

Consumers take aim at debt collectors via federal lawsuits

By Brian Bowling

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When Vicki Higgins saw a strange name on her business phone's caller ID in 2008, she didn't know that Patenaude & Felix law firm would become an unwelcome part of her life.

The Export resident filed a federal lawsuit May 6 in the hopes of ending the relationship.

Patenaude & Felix, through its local agent, Carnegie lawyer Gregg Morris, tried to collect \$5,685.94 plus interest on a Target credit card Higgins never had.

Early in the dispute, she called Target and talked to a representative who confirmed that the account with the same name as hers had an Ohio address and different birth date and Social Security number.

That didn't stop the retailer from suing Higgins in Westmoreland County Court to collect. Higgins hired a lawyer. After he demanded Morris prove she was the account holder, Morris had the Westmoreland County court dismiss his lawsuit Sept. 2. The court left open the opportunity for Morris to refile.

Higgins' federal lawsuit claims Patenaude & Felix and Target violated the federal Fair Debt Collection Practices Act by mischaracterizing the debt and filing a lawsuit to collect money Higgins didn't owe.

In an e-mail message, Raymond A. Patenaude said Friday his San Diego-based law firm has not yet seen her lawsuit and was unable to comment. Target spokeswoman Sara Moore said the company also had not seen the lawsuit and could not comment. Morris did not respond to calls to his office and home or to e-mails.

Higgins' case is one of 40 filed in federal court in Pittsburgh since Jan. 1 that claim someone violated the Fair Debt Collection Practices Act. In 2009, 84 such lawsuits were filed in Western Pennsylvania. Nationally, 3,262



Vicki Higgins of Export has filed a federal lawsuit against San Diego-based law firm Patenaude & Felix and Target, claiming the companies violated the federal Fair Debt Collection Practices Act by pushing her to pay a debt that is not hers.

cases were filed so far this year, and WebRecon, a company devoted to tracking these kinds of lawsuits, projects a year-end total of nearly 12,000 — which would be 4,000 more than 2009.

The federal law limits how far agencies can go when trying to collect a debt. The Federal Trade Commission's 2010 annual report shows the agency received more complaints about debt collections than any other area except identity theft. The number of complaints increased by 14 percent from 2008, to 119,364 complaints in 2010, according to the FTC. Complaints were lodged against companies owed money, as well as third-party debt collectors.

In 2009, consumers most frequently complained about harassment, such as repeated calls from debt collectors, collectors who used obscene or abusive language, or those who called before 8 a.m. and after 9 p.m., according to a separate FTC report. The second most common category of complaints involved collectors trying to col-

lect money the consumer didn't owe or trying to collect more money than the consumer owed.

Jack Gordon, WebRecon's founder, said although some lawsuits raise valid issues against debt collectors, many make generic accusations. Some people filed dozens of cases, often using the same lawyer, he said.

"It's hard to look at something like that and feel those are legitimate suits," he said.

Gordon once ran a Michigan debt collection agency. Frustrated with the escalating number of lawsuits against his company, he set up WebRecon to provide a database for debt collection agencies to identify debtors who frequently sue, and offer strategies for handling them.

He says debt collection agencies face the choice of spending \$20,000 or more to defend a lawsuit, versus \$4,000 to \$5,000 to settle it. The federal law doesn't allow collection agencies to recover attorneys' fees even

if they win, he said.

Jeffrey Suher, a lawyer representing Higgins, specializes in debt collection complaints and said many collection agencies buy old debts, send out threatening letters and count on intimidating enough people into paying on dubious claims.

"It's just a mill," he said. "It's not about working with someone. It's not about helping someone. It's about money."

Higgins said the series of phone calls, form letters and then Morris' lawsuit in Westmoreland County Court came at the worst time. Her late father had terminal lung cancer and was living with her, diverting time she could spend with her husband, two sons, granddaughter and her window cleaning and landscaping business.

Her federal lawsuit seeks unspecified damages and an assurance that the battle is over.