

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case no. 21-CV-61424-WPD

HENRY SANTIAGO,

Plaintiff,

v.

MEDICREDIT, INC. d/b/a MEDICREDIT,

Defendant.

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**ORDER ON DEFENDANT’S MOTION TO DISMISS OR ALTERNATIVELY TO  
STRIKE CERTAIN PARAGRAPHS OF THE COMPLAINT**

**THIS CAUSE** is before the Court on Defendant Medicredit, Inc. d/b/a Medicredit (“Defendant”)’s Motion to Dismiss the Complaint for Failure to State a Claim upon which Relief can be Granted, Including a Challenge to the Constitutionality of 15 U.S.C. § 1692c(b) or (B), in the Alternative to Strike Paragraphs 16 and 17 of the Complaint, filed August 11, 2021. [DE 12]. The Court has carefully considered the Motion and is otherwise fully advised in the premises.

In *Hunstein v. Preferred Collection & Mgmt. Servs., Inc.*, 994 F.3d 1341 (11th Cir. 2021), a published decision binding on this Court, the Eleventh Circuit held that a violation of § 1692c(b) gives rise to a concrete injury in fact for Article III standing and that a debt collector’s transmittal of the consumer’s personal information to a third-party vendor for sending a dunning letter constituted a communication ‘in connection with the collection of any debt’ within the meaning of § 1692c(b). The Court finds that *Hunstein* squarely applies to the Complaint [DE 4-2] in this case and, because it is Eleventh Circuit binding precedent, requires this Court’s denial of Defendant’s motion to dismiss for failure to state a claim as to the Fair Debt Collection

Practices Act (“FDCPA”) claim in this case.


Further, Defendant’s alternative motion to strike certain paragraphs of the Complaint pursuant to Fed. R. Civ. P. 12(f) as irrelevant is due to be denied without prejudice to file a motion that complies with the requirements of S.D. Fla. L.R. 7.1.A.3., which requires the moving party to certify that he has conferred, or describes a reasonable effort to confer, with the parties affected in a good faith effort to resolve the dispute.

Accordingly, Plaintiff shall limit its Response to Defendant’s Motion to the issue of whether the Complaint fails to state a claim under the Florida Consumer Collection Practices Act (“FCCPA”). *See* [DE 12] at pp. 22-24.

Based on the foregoing, it is hereby **ORDERED AND ADJUDGED** as follows:

1. Defendant’s Motion [DE 12] is **DENIED** as to the issue of whether the Complaint fails to state a claim under the FDCPA and is **DENIED WITHOUT PREJUDICE** as to Defendant’s alternative motion to strike as irrelevant certain paragraphs of the Complaint pursuant to Fed. R. Civ. P. 12(f)
2. Plaintiff shall limit its Response to Defendant’s Motion [DE 12] to the issue of whether the Complaint fails to state a claim under the FCCPA.

**DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida,  
this 12th day of August, 2021.

  
WILLIAM P. DIMITROULEAS  
United States District Judge

Copies furnished to:

Counsel of record