)) 6 5 1 CONDEMNED COMPLAINT ±CLASS ACTION

NOW INTO COURT, come Plaintiffs Iris Calogero and Margie Nell Randolph FROOHFWLYHO\ 33ODLQWLIIV' E\ DQG WKURXJK XQGHUVL themselves and their own acts, and upon information and belief as to all other matters, and bring this complaint against Defendants: Shows, Cali & Walsh, LLP; Mary Catherine Cali; and John C.

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INTRODUCTION

1. This action seeks classwide relief pursuant to the Fair Debt Collection Practices \$FW 3)'&3\$' IRU WKH XQODZIXO XQIDLU DQG GHFHSWLYH attorneys. Plaintiffs are homeowners whose residences were damaged by Hurricane Rita in 2005. In exchange for their several commitments to the state and federal governments, 3ODLQWLIIV UHFHLYHG JUDQWV IURP WKH /RXLVLDQD 5RDG Home was established by the State of Louisiana to administer federal funds appropriated by Congress for hurricane relief. Years after repairing their homes, Plaintiffs received debt collection letters from Defendants, who claim that Plaintiffs owe money because they allegedly

their grant agreements by allegedly receiving undisclosed payments from their insurers and/or the

14. Prohibited practices Q FOXGH WKH XVH RI ³IDOVH GHFHS
UHSUHVHQWDWLRQ RU PHDQV LQ FRQQHFWRQ ZLWK WKH P
WKH XVH RI ³XQIDLU RU XQFRQVFLRQDEOH PHDQV WR FROO
§ 1692f).

15. SpHFLILFDOO\ D GHEW FROOHFWRU LV SURKLELW 1

19. The storm devastation created an unprecedented housing crisis.
20. In response, on or about December 30, 2005, Congress appropriated ~~billions of~~

25. Where partial administration of the federal program, including the actual distribution of federal funds, is delegated to state and local authorities, HUD maintains extensive controls and oversight of local administration of the funds, including eligibility of grant recipients, the purposes for which grants may issue, and detailed performance requirements. HUD audits administration of the federal funds and may take corrective actions that range from issuing a warning letter to instituting collections procedures to recover improperly expended funds. 42 U.S.C. §5311(a); 24 C.F.R. §§ 570.496(b),(d).

26. HUD delegated to the State of Louisiana the distribution of federal funds appropriated to its CDBG for hurricane relief from the 2005 Hurricanes

27. To receive CDBG funds, recipient state and local authorities must go through an application and approval process.

28. In early 2006, Louisiana applied to HUD for CDBG funds for hurricane relief. Louisiana supplemented its application with a detailed action plan proposing the Road Home Program.

29. On or about May 30, 2006, HUD Secretary Alphonso Jackson approved the distribution of federal funds for hurricane relief to Louisiana homeowners.

30. Once approved by HUD, the Road Home Program was administered by the Louisiana Office of Community Development (OCD) and the Louisiana Recovery Authority, subject to ongoing supervision and control by HUD.

31. HUD required the State of Louisiana to adhere to multiple federal

its obligation of compliance with the Federal Regulations HUD retained the right to intervene in the case of any misuse of grant funds.

32. The Road Home grant funds retained their character as federal funds, Exhibit 1 hereto

33. The Road Home issued multiple types of federally funded grants to Louisianans affected by the 2005 Hurricanes. One type of grant was for homeowners whose residences were storm: G D P D J H G 3 + P H R Z Q H U

38. On

50. In the Calogero collection letter, Defendants wrote in pertinent part:

Our office represents the State of Louisiana, Division of Administration, Office of Community Development LVDVWHU 5HFRYHU\ 8QLW 35RDG + FRQQHFWLRQ ZLWK FHUWDLQ 5RDG +RPH *UDQW)XQG received. The amount due to Road Home for repayments is described above. Our FOLHQW¶V UHFRUGV LQGLFDWH WKDW \RX UHFHLYHG PR amount used to calculate your Grant award. Since you have not repaid those additional insurance funds to Road Home in accordance with your Road Home Grant Agreement, you have breached your Grant obligations. Those obligations are clearly outlined in your Road Home Grant Agreement.

Please be advised that if you do not take any action to resolve this matter within ninety days after your receipt of this letter, Road Home may proceed with further action against you, including legal action, in connection with the full Grant repayment balance owed as outlined above. You may also be responsible for legal interest from judicial demand, court costs, and attorney fees if it is necessary to bring legal action against you.

This office is a debt collector. The purpose of this letter is to recover the Road Home Grant Funds repayment set forth above. Any information obtained as a result of this correspondence will be used for the purpose of recovering the Road Home Grant Funds repayment.

Id.

51. These collection letters sent by Defendant SCW to Plaintiff Calogero and Plaintiff Randolph were allegedly prepared by one of two attorneys, either Defendant Mary Catherine Cali or Defendant John C. Walsh, *see*, Exhibits 4, 5.

52. 3ODLQWLII 5DQGROSK ZDV SURIRXQGO\ XSVHW E\ 'I she does not believe she owes. However, Plaintiff Randolph was so alarmed by the threat of legal actiRQ DQG WKH LPSRVLWLRQ RI LQWHUHVW FRXUW FRVWV dialogue with Defendants about the possibilities for repayment. Ultimately, Plaintiff Randolph commenced making payments of \$25 per month, an amount that burdened his retirement

57. As purported proof of the duplicated FEMA benefits, Defendants provided a document detailing the FEMA benefits allegedly paid to Plaintiff Calogero. Exhibit 7. It appears this document was obtained from the FEMA Individual Assistance Center Applicant Inquiry, an internet database which lists all FEMA benefits provided to a consumer. This document has a print date of October 27, 2008, and indicates that Plaintiff Calogero received various amounts of assistance from FEMA over the several weeks immediately following Hurricane Katrina in 2005, including \$5,300 on November 8, 2005. On information and belief, this information has been accessible to Defendants and their principal(s), the OCD and the Road House since prior to the date of the grant to Plaintiff Calogero.

58. \$ V I R U W K H D O O H J H G R Y H U S D \ P H Q W R I K R P H R Z Q H U claim that 3 O D L Q W L I I & D O R J H U R T V 3 K R P H R Z Q H U I V X U D Q F F R Q I L U P D W L R Q ' R I E X H I B I T D P H X Q W S D Y C This electronic confirmation was provided to Plaintiff Calogero or her counsel. Neither was any information regarding the date of the alleged insurance payment provided. Given the electronic nature of the information, Plaintiff Calogero believes this information, if it exists, has also been available to Defendants since

61. 'HIHQGDQWV¶ GHEW FROOHFWLRQ SUDFWLFWHV KDUP erroneous representations about the claimed debts impeded DELOLW\ WR D validity and impaired their ability to defend the claims.

62. 'HIHQGDQWV¶ GHEW FROOHFWLRQ SUDFWLFWHV KDUP that legal action on the alleged debt was barred and that payment would revive the statute of limitations. Instead, Defendants threatened Plaintiffs with legal action if they did not repay the amounts claimed.

63. 'HIHQGDQWV¶ GHEW FROOHFWLRQ SUDFWLFWHV KDUP WKDW DWWRUQH\¶ were only if Plaintiffs received the undisclosed insurance or FEMA payments before they received their grants.

64. 'HIHQGDQWV¶ GHEW FROOHFWLRQ SUDFWLFWHV KDU advise that signing a promissory note would revive legal action on the alleged debt that was otherwise time barred.

65. 'HIHQGDQWV¶ GHEW FROOHFWLRQ SUDFWLFWHV H communications were intimidating and caused them fear, anxiety, and emotional distress.

66. 'HIHQGDQWV¶ GHEW FROOHFWLRQ SUDFWLFWHV KDYP have expended resources to consult legal counsel and/or agreed to pay debts that they did not owe, and may never have owed.

67. Plaintiffs are informed and believe and therefore allege that Plaintiffs and the class members are entitled to actual and statutory damages and may have also suffered damages in other ways and to other extents not presently known to Plaintiffs, and not specified herein. Plaintiffs reserve the right to assert additional facts and damages not asserted herein, and/or to present evidence of the same at the time of trial.

CLASS ALLEGATIONS

68. Plaintiffs incorporate by reference and ~~also~~ allege each and every allegation contained above, as though fully set forth herein

69. Pursuant

D. The fourth subclass consists of: those whom Defendants sent a promissory note in the form of Exhibit 6 obligating them to repay alleged grant overpayments, without advising that signing the instrument would revive any statute of limitations that had run against legal action on the alleged debt.

70. The class period begins one year prior to the date of the filing of the original complaint in this action for FDCPA violations.

71. Numerosity The members of the proposed class are so numerous that joinder of all members is impracticable. Because of the widespread use and reliance on Road Home funds following the 2005 Hurricanes, and because the Road Home publishes notice online that homeowners may receive letters from Defendants, Plaintiffs believe the class includes more than 100 individuals. Although the precise number of class members is unknown to Plaintiffs, it is

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72. Commonality Common questions of law and fact exist and predominate as to all members of the Class, including *inter alia*, the following:

A. :KHWKHU 'HIHQGDQWV¶ FRQGXFW LQ FRQGLFWLRQ Z similar letters to other consumers violates the FDCPA by failing to clearly and fairly communicate the character, amount, or legal status of the alleged

B. :KHWKHU WKH VWDWXWH RI OLPLWDLRQV IRU DQ\ F +RPHRZQHUV *UDQW KDV H[SLUH G

C. :KHWKHU 'HIHQGDQWV¶ FRQGXFW LQ FRQGLFWLRQ Z similar letters to other consumers violates the FDCPA by failing to inform the consumer that the debt is legally unenforceable and/or that a payment toward the

D. :KHWKHU 'HIHQGDQWV¶ FRQGXFW LQ FRQQHFWLRQ Z

similar letters to other consumers violates the FDCPA by threatening the possible

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based on the timing of the alleged overpayment, under the subrogation agreement

of facts, (b) increase the expense to all parties, a particular disadvantage because the damages suffered by individual class members may be relatively small compared to the expense of individual litigation, and (c) unnecessarily burden the court system with multiple adjudications of the common issues raised by this action, thereby clogging dockets and causing ~~wide delay~~.

80. 'HIHQGDQWV¶ IDLOXUH WR IDLUO\ DQG FOHDUO\ F
alleged debts further constitutes an unfair or unconscionable means to collect or attempt to collect
a debt, in violation of 15 U.S.C. § 1692f.

81. 'HIHQGDQWV¶ IDLOXUH WR SURSHUO\ LGHQWLI\ WKH
resulted in Plaintiffs¶ inability to knowledgeably assess the validity of the debt and impaired their
ability to defend the claims.

82.

89. Defendants violated the FDICPA, >> BDC q 0.00000912 0 612 792 re W* n BT /F2 12

Respectfully Submitted, June 15, 2021:

/S/ Margaret E Woodward
Margaret E. Woodward (La. 13677)
ATTORNEY AT LAW
1229 N. Tonti Street

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ~~15~~¹⁵th day of June 2021, a copy of the above and foregoing and all exhibits referenced therein were filed electronically with the Clerk of Court and served on all counsel of record using the CM/ECF system.

I FURTHER CERTIFY that counsel shall deliver a hard copy of the foregoing and exhibits to chambers at 500 Poydras Street, Room CLQ FRPSOLDQFH ZLWK W Scheduling Order issued September 28, 2020.

/S/ Margaret E Woodward