IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CONSUMER FINANCIAL PROTECTION BUREAU, **Plaintiff,** **v.** **WELTMAN, WEINBERG & REIS CO., L.P.A.,** **Defendant.**	**Civil Action No. 1:17-cv-00817-dcn** **Judge Donald C. Nugent** **Magistrate Judge William H. Baughman, Jr.**

DEFENDANT WELTMAN, WEINBERG & REIS CO., L.P.A.'S MOTION FOR ATTORNEY'S FEES AND INCORPORATED MEMORANDUM IN SUPPORT

On January 23, 2018, the Wall Street Journal published an opinion piece written by Mick Mulvaney, the Consumer Financial Protection Bureau's acting director, criticizing the Bureau's philosophy of "pushing the envelope" in enforcement efforts. (Exhibit B.) Mr. Mulvaney wondered aloud, when the Bureau loses a case because it "pushed too hard," "where do those we charged go to get their time, their money and their good names back?" (*Id.*) Moving forward, he assured that the Bureau would focus on cases with "quantifiable and unavoidable harm to the consumer" and engage in more formal rulemaking—rather than regulating by enforcement—because "the people we regulate should have the right to know what the rules are before being charged with breaking them." (*Id.*) Mr. Mulvaney announced a new mission for the Bureau—a mission that would no longer tolerate the agency's aggressive and excessive use of its "almost unparalleled power." (*Id.*)

From its start, this case has been an abuse of the Bureau's power. For more than two years before it filed the Complaint, the Bureau investigated Defendant Weltman, Weinberg & Reis Co. L.P.A.'s debt collection practices, and Weltman, at great expense, cooperated. Through that investigation, the Bureau found that Weltman has an extensive and rigorously enforced compliance program designed and implemented—successfully—by the firm's attorneys. What the Bureau did not find was any instance in which any consumer was harmed, any consumer was misled, or any consumer was confused by any of Weltman's collection practices.

The Bureau moved forward in any event, filing the Complaint on April 17, 2017, after Weltman refused to enter into a consent decree at the close of the investigation. The Complaint alleged that Weltman misrepresented the level of attorney involvement in demand letters and calls to consumers in violation of the Fair Debt Collection Practices Act ("FDCPA") and the Consumer Financial Protection Act of 2010 ("CFPA"). The Complaint's theory—that lawyers are required to review account-level documentation for each individual account before a law firm communicates with consumers—is nowhere expressed in the FDCPA or the CFPA or in any rule issued by the Bureau. When the Bureau's former director was asked specifically about that theory, his testimony reflected the Bureau's utter indifference to the merits of the suit: "the Bureau's theories . . . may be right or they may be wrong, but that's the case that was brought." (Deposition of Richard Cordray ("Cordray Dep.") at 130:14-16.)[1]

Following a year of litigation, the Bureau's last-minute dismissal of half its claims and request for millions in disgorgement on the eve of trial, and a four-day trial, the Court ruled in Weltman's favor on all remaining counts. (ECF No. 87.) Though Weltman prevailed at trial, the Bureau's blind pursuit of its groundless case cost Weltman dearly, both in terms of the

[1] Excerpts from the deposition of Richard Cordray are attached as Exhibit C.

substantial expense Weltman incurred in its defense and the reputational harm that cost the firm valued clients and employees. For the reasons below, Weltman, as the prevailing party, respectfully requests an award of its reasonable attorney's fees of $1,207,481.25 under 28 U.S.C. § 2412(b), as outlined in the Declaration of James R. Wooley ("Wooley Decl.," attached as Exhibit A), because the Bureau brought and prosecuted this case in bad faith.

I. BACKGROUND

A. The Bureau's Investigation and Complaint

Before filing the Complaint, the Bureau conducted an extensive investigation of Weltman's practices. (Tr. 251:20-256:2.)[2] That investigation began four years ago, in August 2014. (*Id.*) The Bureau's investigation entailed four comprehensive Civil Investigative Demands, and Weltman cooperated completely, providing the Bureau with hundreds of thousands of pages of documents, over a million call recordings, and the sworn testimony of two Weltman shareholders. (*Id.*) Weltman incurred expenses in excess of $500,000, which does not include the costs associated with the hundreds of hours its employees devoted to complying with the Bureau's requests. (Declaration of Scott S. Weltman ("Weltman Decl.," attached as Exhibit D) at ¶ 7.) Notwithstanding the broad net it cast, the sole focus of the Bureau's investigation became Weltman's practice of truthfully identifying itself as a law firm in written and oral communications with consumers.

On April 17, 2017, the Bureau filed a ten-page Complaint containing six counts. The Complaint alleged that Weltman, in the collection of consumer debt, violated Sections 807(3), 807(10), and 814(b)(6) of the FDCPA, 15 U.S.C. §§ 1692e(3), (10), and 1692l(b)(6); and Sections 1031(a), 1036(a)(1), 1054, and 1055 of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1),

[2] Citations to "Tr." refer to the transcript of the advisory jury trial in this matter.

5564, and 5565. (ECF No. 1, ¶ 1.) Counts I, II, and III collectively alleged that Weltman's letters violated the FDCPA and CFPA by misrepresenting the level of attorney involvement in preparing and sending the letters. Counts IV, V, and VI alleged that Weltman's calls to consumers during which non-attorney debt collectors sometimes referred to Weltman as a law firm similarly misrepresented the level of attorney involvement. The crux of the Complaint, in the Bureau's words, was that "[t]he Defendant engages in unlawful collection activities by misrepresenting the level of attorney involvement in demand letters and calls to consumers." (*Id.* at ¶ 2.)

The Complaint sought three categories of monetary damages: (1) civil money penalties, (2) disgorgement, and (3) restitution. (ECF No. 1, 9-10.) Though the Bureau never publicly stated the aggregate amounts it sought for each category, it represented to the Court that it was seeking Tier 1 civil money penalties under the CFPA of $5,639 beginning on July 21, 2011, which would have totaled more than $13 million at the time of trial. (ECF No. 69 at 10.) As for disgorgement, the Bureau's Rule 30(b)(6) witness testified that the Bureau was seeking nearly $13 million in disgorgement for 2016 *alone*—a figure representing all of the gross revenue of Weltman's agency collections business unit for that year.[3] (Deposition of Matthew Heidari at 30:1-4, 30:24-31:1.)[4] Notwithstanding that the Bureau claimed that it was seeking "disgorgement of ill-gotten revenue" for 2011 through the date of trial, the witness it designated to provide Weltman with the Bureau's calculation of that total testified that he was unaware of any calculation having been done (*id.* at 15:2-16:12), he was unprepared to talk about any year

[3] Weltman's agency collections business unit is primarily responsible for the firm's consumer debt collection efforts on behalf of large clients, many of which are heavily regulated financial institutions. (Tr. 143:3-10; 141:24-142:3; 304:22-25; 331:6-12.)

[4] Excerpts from the Deposition of Matthew Heidari are attached as Exhibit E.

other than 2016 (*id.* at 16:13-25), and he had no way of knowing whether the $13 million included revenue from collections that were done in compliance with the law (*id.* at 18:19-19:25). In sum, the Bureau threatened Weltman with disgorgement of *all* of one business unit's revenue for seven years based on no facts and no calculation of any kind. The Bureau abandoned its restitution claim during discovery, effectively conceding that there was nothing to return to consumers because no consumers were ever harmed by Weltman's practices..

B. Former Director Cordray's Knowledge of Weltman's Practices

The Bureau's former director, Richard Cordray, personally authorized the filing of the Complaint. (ECF No. 87, ¶ 28.) Mr. Cordray was, however, familiar with Weltman's collection practices long before April 2017. Weltman had collected debts for the State of Ohio using substantially similar collection letters to those at issue in this case while Mr. Cordray served as the Ohio Attorney General. (*Id.* at ¶ 27.) As Ohio Attorney General, Mr. Cordray approved those letters, and with full knowledge of their content, he approved using those letters for the State of Ohio's collection efforts. (*Id.*)

Mr. Cordray's knowledge and prior approval of Weltman's practices notwithstanding, the Bureau issued a press release the same day it filed the Complaint, quoting Mr. Cordray, who publicly accused Weltman of "mask[ing] millions of debt collection letters and phone calls with the professional standards associated with attorneys when attorneys were, in fact, not involved." (Exhibit F at 1.) "Such illegal behavior," Mr. Cordray stated, "will not be allowed in the debt collection market." (*Id.*) The Bureau told the public it was "seeking to stop the unlawful

practices and recoup compensation for consumers who have been harmed." (*Id.*) The Plain Dealer picked up the story the next day, as did other local and national news outlets.[5]

In the days following the Bureau's press release, Weltman lost several large clients. (Weltman Decl. at ¶¶ 2-3.) Some clients recalled all of their current debt placements with the firm. (*Id.* at ¶ 3.) Others notified Weltman that they wouldn't be placing any new debts for collection. (*Id.*) Some of these clients represented to Weltman expressly that they were taking these actions as a direct result of the Bureau's lawsuit. (*Id.* at ¶ 4.) In the weeks and months following the Bureau's press release, Weltman, with a shrinking revenue stream, expended considerable resources to defend itself and was forced to downsize. (*Id.* at ¶ 5-6.) Thirty seven employees lost their jobs. (*Id.* at ¶ 6.)

C. Weltman Prevails after Trial

Notwithstanding the broad scope of its pre-suit investigation, the Bureau made numerous substantial discovery requests, serving four sets of requests for production of documents, two sets of interrogatories that far exceeded the 25 permitted by Rule 33(a)(1)[6], and two sets of requests for admissions. The Bureau also noticed and took full-day depositions of five Weltman employees. Two of those deponents—Eileen Bitterman and Charles Pona—had each already provided the Bureau with more than eight hours of sworn testimony during the investigation. (*See* Tr. 253:21-25; 254:21-24.)

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[5] *See*, *e.g.*, Murray, Teresa Dixon, *Consumer Financial Protection Bureau Sues Weltman, Weinberg & Reis Over Alleged Collection Tactics*, THE PLAIN DEALER (Apr. 18, 2017), https://www.cleveland.com/business/index.ssf/2017/04/feds_sue_weltman_weinberg_reis.html; Mannion, Cara, *CFPB Sues Debt Collection Law Firm Over Atty 'Involvement,'* LAW360 (Apr. 17, 2017), https://www.law360.com/articles/914172.

[6] The Bureau never sought the Court's permission for these improper interrogatories and never explained to Weltman why they were necessary. Weltman incurred expenses making its objections to excessive interrogatories that the Bureau never even attempted to justify.

Following discovery, both parties moved for summary judgment. (ECF Nos. 44 and 45.) The Bureau's motion did not address Counts IV, V, and VI, the telephone call counts, presumably because by then the Bureau recognized that there was no law to support the theory underlying those claims. The Bureau did not dismiss the frivolous claims at that time, so Weltman prepared its trial brief, jury instructions, and trial outlines based on all six counts in the Complaint. The Court denied the motions on April 9, 2018, by Memorandum Opinion and Order. (ECF No. 61.) The case proceeded to an advisory jury trial on May 1, 2018. (ECF No. 84.) Before the jury's empanelment, the Bureau dismissed with prejudice Counts IV, V, and VI—all of which related to Weltman's collection calls—and withdrew its request for disgorgement, leaving only Counts I, II, and III for trial.[7] (ECF No. 79.) After a four-day trial, the advisory jury returned a verdict in Weltman's favor. (ECF No. 87, 2-3.) The Court then instructed the parties to present their proposed findings of fact and conclusions of law.

On July 25, 2018, the Court ruled in favor of Weltman on all remaining counts and entered judgment in Weltman's favor. (ECF Nos. 87, 88.) The Court found, among other things, that Weltman's demand letters were truthful on their face, that Weltman's attorneys were meaningfully and substantially involved in the debt collection process both before and after the issuance of the demand letters, and that the Bureau failed to prove that Weltman's letters violated either the FDCPA or the CFPA. (ECF No. 87, ¶¶ 41-43.) The Bureau called no consumers to testify; it did not play a single recorded phone call of the million Weltman had produced; it did not offer evidence of any Weltman account that had been mishandled in any way. (*Id.* at 11.)

[7] The Bureau did not disclose that it planned to voluntarily dismiss Counts IV, V, and VI and abandon its request for disgorgement until just before it filed its trial brief on April 26, five days before trial commenced. (*See* ECF No. 69 at 4 n.2.) Indeed, during discussions in the weeks before trial, the Bureau continued to threaten Weltman with a judgment that would include disgorgement.

The Bureau in fact offered no evidence showing either that any consumer had been harmed or that, even if Weltman's letters had misrepresented the level of attorney involvement, the representation was material. (*Id.* at ¶¶ 29, 46.) The only evidence presented by the Bureau in support of its argument that Weltman's letters could mislead certain consumers "came exclusively from an expert that the Court [did] not find credible." (*Id.* at 3.)

II. LEGAL ARGUMENT

The Equal Access to Justice Act ("EAJA") waives the government's sovereign immunity for attorney's fees and costs under certain circumstances. *See generally* 28 U.S.C. § 2412. Relevant here is § 2412(b), which permits a court to award "reasonable fees and expenses of attorneys" to the prevailing party in a civil action brought by any agency of the United States "to the same extent that any other party would be liable under the common law or under the terms of any statute which specifically provides for such an award." 28 U.S.C. § 2412(b). In other words, the EAJA puts the United States on equal footing with private litigants under common law and statute, and courts applying § 2412(b) hold the government to "the same standard of good faith that is expected of all parties to litigation." Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 3660.1 (4th ed.).

It is well established that courts possess the "inherent authority to sanction a party when it litigates 'in bad faith, vexatiously, wantonly, or for oppressive reasons.'" *United States ex rel. Tingley v. PNC Fin. Servs. Grp., Inc.*, 705 F. App'x 342, 344 (6th Cir. 2017). And § 2412(b) of the EAJA permits a court to sanction the United States and its agencies for attorney's fees under this common law "bad faith" exception to the American Rule that each party bears its own attorney's fees. *See Griffin Indus., Inc. v. U.S. E.P.A.*, 640 F.3d 682, 685 (6th Cir. 2011) (discussing § 2412(b) and a court's inherent authority to impose sanctions under the bad faith

exception). "The award of fees for bad faith conduct is intended both to compensate the prevailing party and to deter the United States from future wrongdoing." Wright & Miller, Federal Practice and Procedure § 3660.1 (4th ed.).

To impose a sanction for attorney's fees under the bad faith exception, a court "must conclude that (1) the claims advanced were meritless, (2) counsel knew or should have known that the claims were meritless, and (3) the suit was brought for an improper purpose." *Tingley*, 705 F. App'x at 344-45. While the Sixth Circuit has recognized that the power to impose sanctions under a court's inherent authority should be exercised with restraint, courts nevertheless "should not shrink from exercising [their power] when sanctions are justified by the circumstances." *Stalley v. Methodist Healthcare*, 517 F.3d 911, 920 (6th Cir. 2008).

As the prevailing party, Weltman is entitled to its reasonable attorney's fees, because the Bureau prosecuted this action in bad faith. Trial demonstrated that the Bureau's claims were meritless. And the Bureau knew, or should have known, that its claims lacked merit long before it even filed the Complaint. Indeed, as a government agency with broad authority to conduct civil investigations, the Bureau was uniquely situated to ascertain the merits of its case pre-suit, and it used that power here to investigate Weltman for more than two years. From that investigation, the Bureau knew no consumer had been harmed, misled, or confused by Weltman's practice of truthfully identifying itself as a law firm. Indeed, if the Bureau had any evidence to support its claims, it surely would have presented it during motion practice or at trial.

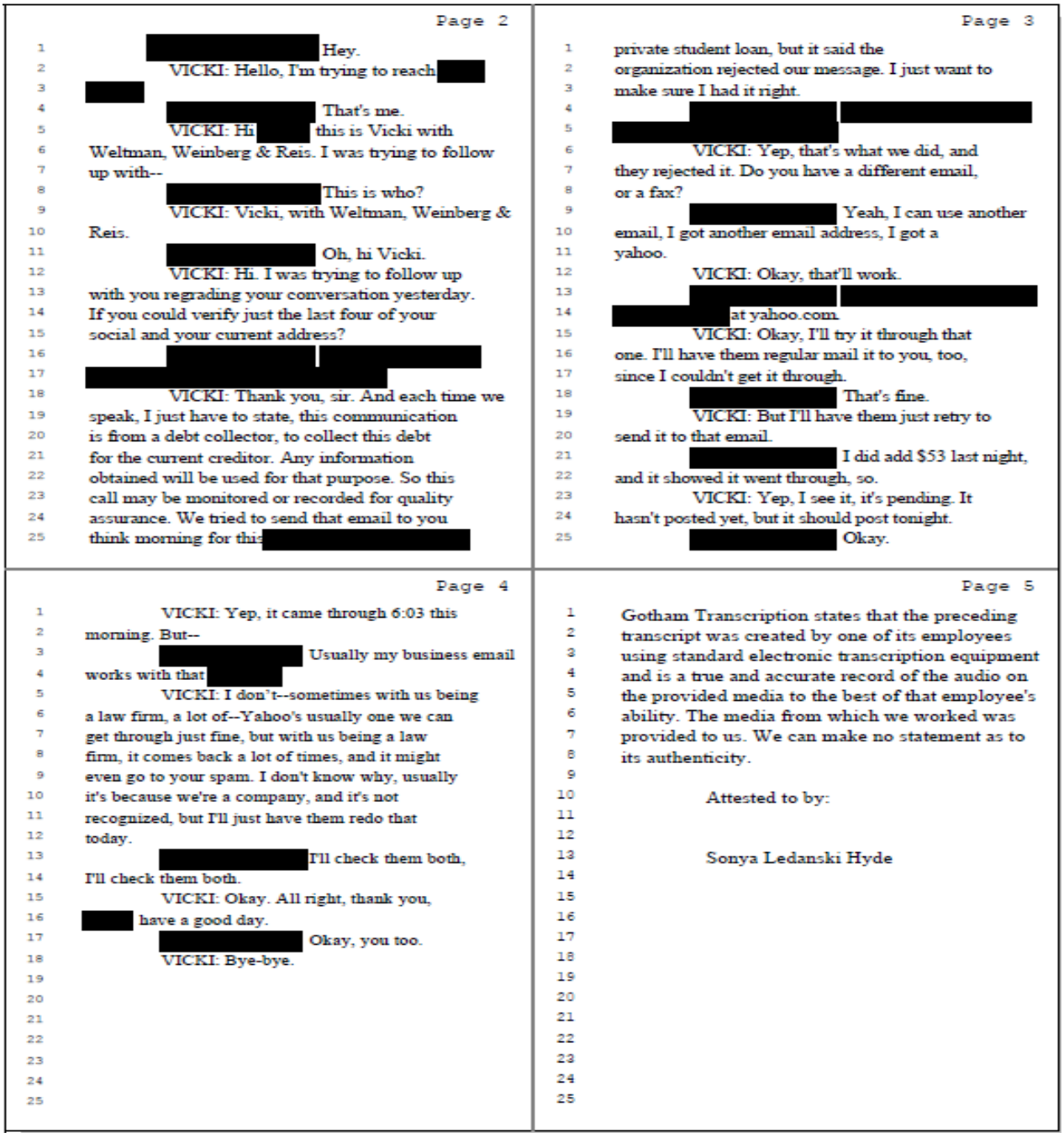
The Bureau also knew that Weltman's attorneys were meaningfully involved in every step of the debt collection process. During the Bureau's investigation, Weltman provided hundreds of thousands of pages of its records for the Bureau's review, and made shareholders Eileen Bitterman, Weltman's Compliance Officer, and Charles Pona, Managing Partner of the

Consumer Collections Unit, available for extensive examination under oath. (*See* Tr. 253:21-25; 254:21-24.) The evidence Weltman presented at trial to demonstrate, as the Court found, that "Weltman attorneys [are] meaningfully and substantially involved in the debt collection process," relied heavily on the very documents produced during the investigation and the testimony of Ms. Bitterman and Mr. Pona. (*See* ECF No. 87 at 9-11, 13-14.) That same evidence was in the Bureau's hands long before it brought this case. What's more, Mr. Cordray, at the time the Bureau filed suit, knew that Weltman had collected debts on his behalf and with his approval as the Ohio Attorney General using substantially similar practices to those the Bureau targeted in this case.

That the Bureau knew its claims to be meritless is starkly demonstrated by the Bureau dismissing half its case, that is, the three counts of the Complaint related to Weltman's phone calls, the morning of the first day of trial. To Weltman's knowledge, no court has ever imposed liability on a party for violating the FDCPA or the CFPA due to a non-attorney debt collector's truthful identification of his or her employer as a law firm on a phone call. And there is no statute or rule prohibiting that practice. But in the year between when the Complaint was filed and trial, Weltman was forced to expend considerable time and incur significant expense in preparing to defend itself from those allegations.

For example, Weltman asked the Bureau to identify the calls that the Bureau claimed to violate the law. (*See* Exhibit G at Interrogatory No. 1.) The Bureau identified about 140 calls, which Weltman's counsel reviewed and, for the purposes of preparing for trial, had transcribed. Those transcriptions showed that Weltman's personnel were consistently truthful, polite, and acting in compliance with the law. In one striking example, the Bureau identified the following call, reproduced in its entirety below (with names redacted to protect the privacy of the

consumer), as one that allegedly violated the law:



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[redacted] Hey.
VICKI: Hello, I'm trying to reach [redacted]
[redacted] That's me.
VICKI: Hi [redacted] this is Vicki with Weltman, Weinberg & Reis. I was trying to follow up with--
[redacted] This is who?
VICKI: Vicki, with Weltman, Weinberg & Reis.
[redacted] Oh, hi Vicki.
VICKI: Hi. I was trying to follow up with you regrading your conversation yesterday. If you could verify just the last four of your social and your current address?
[redacted]
VICKI: Thank you, sir. And each time we speak, I just have to state, this communication is from a debt collector, to collect this debt for the current creditor. Any information obtained will be used for that purpose. So this call may be monitored or recorded for quality assurance. We tried to send that email to you think morning for this[redacted]

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private student loan, but it said the organization rejected our message. I just want to make sure I had it right.
[redacted]
VICKI: Yep, that's what we did, and they rejected it. Do you have a different email, or a fax?
[redacted] Yeah, I can use another email, I got another email address, I got a yahoo.
VICKI: Okay, that'll work.
[redacted] at yahoo.com.
VICKI: Okay, I'll try it through that one. I'll have them regular mail it to you, too, since I couldn't get it through.
[redacted] That's fine.
VICKI: But I'll have them just retry to send it to that email.
[redacted] I did add $53 last night, and it showed it went through, so.
VICKI: Yep, I see it, it's pending. It hasn't posted yet, but it should post tonight.
[redacted] Okay.

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VICKI: Yep, it came through 6:03 this morning. But--
[redacted] Usually my business email works with that [redacted]
VICKI: I don't--sometimes with us being a law firm, a lot of--Yahoo's usually one we can get through just fine, but with us being a law firm, it comes back a lot of times, and it might even go to your spam. I don't know why, usually it's because we're a company, and it's not recognized, but I'll just have them redo that today.
[redacted] I'll check them both, I'll check them both.
VICKI: Okay. All right, thank you, [redacted] have a good day.
[redacted] Okay, you too.
VICKI: Bye-bye.

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Gotham Transcription states that the preceding transcript was created by one of its employees using standard electronic transcription equipment and is a true and accurate record of the audio on the provided media to the best of that employee's ability. The media from which we worked was provided to us. We can make no statement as to its authenticity.

Attested to by:

Sonya Ledanski Hyde

There is nothing illegal about this innocuous conversation or the others identified by the Bureau during discovery. What part of this exchange could possibly mislead the consumer and cause him to pay a debt he would not otherwise pay? It is difficult to fathom that the Bureau

legitimately believed this call—which it identified as its evidence—was misleading. Nonetheless, the Bureau pursued Counts IV through VI from the case's inception through discovery, pre-trial motion practice, and mediation. It was only at the moment the Bureau would have to prove these counts that it dismissed them, at which point the usefulness of threatening Weltman with massive liability under the meritless claims had run out.

Despite knowing that (1) its two-year investigation had found no evidence of unlawful conduct or consumer harm, (2) Weltman maintained a robust and rigorously enforced compliance program, (3) Mr. Cordray approved Weltman's collection practices as the Ohio Attorney General, and (4) no statute or regulation proscribed Weltman truthfully identifying itself as a law firm, the Bureau publicly accused Weltman of serious misconduct contemporaneously with the filing of the Complaint. With no basis in law or fact, the Bureau proclaimed that Weltman engaged in "illegal behavior" by "mask[ing] millions of debt collection letters and phone calls with the professional standards associated with attorneys when attorneys were, in fact, not involved" and promised to "recoup compensation for consumers who have been harmed." (Exhibit F at 1.)

The consequences of those false, public accusations were immediate and severe. Weltman lost valued clients and revenue, and a number of Weltman employees lost their jobs. (Weltman Decl. at ¶¶ 2-6.) On top of that, Weltman was forced to incur the expense of litigating a case through trial under threat of tens of millions of dollars in penalties that would have doomed the firm.

The testimony of the very person who authorized the filing of this case demonstrates the Bureau's complete indifference to those consequences. Mr. Cordray was deposed in this lawsuit, and he was asked to explain how the letters sent on his behalf, as the Ohio Attorney General,

were not misleading, while nearly identical letters, sent on behalf of other Weltman clients, were "illegal." Under oath, Mr. Cordray's statements about the Bureau's case and Weltman's conduct were more equivocal than what he gave to the press. Far from characterizing Weltman's collection practices as patently illegal, Mr. Cordray testified that the Complaint's theories "may be right or they may be wrong." (Cordray Dep. at 130:14-16.) And when asked specifically about the guidance that the Bureau had issued to make law firms aware of what standards were being applied to their conduct, Mr. Cordray acknowledged that "[t]here have been no rules or regulations issued on debt collection" and that the Bureau's "guidance" has been given "through other enforcement actions and orders and court decisions." (Cordray Dep. 116:12-117:9.) The disregard for the merits of the Bureau's case, particularly in light of the lack of any rules or regulations supporting the Complaint's theories, is exactly in line with the Bureau's philosophy to, in Mr. Cordray's words, "send a message" by "pushing the envelope." (*See* Exhibit B.)

Under § 2412(d)(1)(B) of the EAJA, the government is presumptively liable for a prevailing party's attorney's fees unless the government can show that its position was "substantially justified." 28 U.S.C. § 2412(d)(1)(B). "The government's position is substantially justified if it is 'justified in substance or in the main—that is, justified to a degree that could satisfy a reasonable person.'" *Carter v. Astrue*, No. 1:09-CV-0667, 2011 WL 722774, at *2 (N.D. Ohio Feb. 23, 2011) (*quoting Pierce v. Underwood*, 487 U.S. 552, 565 (1988)). While subsection (d) of the EAJA is inapplicable here, the "substantially justified" standard shows the Bureau's case was improper from the start. Mr. Cordray could not justify the Bureau's position at all, let alone substantially justify it. The best he could do was acknowledge that the Complaint's theories "may be right or they may be wrong," a theme that carried over to

trial where the Bureau presented no credible evidence of any misconduct. No reasonable person could conclude that the Bureau's case was substantially justified here.

Even today, despite Weltman prevailing at trial, the Bureau's dismissal of half its case, and the Bureau's failure to show any evidence of consumer harm, the Bureau's website still unequivocally and affirmatively describes Weltman's conduct as illegal: "[Weltman] made statements on collection calls and sent collection letters creating the false impression that attorneys had meaningfully reviewed the consumer's file, when no such review has occurred. The CFPB is seeking to stop the unlawful practices and recoup compensation for consumers who have been harmed." (Exhibit H.)

This case is the concrete example of what happens when the Bureau "pushes too hard" and subjects an innocent company to unwarranted scrutiny in an attempt to regulate by litigating, rather than by establishing rules before charging a company with allegedly breaking them. The Bureau's acting director has rightly characterized the conduct that led to the filing and prosecution of this meritless case as an abuse of governmental power, and the Court need not look further than that to find an "improper purpose" here.

Mr. Mulvaney's question—"where do those we charged go to get their time, their money and their good names back?"—may have been rhetorical. But the law provides an answer. When a party prevails in the face of the undue and unconscionable pressure of a government prosecuting unfounded claims, the law provides a remedy. When the government makes a brazen, unsupported, and unsupportable announcement that a reputable and innocent company has engaged in "illegal" conduct, the law provides a sanction. This Court has the inherent authority to sanction the Bureau for abusing its unparalleled power to pursue a meritless case, and the Court should exercise that power to award Weltman its reasonable attorney's fees.

III. CONCLUSION

For the reasons above, the Court should grant this motion and award Weltman its reasonable attorney's fees of $1,207,481.25. In the alternative, while Weltman believes the evidence presented here conclusively demonstrates the Bureau's bad faith, Weltman respectfully requests a hearing on this Motion, if the Court believes it necessary.

Dated: August 24, 2018

Respectfully submitted,

s/ James R. Wooley

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CERTIFICATE OF COMPLIANCE

I hereby certify that this non-dispositive motion is no more than 15 pages in length, and, therefore, it conforms to the page limitation for standard track cases set forth in Local Rule 7.2(f).

s/ James R. Wooley

One of the Attorneys for Weltman, Weinberg & Reis Co., L.P.A.

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following at their e-mail addresses on file with the Court:

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s/ James R. Wooley
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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CONSUMER FINANCIAL PROTECTION BUREAU, **Plaintiff,** **v.** **WELTMAN, WEINBERG & REIS CO., L.P.A.,** **Defendant.**	**Civil Action No. 1:17-cv-00817-dcn** **Judge Donald C. Nugent** **Magistrate Judge William H. Baughman, Jr.**

DECLARATION OF JAMES R. WOOLEY

I, James R. Wooley, declare as follows, subject to penalty of perjury:

1. I have personal knowledge of the matters set forth in this declaration and am competent to testify thereto.

2. I oversaw the litigation of this matter, including all tasks listed below. I am familiar with the attorney's fees Defendant Weltman, Weinberg & Reis Co., L.P.A. ("Weltman") has incurred.

3. I am a partner in the law firm of Jones Day. I am lead counsel representing Weltman in the above-captioned matter, and I am admitted to practice before this Court. I am a 1982 graduate of Case Western Reserve University School of Law. My practice focuses on representing businesses and individuals in government investigations, criminal litigation, and commercial disputes. I have overseen and participated in dozens of trials in state and federal court arising from commercial disputes and government investigations.

4. During the representation in this matter, I supervised a team of attorneys and non-attorneys at Jones Day, all of whom worked on the Weltman representation.

5. Weltman incurred attorney's fees totaling **$1,207,481.25** for the litigation of this matter.[1] These fees were reasonably and necessarily incurred and were generated from the work performed by my team on the following tasks.

6. Weltman incurred attorney's fees of **$608,925** for 1,001.75 hours expended on tasks related to pre-summary judgment filings and the discovery process. These tasks included analyzing case background information, developing case strategy, reviewing and analyzing the Complaint (ECF No. 1), performing legal research, drafting a Motion for Judgment on the Pleadings (ECF No. 7), reviewing the CFPB's Opposition Brief (ECF No. 10), drafting Weltman's reply in support Reply in Support (ECF No. 13), drafting discovery requests and motions, reviewing and analyzing documents, reviewing and analyzing transcriptions for the telephone calls at issue in Counts IV through VI of the Complaint (ECF No. 1), responding to discovery requests, researching privilege and discovery issues, preparing for, defending, and taking depositions, preparing for and participating in the Rule 26(f) conference and meet-and-confers with the CFPB, communicating internally and with the CFPB about issues related to discovery and briefing.

7. Weltman incurred attorney's fees of **$152,718.75** for 300 hours expended briefing summary judgment, including legal research, drafting its Motion for Summary Judgment (ECF No. 45), reviewing the CFPB's Opposition Brief (ECF No. 52), drafting a Reply in Support (ECF No. 57), reviewing the CFPB's Motion for Partial Summary Judgment (ECF No. 44), drafting an Opposition Brief (ECF No. 54), and reviewing the CFPB's Reply (ECF No. 58).

[1] The attorney's fees described in this Declaration do not include any attorney's fees incurred by Weltman in the CFPB's pre-suit investigation, during which Weltman was represented by another law firm.

This also includes discussions among counsel regarding issues related to research, the pleadings, and summary judgment strategy.

8. Weltman incurred attorney's fees of **$61,762.50** for 83.25 hours expended in developing settlement strategy, preparing for and attending the case management conference, preparing for and attending mediation, and engaging in settlement negotiations with the CFPB.

9. Weltman incurred attorney's fees of **$384,075** for 575.50 hours expended preparing for and attending trial. This time also includes trial strategy, research for and drafting of various trial documents (*e.g.*, pre-trial briefs, motions *in limine*, direct examination outlines, and proposed jury instructions), preparing for direct and cross examinations, preparing trial exhibits, communicating internally and with the CFPB regarding trial issues, post-trial briefing (*e.g.*, Proposed Findings of Fact and Conclusions of Law (ECF No. 86)), attention to damages issues, and considerations about appeals and motions for fees and costs.

10. Based upon my experience with government litigation, the attorney's fees that Weltman incurred were reasonable and necessary, particularly in light of the complexity and scope of the case and the potential exposure with which Weltman was threatened.[2]

11. Weltman therefore submits for the Court's consideration **$1,207,481.25** in attorney's fees for the litigation of this matter. True and accurate copies of Jones Day's billing statements containing the relevant time entries will be made available for *in camera* review upon the Court's request.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 23, 2018.

James R. Wooley

[2] Weltman can provide a further break down of the hourly rates and time spent on each task for specific attorneys and non-attorneys, if the Court deems it necessary.

EXHIBIT B

The CFPB Has Pushed Its Last Envelope

By Mick Mulvaney

When I arrived at the Consumer Financial Protection Bureau in November, I told employees that despite what they might have heard, I had no intention of shutting down the bureau. As members of the executive branch, we are charged with faithfully executing the law. The law mandates that we enforce consumer-protection laws, and we will continue to do so under my watch.

At the same time, I explained that things would be different under new leadership. Then I read a quote from my predecessor, Richard Cordray, that highlighted how he ran the bureau: "We wanted to send a message: There's a new cop on the beat. . . . Pushing the envelope is a loaded phrase, but that's absolutely what we did." I've seen similar language elsewhere. It's fair to say that the bureau's previous governing philosophy was to "push the envelope" aggressively, under the assumption that we were the good guys and the financial-service industry was the bad guys.

That is going to be different. That entire governing philosophy of pushing the envelope frightens me a little. We are government employees, and we work for the people. That means everyone: those who use credit cards and those who provide the credit; those who take out loans and those who make them; those who buy cars and those who sell them. All of those people are part of what makes this country great, and all of them deserve to be treated fairly by their government. There is a reason Lady Justice wears a blindfold and carries a balance scale along with her sword.

It is not appropriate for any government entity to "push the envelope" when it comes into conflict with our citizens. We have the power to do damage to people that could linger for years and cost them their jobs, their savings and their homes. If the CFPB loses a court case because we "pushed too hard," we simply move on to the next matter. But where do those we charged go to get their time, their money and their good names back? If a company closes its doors under the weight of a multiyear Civil Investigative Demand, we still have jobs at CFPB. But what about the workers who are laid off as a result?

There will absolutely be times when circumstances require us to take dramatic action to protect consumers. At those times, I expect us to be vigorous in our enforcement of the law. But bringing the full weight of the federal government down on the necks of the people we serve should be something that we do only reluctantly, and only when all other attempts at resolution have failed.

In my office you can find a copy of "A Man for All Seasons," about the life of St. Thomas More. My favorite passage is an exchange between the famous lawyer and his son-in-law, who encouraged More to arrest a man for simply being "bad." His response is one of the most concise and articulate defenses of the rule of law in history:

"This country is planted thick with laws, from coast to coast—man's laws, not God's—and if you cut them down . . . do you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil the benefit of the law, for my own safety's sake."

We will exercise our power with humility and prudence to enforce the law faithfully.

Put another way: If you push the envelope now in pursuit of your mission, what's to stop someone else—with a different mission, perhaps—from pushing that envelope against you tomorrow?

What does all of this mean for how we will operate at the bureau? Simply put, we will review everything we do, from investigations to lawsuits and everything in between.

When it comes to enforcement, we will focus on quantifiable and unavoidable harm to the consumer. If we find that it exists, you can count on us to pursue the appropriate remedies vigorously. If it doesn't, we won't go looking for excuses to bring lawsuits.

On regulation, it seems that the people we regulate should have the right to know what the rules are before being charged with breaking them. This means more formal rule making and less regulation by enforcement.

And we will be prioritizing. In 2016, almost a third of the complaints into this office related to debt collection. Only 0.9% related to prepaid cards and 2% to payday lending. Data like that should, and will, guide our actions.

Speaking of data, the Dodd-Frank Act, which established the CFPB, requires us to "consider the potential costs and benefits to consumers and covered persons." To me, that means quantitative analysis should drive our decisions. And while qualitative analysis certainly can play a role, it should not be to the exclusion of measurable "costs and benefits." There will be a lot more math in our future.

I intend to exercise our statutory authority to enforce the laws of this nation. I intend to execute the statutory mandate of the bureau to protect consumers. But we will no longer go beyond that mandate. If Congress wants us to do more than it set forth in the Dodd-Frank Act, it can change the law.

The CFPB has a new mission: We will exercise, with humility and prudence, the almost unparalleled power Congress has bestowed on us to enforce the law faithfully in furtherance of our mandate. But we go no further. The days of aggressively "pushing the envelope" are over.

Mr. Mulvaney is director of the Office of Management and Budget and acting director of the Consumer Financial Protection Bureau. This article is adapted from a Jan. 24 memo to CFPB staff.

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EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - - - -

Consumer Financial Protection Bureau,

Plaintiff,

vs. Case No. 1:17-cv-817

Weltman, Weinberg & Reis Co., L.P.A.,

Defendant.

- - - - -

DEPOSITION OF RICHARD CORDRAY, ESQ.

- - - - -

Taken at Jones Day
325 John H. McConnell Boulevard, Ste. 600
Columbus, OH 43215
December 19, 2017, 8:59 a.m.

- - - - -

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- - - - -

say --
Q. I'm not.
A. And I would say --
Q. I'm not. I'm using plain English.
A. That's how --
Q. Do you have any concerns --
A. That's how I'm --
Q. Do you have any concerns whatsoever whether this letter was misleading to consumers, sir?
MR. MCCRAY-WORRALL: Counsel, can I interject for a second? You're interrupting the witness. Could you please allow him to finish --
A. That's not --
MR. DOUGLAS: -- his answer before you ask another question?
A. So that's how I'm understanding your question. "Misleading" is a legal term. But what I would say is this, and again it might short circuit some of what you're doing here. What we may have thought in the Attorney General's Office in 2009 based on the state of the law as we understood it at the time may or may not be what I would have thought in 2017 at the Consumer Bureau

based on the state of the law as it appeared to me at that time. So I might have had a judgment in 2009 that might no longer have been my judgment in 2017. But I can't really speak to exactly what I would have thought in 2009.

Q. So how would Weltman, Weinberg & Reis know that?

A. I assume that they would keep up with changes in the law and Court decisions and --

Q. And what sort of --

A. -- adapt accordingly.

Q. What sort of guidance did the CFPB put out to make sure that if somebody said, boy, this is a problem you need to change, where would we find that guidance?

A. I can't speak specifically to where that would have been.

Q. I've been on your website. I can't find it. Where would we find it?

A. Well, I'm not quite sure what you're getting at here. There have been no rules or regulations issued on debt collection, although there -- there are matters pending at the Bureau. The Bureau has brought enforcement actions and

given guidance through other enforcement actions and orders and court decisions have been rendered, you know, around the country. I assume that as was true then and is true now, debt collectors keep up with the Court decisions and adjust their behavior accordingly. And, you know, sometimes those court decisions may be clear, sometimes they're not clear. But the law evolves and changes and it happens all the time.

Q. Okay. To my specific question, did the CFPB put out guidance that said a letter like this is illegal? A letter like Exhibit I, did the CPPB put out guidance that said that?

A. What do you mean "guidance"?

Q. Guidance.

A. Well, the CFPB put out a lot of information in a continuing flow. There would have been other enforcement actions that might have been decided and there would be decisions and consent decrees and Court decisions. There might be supervisory highlights which were put out from time to time about what happened in supervising entities in terms of their debt collection practices, there could be guidance documents

MR. MCCRAY-WORRALL: Objection. You're --

Q. And you said it misrepresented that a lawyer was involved in reviewing a customer's account. You can look at the Exhibit H yourself. I think it's a fair paraphrase from your quote.

MR. MCCRAY-WORRALL: Objection to the extent you're assuming that it's this letter that's at issue in that statement. That has not been established.

MR. WOOLEY: For the record, we should say -- I -- the objections are being interposed by somebody who has yet to appear in this case --

MR. MCCRAY-WORRALL: I have noted my appearance.

MR. WOOLEY: -- in any substantive way. He's not been in a deposition. He's not been in a court conference. And I have no basis to believe that he knows anything about the file.

MR. MCCRAY-WORRALL: Objection.

BY MR. WOOLEY:

Q. So you make the statement in the press release that this letter is "illegal behavior"?

A. I think the press release speaks for

itself. You've quoted it several times now and I think accurately enough, but it speaks for itself.

Q. Okay. All right. I'm asking you not about -- I'm not asking you for a conclusion that judge might make. Richard Cordray said, "Such illegal behavior...." This is the letter, I'm representing that to you. If I'm wrong, I'm wrong; but I'm right. This is the letter. What's illegal about this letter?

MR. MCCRAY-WORRALL: Objection.

A. The allegations in the complaint detail that, and there's probably been further filings in the case which I have not seen that further flesh out the Bureau's theories on this. And they may be right or they may be wrong, but that's the case that was brought.

MR. DOUGLAS: I recognize you're in discovery.

A. You're --

MR. DOUGLAS: You're in discovery.

Q. I want to repeat that.

MR. DOUGLAS: I want to make sure that you understand that he's not speaking on behalf of Richard Cordray. At that time the press release

is the Bureau issuing it. It happens to be under his name.

MR. WOOLEY: It's his quote, though.

A. As the director of the Bureau.

MR. DOUGLAS: We all are quoted in the press on behalf over our clients.

Q. Am I hearing you correctly, though, that you just said this was complaint that you approved to sue this law firm that you worked with before, they may be right and they may be wrong?

A. Look --

Q. Did I accurate -- did I just hear you say that?

MR. DOUGLAS: I didn't hear it.

A. There's really nothing at issue here and you're trying to make something an issue. We file complaints --

Q. Tell him that.

A. No. Listen to me.

Q. No. No. No. You tell him that.

MR. MCCRAY-WORRALL: No.

A. I'm answering. Let me answer. We file complaints in cases, we know we're not going to necessarily win every case. And if a court

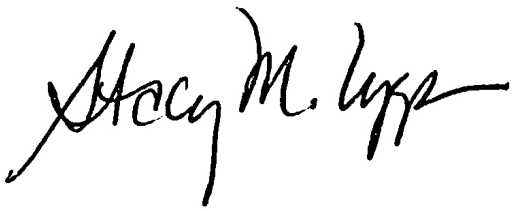
State of Ohio : C E R T I F I C A T E
County of Franklin: SS

I, Stacy M. Upp, a Notary Public in and for the State of Ohio, certify that Richard Cordray was by me duly sworn to testify to the whole truth in the cause aforesaid; testimony then given was reduced to stenotype in the presence of said witness, afterwards transcribed by me; the foregoing is a true record of the testimony so given; and this deposition was taken at the time and place specified on the title page.

Pursuant to Rule 30(e) of the Federal Rules of Civil Procedure, the witness and/or the parties have not waived review of the deposition transcript.

I certify I am not a relative, employee, attorney or counsel of any of the parties hereto, and further I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Columbus, Ohio, on December 21, 2017.



Stacy M. Upp, Notary Public - State of Ohio
My commission expires August 6, 2021.

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CONSUMER FINANCIAL PROTECTION BUREAU, **Plaintiff,** **v.** **WELTMAN, WEINBERG & REIS CO., L.P.A.,** **Defendant.**	**Civil Action No. 1:17-cv-00817-dcn** **Judge Donald C. Nugent** **Magistrate Judge William H. Baughman, Jr.**

DECLARATION OF SCOTT S. WELTMAN

I, Scott S. Weltman, declare as follows, subject to penalty of perjury:

1. My name is Scott S. Weltman. I am a Shareholder and the Managing Partner at Weltman, Weinberg & Reis Co., L.P.A, the Defendant in this action. I have personal knowledge of the matters set forth in this affidavit and am competent to testify thereto.

2. I was a Shareholder and the Managing Partner at Weltman when the Consumer Financial Protection Bureau (the "Bureau") filed the Complaint in this matter on April 17, 2017. As a result of the allegations in the Bureau's Complaint, as well as the press release the Bureau published the day it filed the Complaint,[1] Weltman suffered both financial and reputational harm.

3. Immediately after the Bureau brought its lawsuit and published the press release, clients representing over $5 million of Weltman's 2016 revenue either stopped placing business

[1] Consumer Financial Protection Bureau, *CFPB Files Suit Against Law Firm for Misrepresenting Attorney Involvement in Collection of Millions of Debts*, https://www.consumerfinance.gov/about-us/newsroom/cfpb-files-suit-against-law-firm-misrepresenting-attorney-involvement-collection-millions-debts/ (Apr. 17, 2017).

with Weltman or recalled matters already placed with Weltman. Some of Weltman's clients at the time the Bureau filed its Complaint did both. One client who had made new placements with Weltman the day the Bureau filed its Complaint later called and terminated those placements that same day. Overall, I estimate that the firm has lost more than $10 million in annualized revenue as a result of clients refusing to place business with Weltman during the pendency of the Bureau's lawsuit.

4. Certain of the above-referenced clients expressly represented to me that they were terminating their relationship with Weltman because of the existence of the Bureau's lawsuit.

5. As a result of the strain placed on Weltman's revenue stream, employee headcount has decreased by more than 20% since the Bureau began its investigation of Weltman.

6. Between April 17, 2017 to the present, Weltman has laid off 37 employees. The decisions to let go of those employees—decisions in which I was personally involved—were directly related to the decrease in business that Weltman has experienced since the Bureau filed its Complaint. For the same reason, Weltman has downsized by not filling positions vacated by employees who voluntarily resigned.

7. In addition to the financial and reputational harm suffered by Weltman as a result of the Bureau's lawsuit, Weltman also incurred significant costs during the Bureau's pre-suit investigation of Weltman. Weltman paid $533,874.29 for legal representation by a law firm during that investigation.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 23, 2018.

Scott S. Weltman

EXHIBIT E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

~~~~~~~~~~~~~~~~~~~~

CONSUMER FINANCIAL PROTECTION BUREAU,

Plaintiff,

vs. Case No. 1:17CV817

WELTMAN, WEINBERG & REIS CO., L.P.A.,

Defendant.

~~~~~~~~~~~~~~~~~~~~

30(b)(6) deposition of
MATT HEIDARI
December 28, 2017
8:58 a.m.

Taken at:
Jones Day
901 Lakeside Avenue
Cleveland, Ohio
Wendy L. Klauss, RPR

The topic is the amount of disgorgement of ill-gotten revenue sought by the Bureau. What is the amount of ill-gotten revenue sought by the Bureau?

A. I don't know. At this point, as I said, I only have seen 2016, so I don't know what period of time the CFPB is asking. It could be as much as five years. I don't know.

But all I've seen is for one year, and for that one year, the revenue for that particular activity, Agency, or unit, from what I recall, was about $12 million.

Q. So you are not here prepared to testify about the amount of disgorgement of ill-gotten revenue sought by the Bureau; is that correct?

A. I'm not ready to -- as I said, the information that I have is probably incomplete. I only have one year, and my understanding was usually the Bureau would ask for disgorgement for several years, whatever. I'm not involved in determining what period, you know, you are asking for, but from what I saw, for 2016, the revenue for that particular unit, which is called Agency, the revenue is about $12

million.

Q. What does the Bureau mean when it says ill-gotten revenue?

MR. RAINEY: Objection. Outside the scope.

Q. You can answer.

A. So as I said, my job is not to -- I don't know the law that well. I'm not a lawyer. I provide financial information to the attorneys. They decide what they are going to use.

In this case, I looked at the financial statements starts with in that unit, which is Agency, which I was asked to look at, the revenue is about $12 million. We look at some expenses, the profit, or they called -- the company calls contribution for that unit, like 4 and a half million dollars, and then they have done some allocations from the corporate or the firm wide, and they reduced it down to like a loss, so that's what I reported to our attorneys. These are the numbers that I see here.

Q. So you essentially read a financial statement and explained to counsel what you saw

on the financial statement; is that correct?

MR. RAINEY: Compound question.

Q. Is that correct?

A. That's fairly accurate.

Q. You didn't do a calculation of what portion of that revenue was ill gotten, did you?

A. I was just asked to look at the part that was Agency, which is a portion of the total firm's revenue.

Q. For 2016?

A. For 2016.

Q. So let's just talk about 2016, because my understanding, that's the only year you can testify about; is that right?

A. Yes.

Q. So let me just be clear. You can't testify about damages or ill-gotten revenue for 2011, 12, 13, 14 or 17?

MR. RAINEY: Objection. Outside the scope. He's not testifying about damages, he's only testifying about disgorgement.

Q. You can answer the question.

A. I don't have any information about any other year other than 2016.

Q. Okay. So let's stick with 2016 then. The numbers that you looked at, do you have an understanding of what is included in that revenue number for Agency?

A. To be honest with you, I don't know what exactly they do. I was asked to look at that part of the financial statement.

Q. So you don't know what is included in that number, do you?

A. I don't know exactly what that revenue is.

Q. And you don't know how it was calculated, do you?

MR. RAINEY: Objection. Vague.

A. I don't know what you mean by how it was calculated. Revenue is revenue. Basically money came in and they booked it as revenue. So that much I know.

Q. Do you know what portion of the business revenue was allocated to Agency revenue?

A. Why would it be allocated? You have a unit that is producing revenue, and that's what they reported, and then there is probably somebody who consolidated different

units and put them together, instead of the doing it the other way, first you have some revenue and they say by the way, part of that is this. I don't think that that's the way they did it. I'm not sure.

But normally what I see is different units will report to their headquarters, and then they will consolidate. That's the normal way of business. But I don't know, I can't tell you whether they did it this way or the other way.

Q. So Mr. Heidari, you can't tell us whether the report you looked at shows revenue as calculated by each unit and then rolled up, or whether it showed revenue at the consolidated level and then allocated back down to the units, right?

A. I would have no idea.

Q. Do you know whether the revenue number that you were looking at, I think you thought it was $12 million approximately?

A. Something like that, for the year.

Q. Let's call it $12 million for the purposes of the deposition, I'm not saying that's correct, but that's your recollection,

correct?

A. Yes.

Q. Does that $12 million include collections on things other than consumer debt?

A. I wouldn't know.

Q. Does it include collections for debts that are valid, due and owing?

A. I wouldn't know.

Q. Does it include collections for debts that were collected in compliance with the law?

A. I wouldn't know that either.

Q. Does it include collections for debts that were collected not in compliance with the law?

A. I wouldn't know that either.

Q. What would you need to look at to make that determination to determine what portion of the revenue for 2016 was ill gotten?

A. I think I would rely on our attorneys, who based on their findings. If all or some percentage of that revenue is ill gotten, I wouldn't know by just looking at a number. Somebody can just write down a number. How would I know?

- - - - -

(Thereupon, Deposition Exhibit 1, Agency Total, for the Twelve Months Ending December 31, 2016, Beginning with Bates Label WWR02_000195, was marked for purposes of identification.)

- - - - -

Q. Mr. Heidari, the court reporter has handed you what has been marked as Exhibit 1. Have you seen this document before?

A. No. I don't think I've seen this format.

Q. Is the information that's on this document similar to the types of information that you reviewed in the financial statement for 2016 that you testified to earlier?

A. I see like an 11 -- a $10 million number. The document that I saw was $12 million, when I added up the totals for each month in terms of revenue. So I'm not familiar with this, but in terms of similarities, obviously there is revenues and expenses, but the one that I saw didn't have all this detail.

Q. Does any of the detail that's

a list of the documents that I looked at, and the first one that I concentrated on was the financial statement. You see that, the other documents that I looked at.

MS. STRATFORD: We will mark this as Exhibit 3.

- - - - -

(Thereupon, Deposition Exhibit 3, List of Documents, was marked for purposes of identification.)

- - - - -

Q. Mr. Heidari, just so the record is clear, Exhibit 2 is a document that you prepared?

A. Yes, it is.

Q. And you prepared that based on the 2016 financial statement that you reviewed in connection with this case; is that correct?

A. That's correct.

Q. And Exhibit 3 is a list of documents that you reviewed to prepare for today's deposition?

A. Correct.

Q. Is that list complete?

A. Yes.

Q. So as I understand your testimony now, the Bureau is seeking $12,828,150 in disgorgement for 2016; is that correct?

A. Yes.

Q. And the $12 million figure, should we round it to 12 or 13, what are you more comfortable with?

MR. RAINEY: Objection. I would prefer to keep it precise as opposed to -- since we are on the record, I would prefer to keep it precise.

MS. STRATFORD: It's my deposition, so I can do it how I want to.

Q. Do you want to call it 12 or 13, what are you more comfortable with, your 12,828,150 --

A. Let's go with 12,828,150, what we have here.

Q. Okay. That number is where on your Exhibit 2?

A. It is on the second page. So you see where it says total, you see it on the top, total.

Q. I do. And that is based on gross revenue of Agency unit?

A. It is.
Q. And what is included in the gross revenue of the Agency unit as you prepared Exhibit 2?
A. It is just called gross revenue of the Agency unit, so whatever was that on that financial statement.
Q. So you pulled these numbers for each month of 2016 that appear in Exhibit 2 from the company's financial statement that you reviewed for 2016?
A. Correct.
Q. There is no calculation that you did, you just moved the numbers from their spreadsheet to yours?
A. That's correct.
Q. Okay. The gross revenue of Agency unit then, the total for 2016 is the total that you claim to be -- that you claim the CFPB is seeking for disgorgement of ill-gotten revenue for 2016; is that correct?
A. That number is correct, yes.
Q. I notice that on the second page, the actual total report is $12,828,149?
A. Okay.

Q. So why did you round it to 150?
A. I didn't round it. I think Excel rounds some numbers. So when you have pennies, it doesn't show the pennies, then in the totals you will see.
Q. So you are comfortable rounding the pennies to dollars?
A. I think everybody will be comfortable doing that.
Q. My question is are you comfortable?
A. I'm very comfortable.
Q. What is the purpose of the remaining numbers on Exhibit 2, if the only thing that you are calculating is the ill-gotten revenue?
A. The purpose, the purpose is basically, besides showing the revenue, is that what the company also reported as the costs, in case the Bureau wants to give that some consideration.
Q. And what consideration should that information be given in calculating ill-gotten revenue?
A. At this point, I think my emphasis was on basically the total revenue, but of

REPORTER'S CERTIFICATE

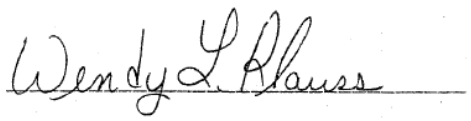
The State of Ohio,)
SS:
County of Cuyahoga.)

I, Wendy L. Klauss, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, MATT HEIDARI, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

I do further certify that I am not a relative, counsel or attorney for either party, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, ont this 5th day of January, 2018.



Wendy L. Klauss, Notary Public
within and for the State of Ohio

My commission expires July 13, 2019.

EXHIBIT F

Consumer Financial Protection Bureau

CFPB Files Suit Against Law Firm for Misrepresenting Attorney Involvement in Collection of Millions of Debts

CFPB Alleges Weltman, Weinberg & Reis Deceived Consumers with Misleading Calls and Letters

APR 17, 2017

WASHINGTON, D.C. – Today, the Consumer Financial Protection Bureau (CFPB) filed a lawsuit in a federal district court against the debt collection law firm Weltman, Weinberg & Reis for falsely representing in millions of collection letters sent to consumers that attorneys were involved in collecting the debt. The law firm made statements on collection calls and sent collection letters creating the false impression that attorneys had meaningfully reviewed the consumer's file, when no such review has occurred. The CFPB is seeking to stop the unlawful practices and recoup compensation for consumers who have been harmed.

"Debt collectors who misrepresent that a lawyer was involved in reviewing a consumer's account are implying a level of authority and professional judgement that is just not true," said CFPB Director Richard Cordray. "Weltman, Weinberg & Reis masked millions of debt collection letters and phone calls with the professional standards associated with attorneys when attorneys were, in fact, not involved. Such illegal behavior will not be allowed in the debt collection market."

Weltman, Weinberg & Reis, based in Cleveland, Ohio, regularly collects debt related to credit cards, installment loan contracts, mortgage loans, and student loans. It collects on debts nationwide but only files collection lawsuits in seven states: Illinois, Indiana, Kentucky, Michigan, New Jersey, Ohio, and Pennsylvania.

The CFPB alleges that the firm engaged in illegal debt collection practices. In form demand letters and during collection calls to consumers, the firm implied that lawyers had reviewed the veracity of a consumer's debt. But typically, no attorney had reviewed any aspect of a consumer's individual debt or accounts. No attorney had assessed any consumer-specific information. And no attorney had made any individual determination that the consumer owed the debt, that a specific letter should be sent to the consumer, that a consumer should receive a call, or that the account was a candidate for litigation.

The CFPB alleges that the company is violating the Fair Debt Collection Practices Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act. Since at least July 21,

2011, the law firm has sent millions of demand letters to consumers. Specifically, the CFPB alleges that the law firm:

- **Sent collection letters falsely implying they were from a lawyer:** Weltman, Weinberg & Reis sent letters on formal law firm letterhead with the phrase "Attorneys at Law" at the top of the letter and stated the law firm's name in the signature line. The letters also included a payment coupon indicating that payment should be sent to the firm. Some demand letters referred to possible "legal action" against consumers who did not make payments. Despite these representations, the vast majority of the time, no attorneys had reviewed consumer accounts or made any determination that the consumer owed the debt, that a specific letter should be sent to the consumer, or that the account was a candidate for litigation before these letters were sent.
- **Called consumers and falsely implied a lawyer was involved:** Weltman, Weinberg & Reis's debt collectors told consumers during collection calls that they were calling from a law firm. Specifically, sometimes they told consumers that it was the "largest collection law firm in the United States," or that the debt had been placed with "the collections branch of our law firm." This implied that attorneys participated in the decision to make collection calls, but no attorney had reviewed consumer accounts before debt collectors called consumers.

The Bureau is seeking to stop the alleged unlawful practices of Weltman, Weinberg & Reis. The Bureau has also requested that the court impose penalties on the company for its conduct and require that compensation be paid to consumers who have been harmed.

The Bureau's complaint is not a finding or ruling that the defendant has actually violated the law.

The full text of the complaint can be found at:
http://files.consumerfinance.gov/f/documents/201704_cfpb_Weltman-Weinberg-Reis_Complaint.pdf

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.

Topics:

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EXHIBIT G

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CONSUMER FINANCIAL PROTECTION BUREAU, Plaintiff v. Weltman, Weinberg & Reis Co., L.P.A., Defendant.	Case No: 1:17 CV 817 **J. Donald C. Nugent** **PLAINTIFF'S SECOND SUPPLEMENTAL RESPONSES TO DEFENDANT'S FIRST INTERROGATORIES**

Pursuant to Fed. R. Civ. P. 33 and Fed. R. Civ. P. 26(e), Plaintiff Consumer Financial Protection Bureau ("Bureau") supplements its responses to Defendant Weltman, Weinberg & Reis Co., L.P.A.'s ("WWR") June 13, 2017, First Interrogatories, as follows:

GENERAL OBJECTION

Although the Bureau sets forth specific objections for each request below, the Bureau objects to each Interrogatory on the grounds that they are not bound by time. The Bureau's responses are limited to the time period beginning July 21, 2011.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1: Identify each telephone call in which WWR participated that you maintain violated the FDCPA or CFPA.

RESPONSE: The Bureau objects to this Interrogatory as unduly burdensome insofar as it is a premature contention interrogatory not appropriate for this stage of the litigation. The Bureau objects to this request to the extent that it seeks information not

in the possession, custody, or control of the Bureau. A complete answer to this Interrogatory depends on discovery from WWR and third parties, and discovery is ongoing. The Bureau will supplement this response, if necessary, consistent with Rule 26(e). Notwithstanding these objections, and based on its review so far, the Bureau answers as follows:

Based on recordings of telephone calls in the Bureau's possession, identified phone calls since July 21, 2011 in which WWR implied that attorneys were involved in reviewing consumers' accounts, in violation of the FDCPA and the CFPA, are listed in the document produced at CFPB0000001. Pursuant to Rule 33(d), to the extent the information is within the Bureau's possession, the telephone number from which the call was placed, each participant in the telephone call, and a description of the conversation that occurred can be determined by examining, auditing, compiling, abstracting, or summarizing the calls identified and the burden of deriving or ascertaining that information will be substantially the same for either party.

SUPPLEMENTAL RESPONSE: Additional calls implying that attorneys were involved in reviewing consumers' accounts, in violation of the FDCPA and the CFPA, are listed in the document produced at CFPB0004587. Pursuant to Rule 33(d), to the extent the information is within the Bureau's possession, the telephone number from which the call was placed, each participant in the telephone call, and a description of the conversation that occurred can be determined by examining, auditing, compiling, abstracting, or summarizing the calls identified and the burden of deriving or ascertaining that information will be substantially the same for either party.

INTERROGATORY NO. 2: For each telephone call identified in response to Interrogatory No. 1, identify the specific statements made during the call that you contend violate the FDCPA or CFPA.

RESPONSE: The Bureau objects as the request misconstrues the allegations, as it assumes that each violation is solely based on "specific statements" as opposed to the net impression of the communication. The Bureau also objects to this Interrogatory as unduly burdensome insofar as it is a premature contention Interrogatory not appropriate for this stage of the litigation. The Bureau objects to this request to the extent that it seeks information not in the possession, custody, or control of the Bureau. The Bureau's answer is based on recordings of calls within our custody and control. A complete answer to this Interrogatory depends on discovery from Defendant and third parties, and discovery is ongoing. The Bureau will supplement this response, if necessary, consistent with Rule 26(e). Notwithstanding and without waiving these objections, and based on its review so far, the Bureau answers as follows:

From at least July 21, 2011 through as late as July 2013, it was WWR's practice and policy to have non-attorney collectors in WWR's "Pre-Legal" Department identify WWR as a law firm during collection calls. For example, collectors typically told consumers that "This law firm is a debt collector attempting to collect this debt for our client and any information will be used for that purpose." *See, e.g.,* WWR0131029. Although WWR modified this disclosure in July 2013, at times collectors continued to refer to WWR as a law firm after this time period as well.

Based on recordings of telephone calls in the Bureau's possession, the Bureau has identified calls where WWR collectors have also made other statements:

1) identifying WWR as a law firm, including that it was the "largest collection law firm in the United States"; WWR is "legal counsel" to the creditor; WWR

was retained for legal services; and that WWR is "not a collection agency, [it's] a law firm" (e.g., 453-2898182, 458-2094348, 458-2131869, 453-1752159);

2) implying that an attorney had reviewed the file and concluded that the consumer was a candidate for litigation, including by referring to "possible litigation" or a "possible lawsuit"; going to court for possible suit; a "legal action"; and the consequences of litigation, such as a lien, garnishment, or a judgment (e.g., 458-2537997, 458-1751020, 458-2131869, 458-2767647, 453-1475577);

3) implying that if the consumer did not pay, that the consumer could be sued, including that the file would be "pushed to our legal department" or forwarded for suit, referring to collecting payments involuntarily, and referring to documents for suit (e.g., 458-2106692, 458-2578462, 453-1380445, 458-2463190);

4) implying that an attorney had formed a professional judgment that the consumer owed the debt, including that the consumer owed the debt based on the contract or some other legal obligation (e.g., 458-5003328).

These statements, and other statements like them in the calls identified in response to Interrogatory No. 1, violated the FDCPA and CFPA when no attorney had reviewed the consumer's file to confirm that the debt was valid or otherwise formed a professional judgment the consumer owed the debt in question.

INTERROGATORY NO. 3: Identify each letter sent by WWR that you maintain violated the FDCPA or CFPA.

RESPONSE: The Bureau objects to this Interrogatory as unduly burdensome insofar as it is a premature contention Interrogatory not appropriate for this stage of the litigation. The Bureau objects to this request to the extent that it seeks information not in the possession, custody, or control of the Bureau. A complete answer to this Interrogatory depends on discovery from WWR and third parties, and discovery is ongoing. The Bureau will supplement this response, if necessary, consistent with Rule 26(e). Notwithstanding and without waiving these objections, and based on its review so far, the Bureau answers as follows:

WWR violated the FDCPA and CFPA in any instance in which WWR sent a demand letter on its law firm letterhead where no attorney reviewed the particular consumer's account prior to sending the demand letter. Examples of each of the form templates include the documents identified in the document produced at CFPB0000002.

INTERROGATORY NO. 4: For each letter identified in response to Interrogatory No. 3, identify the specific statements made in the letter that you contend violate the FDCPA or CFPA.

RESPONSE: The Bureau objects as the request misconstrues the allegations, as it assumes that the violation is solely based on "specific statements" as opposed to the net impression of the letter. The Bureau also objects to this Interrogatory as unduly burdensome insofar as it is a premature contention interrogatory not appropriate for this stage of the litigation. The Bureau objects to this request to the extent that it seeks information not in the possession, custody, or control of the Bureau. The Bureau's answer is based on letters within our custody and control. A complete answer to this

Interrogatory depends on discovery from Defendant and third parties, and discovery is ongoing. The Bureau will supplement this response, if necessary, consistent with Rule 26(e). Notwithstanding and without waiving these objections, and based on its review so far, the Bureau answers as follows:

The Bureau has identified the following statements in the form letter templates WWR used after July 21, 2011 and identified in response to Interrogatory No. 3 that are responsive to the Interrogatory:

1) WWR's demand letters are printed on the Firm's letterhead, which states "WELTMAN, WEINBERG & REIS Co., LPA" at the top of the first page, and directly underneath the Firm's name, "ATTORNEYS AT LAW." At times, WWR used an alternative version of its letterhead which stated "LAW OFFICES OF WELTMAN, WEINBERG & REIS CO., L.P.A." (E.g., WWR000986, WWR0127144.)
2) "Weltman, Weinberg & Reis Co., L.P.A." appears in type-face in the signature line of nearly all of WWR's demand letter templates. (E.g., WWR000986.)
3) Some of WWR's form letters, which stated "ATTORNEYS AT LAW" at the top of the letter and included the name of the firm in the signature line, stated that the consumer was obligated to pay based on specific supporting documentation, such as terms and conditions, statements, or agreements. (E.g.,WWR0192182, WWR0003843.)
4) Some of WWR's form letters, which stated "ATTORNEYS AT LAW" at the top of the letter and included the name of the firm in the signature line, also included the following language: "This law firm is a debt collector attempting

to collect this debt for our client and any information obtained will be used for that purpose." (E.g., WWR0135998, WWR 0144528.)

5) WWR's form letters typically stated a "Balance Due" and sometimes made other statements indicating that the consumer owed a specific amount, including by stating that the amount was "due and owing"; "you owe the amount listed above"; or that "you have failed to liquidate the above referenced obligation." (E.g., WWR0000964.)

6) Some of WWR's form letters, which stated "ATTORNEYS AT LAW" at the top of the letter and included the name of the firm in the signature line, also included the following language: "Please be advised that this law firm has been retained to collect the outstanding balance due and owing on this account." (E.g., WWR0192166 ,WWR0192181.)

7) Some of WWR's form letters, which stated "ATTORNEYS AT LAW" at the top of the letter and included the name of the firm in the signature line, also stated that WWR "represents" the current creditor and referred to the seriousness or importance of the matter. (E.g., WWR0000989, WWR0000992.)

8) Some of WWR's form letters, which stated "ATTORNEYS AT LAW" at the top of the letter and included the name of the firm in the signature line, also included the following language: "Failure to resolve this matter may result in continued collection efforts against you or possible legal action by the current creditor to reduce this claim to judgment." (E.g., WWR000986.)

9) Some of WWR's form letters, which stated "ATTORNEYS AT LAW" at the top of the letter and included the name of the firm in the signature line, also

included statements about the potential consequences of non-payment, including referring to further "collection activity[,]" "collection efforts[,]"or "collection action[,]" or "additional efforts on behalf of our client to collect this account"; "asset verification"; "possible legal action" or "legal action"; or judgments. (E.g., WWR0000986; WWR0003843, WWR0192158, WWR0192182.)

10) Some of WWR's form letters sought immediate payment or payment by a certain date and discussed the consequences of failing to pay by that date. (E.g., WWR0192158, WWR0192182, WWR0127144.) For example, at least one letter stated: "We are affording you an opportunity to resolve this claim before initiating any legal action. We must hear from you within 15 days from the date of this letter otherwise collection activity may continue." (WWR0192182.) These form letters also stated "ATTORNEYS AT LAW" at the top of the letter or "LAW OFFICES OF WELTMAN, WEINBERG & REIS CO., L.P.A" and included the name of the firm in the signature line.

11) At least one form letter, which stated "ATTORNEYS AT LAW" at the top of the letter and included the name of the firm in the signature line, also included the following language: "This letter shall serve as notice of Discover Bank's claim against you arising from your Discover Card account referenced above." (WWR0192182.)

INTERROGATORY NO. 5: Identify each fact that supports your claim in paragraphs 39, 47, and 59 that WWR's "practice was material because it had the potential to influence consumers to pay an alleged debt when they would not have otherwise."

RESPONSE: The Bureau objects on the grounds that this request misconstrues the allegations in the Complaint. Paragraph 39 alleges that WWR misrepresented that

letters were from attorneys and that attorneys were meaningfully involved, when in most cases the attorneys were not meaningfully involved in preparing and sending the letters. That paragraph does not allege that WWR's "practice was material because it had the potential to influence consumers to pay an alleged debt when they would not have otherwise" as this Interrogatory incorrectly states. The Bureau objects to this request to the extent that it seeks information not in the possession, custody, or control of the Bureau. The Bureau's answer is based on information within our custody and control. A complete answer to this Interrogatory depends on discovery from Defendant and third parties, and discovery is ongoing. The Bureau will supplement this response, if necessary, consistent with Rule 26(e). Notwithstanding and without waiving this objection, the Bureau answers as follows:

WWR's demand letters are printed on the Firm's letterhead, which states "WELTMAN, WEINBERG & REIS Co., LPA" at the top of the first page, and directly underneath the Firm's name, "ATTORNEYS AT LAW." In almost all versions of WWR's demand letter templates, the name of the Firm and the phrase "ATTORNEYS AT LAW" are in bold type. "Weltman, Weinberg & Reis Co., L.P.A." appears in type-face in the signature line of nearly all of WWR's demand letter templates. WWR's form letters typically include a detachable payment remission slip indicating that payments should be sent to Weltman, Weinberg & Reis Co., L.P.A., and provide a mailing address. Since at least July 21, 2011, some of WWR's form letters have included the following language: "Failure to resolve this matter may result in continued collection efforts against you or possible legal action by the current creditor to reduce this claim to judgment." Since at least July 21, 2011, WWR's form letters have also sometimes included the following language: "This law firm is a debt collector attempting to collect this debt for our client

and any information obtained will be used for that purpose." Since at least July 21, 2011, at times some form letters stated: "Please be advised that this law firm has been retained to collect the outstanding balance due and owing on this account."

In addition to sending demand letters, WWR also attempts to collect debts through outbound telephone calls to consumers. From at least July 21, 2011 through as late as July 2013, it was WWR's practice and policy to identify WWR as a law firm during these collection calls. When such calls occurred, however, WWR attorneys generally had not reviewed a corresponding consumer's individual account file to reach a professional judgment regarding whether the consumer owed the debt.

Such representations, as well as those identified in response to Interrogatory Requests Nos. 1 and 3, had the potential to affect the least sophisticated consumer's decision to pay debts WWR attempted to collect because whether an attorney had reviewed the consumer's debt and reached a professional judgment that the debt was owed would have been important to the least sophisticated consumer in determining how to respond to the collection attempt.

INTERROGATORY NO. 6: Identify each consumer whom you contend paid a debt he or she would not have otherwise paid after receiving a letter or telephone call from WWR in which WWR was identified as a law firm, as suggested in paragraphs 39, 47, and 59 of the Complaint.

RESPONSE: The Bureau objects on the grounds that this request seeks information not relevant to the claims or defenses and that it is not proportional to the needs of this case, and because it misconstrues the allegations in the Complaint. Paragraph 39 alleges that WWR misrepresented that letters were from attorneys and that attorneys were meaningfully involved, when in most cases the attorneys were not meaningfully involved in preparing and sending the letters. That paragraph does not

suggest that any consumer paid a debt he or she would not have otherwise paid after receiving a letter as this Interrogatory incorrectly suggests. Paragraphs 47 and 59 allege that WWR's practices were material because they had the potential to influence consumers to pay an alleged debt when they would not have otherwise. The Bureau does not need to identify any consumer that "paid a debt he or she would not have otherwise paid" in order to allege or prove that Defendant engaged in a deceptive act or practice in violation of the CFPA or violated the FDCPA. Nor does the Bureau need to prove that any consumer paid such a debt under such circumstances. Rather, the least sophisticated consumer standard is an objective test, and the Bureau need not prove that any individual consumer who was subjected to a deceptive communication from WWR was actually deceived.

INTERROGATORY NO. 7: State the total amount of "ill-gotten revenue" you contend WWR received, as stated in the Complaint, and your calculation thereof.

RESPONSE: The Bureau objects on the grounds that this request is premature. A complete answer to this Interrogatory depends on additional discovery, which remains ongoing. The Bureau will supplement this response, if necessary, consistent with Rule 26(e). Notwithstanding and without waiving this objection, the Bureau answers as follows:

Although discovery is necessary to determine the precise dollar amount, the Bureau seeks, among other relief, restitution and disgorgement. The Bureau seeks restitution to compensate consumers harmed by Defendant's unlawful practices and disgorgement of ill-gotten revenue against Defendant pursuant to 12 U.S.C. § 5565(a)(2). The Bureau expects that the full extent of restitution and disgorgement will be revealed through discovery to determine the amounts collected through violative

letters and calls, revenues earned by Defendant as a result of these practices, and other issues.

INTERROGATORY NO. 8: Identify each complaint, by name of the complainant and date, made to the Bureau regarding WWR.

RESPONSE: The Bureau objects on the grounds that this request seeks information not relevant to the claims or defenses and that it is not proportional to the needs of this case, and because it is overly broad, unduly burdensome, and contains vague and ambiguous terms. The terms "complaint" and "complainant" are vague, ambiguous, and overly broad. The Interrogatory is unbounded by time and could concern issues not relevant to the claims and defenses in this case. The Bureau objects on the grounds that this request is overbroad and unduly burdensome to the extent that it seeks information readily available to Defendant. Any complaint made to the Bureau's Office of Consumer Response is publicly available on the Bureau's website and should be within WWR's possession since the time WWR became "onboarded."

Notwithstanding and without waiving these objections, the Bureau answers as follows:

The Bureau will provide a spreadsheet summarizing consumer complaints made to the Bureau's Office of Consumer Response regarding WWR from July 21, 2011 to June 28, 2017 and attachments submitted by WWR or the consumer upon entry of an appropriate protective order in this matter. Answering further and pursuant to Rule 33(d), the name of the complainant and date of the complaint can be determined by examining, auditing, compiling, abstracting, or summarizing the complaints and documents identified and the burden of deriving or ascertaining that information will be substantially the same for either party.

SUPPLEMENTAL RESPONSE: The Bureau produced the aforementioned spreadsheet at CFPB0003073 on July 27, 2017.

INTERROGATORY NO. 9: Identify each person (excluding employees or members of WWR) who has knowledge of the allegations in the Complaint.

RESPONSE: The Bureau objects on the grounds that this request seeks information not relevant to the claims or defenses and that is not proportional to the needs of this case, and because it is overbroad and unduly burdensome in that it is of limitless scope. Anyone with access to the Bureau's website, Public Access to Court Electronic Records (PACER), or other sources can read the Complaint and therefore gain knowledge of the allegations. It is therefore impossible to ascertain the answer to this Interrogatory. Notwithstanding and without waiving these objections, the Bureau answers as follows:

Other than Bureau attorneys or law student interns working at the direction of Bureau attorneys, the Bureau will provide a list of the individuals currently employed in the Bureau's Office of Enforcement who materially participated in developing and reviewing documents and information gathered during the course of the investigation of WWR that led to the filing of this action upon entry of an appropriate protective order. All of these individuals work at the direction of Bureau attorneys and are located at the Consumer Financial Protection Bureau, Office of Enforcement, 1625 Eye Street NW, Washington, D.C., 20372 and can be reached through counsel for the Bureau in this matter.

AMENDED RESPONSE: The Bureau objects on the grounds that this request seeks information not relevant to the claims or defenses and that is not proportional to the needs of this case, and because it is overbroad and unduly burdensome in that it is of

limitless scope. Anyone with access to the Bureau's website, Public Access to Court Electronic Records (PACER), or other sources can read the Complaint and therefore gain knowledge of the allegations. It is therefore impossible to ascertain the answer to this Interrogatory. Notwithstanding and without waiving these objections, the Bureau answers as follows:

Other than Bureau attorneys or law student interns working at the direction of Bureau attorneys, the Bureau is producing a list of the individuals currently employed in the Bureau's Office of Enforcement who materially participated in developing and reviewing documents and information gathered during the course of the investigation of WWR that led to the filing of this action at CFPB0003102. All of these individuals work at the direction of Bureau attorneys and are located at the Consumer Financial Protection Bureau, Office of Enforcement, 1625 Eye Street NW, Washington, D.C., 20006 and can be reached through counsel for the Bureau in this matter.

INTERROGATORY NO. 10: Identify each person or entity from whom the Bureau gathered information regarding WWR during the investigation.

RESPONSE: The Bureau objects on the grounds that this request seeks information not relevant to the claims or defenses and that is not proportional to the needs of this case, and because it is overbroad, unduly burdensome, and duplicative. During the period that the Office of Enforcement conducted its investigation of WWR that led to the filing of this action, other offices in the Bureau may have gathered information regarding WWR – for example, the Bureau's Office of Consumer Response collected information regarding WWR in the course of handling consumer complaints – that has no bearing on this case and is not relevant to any parties' claims or defenses. Notwithstanding and without waiving these objections, the Bureau answers as follows:

In connection with its investigation of WWR that led to the filing of this action, in addition to gathering information directly from WWR, the Office of Enforcement gathered information regarding WWR from persons or entities whom the Bureau will identify upon entry of an appropriate protective order in this matter.

AMENDED RESPONSE: The Bureau objects on the grounds that this request seeks information not relevant to the claims or defenses and that is not proportional to the needs of this case, and because it is overbroad, unduly burdensome, and duplicative. During the period that the Office of Enforcement conducted its investigation of WWR that led to the filing of this action, other offices in the Bureau may have gathered information regarding WWR – for example, the Bureau's Office of Consumer Response collected information regarding WWR in the course of handling consumer complaints – that has no bearing on this case and is not relevant to any parties' claims or defenses. Notwithstanding and without waiving these objections, the Bureau answers as follows:

The Bureau is producing a list of consumers and WWR employees from whom the Office of Enforcement gathered information regarding WWR during the investigation at CFPB0003103 - CFPB0003104.

INTERROGATORY NO. 11: Identify each consumer you contend was "harmed by Weltman's unlawful practices," as stated in the Complaint.

RESPONSE: The Bureau objects on the grounds that this request is premature and seeks information not relevant to the claims or defenses and that it is not proportional to the needs of this case and misconstrues the allegations in the Complaint. The Bureau does not need to identify each consumer that was harmed by WWR's unlawful practices to allege or prove that WWR engaged in a deceptive act or practice in violation of the Consumer Financial Protection Act of 2010 or that WWR violated the

Fair Debt Collection Practices Act. The Bureau also objects to this request to the extent that it seeks information not in the possession, custody, or control of the Bureau. A complete answer to this Interrogatory depends on discovery from Defendant and third parties, and discovery is ongoing. The Bureau will supplement this response, if necessary, consistent with Rule 26(e). Notwithstanding and without waiving these objections, the Bureau answers as follows:

Each consumer who received a demand letter from WWR or who was a party to a collection call with WWR in which WWR misrepresented the level of attorney involvement was harmed by being subjected to a deceptive practice with the potential to influence them to pay (including by prioritizing) a debt that that they would not have otherwise.

INTERROGATORY NO. 12: State each cost you seek to recover "in connection with prosecuting the instant action," as stated in the Complaint.

RESPONSE: The Bureau objects on the grounds that this request is premature in that the costs that may be recoverable may not have yet been incurred and because the Bureau will not know the full extent of recoverable costs until this action is concluded. The Bureau will supplement this response, if necessary, consistent with Rule 26(e). Notwithstanding and without waiving this objection, the Bureau answers as follows:

The Bureau seeks to recover all costs recoverable under Federal Rule of Civil Procedure 54, 28 U.S.C. § 1924, and 12 U.S.C. § 5565(b) in connection with prosecuting this action. If the Bureau is the prevailing party in this action, it may file a verification of bill of costs itemizing recoverable fees and costs necessarily incurred in the case consistent with 28 U.S.C. § 1924. For WWR's and its counsel's reference, the types of

costs that may be recoverable include those listed in Form AO 133 ("Bill of Costs") available at http://www.ohnd.uscourts.gov/assets/Clerks_Office_and_Court_Records/Forms/AO133.pdf.

Dated October 18, 2017

Respectfully Submitted,

Attorneys for Plaintiff
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Certificate of Service

I hereby certify that on October 18, 2017, a copy of foregoing Plaintiff's Second Supplemental Responses to Defendant's First Interrogatories was served by sending via UPS Overnight Mail, postage prepaid, and via email, to:

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EXHIBIT H

Consumer Financial Protection Bureau

Federal district court case

Weltman, Weinberg & Reis Co., L.P.A.

The Consumer Financial Protection Bureau (CFPB) filed a lawsuit in a federal district court against the debt collection law firm Weltman, Weinberg & Reis for falsely representing in millions of collection letters sent to consumers that attorneys were involved in collecting the debt. The law firm made statements on collection calls and sent collection letters creating the false impression that attorneys had meaningfully reviewed the consumer's file, when no such review has occurred. The CFPB is seeking to stop the unlawful practices and recoup compensation for consumers who have been harmed.

RELATED DOCUMENTS

Complaint

PRESS RELEASE

CFPB Files Suit Against Law Firm for Misrepresenting Attorney Involvement in Collection of Millions of Debts

ACTION DETAILS

Category

Federal district court case

Court

United States District Court Northern District of Ohio Eastern Division

Institution type

Nonbank

Status

Active

File number

1:17-cv-00817

Topics

- DEBT COLLECTION
- ENFORCEMENT

Date filed

APR 17, 2017

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