

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

**Jeffrey Smith**, on behalf of himself and all  
others similarly situated

PLAINTIFF,

v.

**Alliance Collection Agencies, Inc.**  
DEFENDANT.

**CASE NO. 2023 CH 08715**

**CALENDAR 6**

**JUDGE PATRICK T. STANTON**

468077

**MEMORANDUM OPINION & ORDER**

This matter comes before the Court on Defendant Alliance Collection Agencies, Inc.'s ("Alliance") renewed Motion to Dismiss filed pursuant to 735 ILCS 5/2-619(a)(9), claiming that Plaintiff Jeffrey Smith ("Smith") lacks standing to bring a Fair Debt Collection Practices Act ("FDCPA") complaint. For the reasons that follow, Alliance's Motion to Dismiss is granted.

**BACKGROUND**

Alliance is a consumer debt collection agency and Smith is a resident of Illinois. On or about October 11, 2022, Alliance mailed a collection letter to Smith. (Compl. ¶ 21). This letter was an attempt to collect debt incurred by Smith on an Advocate Aurora Health account (the "Account"). Smith asserts that Alliance violated § 1692f(8) of the FDCPA when it sent an envelope with more than just Alliance's name and address printed on it. The envelope in which the letter was sent "displayed a string of numbers, a QR code and a barcode on the front and back of the envelope." (Compl. ¶ 25).

Smith brought the Complaint on behalf of himself and a putative class, defined in the Complaint as:

- (1) [A]ll persons in the State of Illinois
- (2) from whom Defendant attempted to collect an Advocate Aurora Health debt
- (3) using letters materially identical to that attached as Exhibit A to Plaintiff's Complaint
- (4) which was sent in an envelope prominently displaying additional numbers, and symbols on the outside of the envelopes
- (5) sent between one year prior to filing of this Complaint up to the filing of this Complaint.

Complaint ¶ 32.

Smith does not allege any actual damages but instead claims statutory damages, which he alleges are allowed under § 1692k(a)(2)(B) of the FDCPA.

## PROCEDURAL HISTORY

On June 11, 2025, the Court denied Defendant's Motion to Dismiss because Defendant did not sufficiently prove that the Plaintiff lacked standing. On June 23, 2025, however, the Court stayed the case due to the appeal of *Fausett v. Walgreen, Co.* to the Illinois Supreme Court. On November 20, 2025, the Supreme Court reversed the appellate court's decision, remanding the case with instructions to dismiss for lack of standing. On January 7, 2026, this Court lifted the stay and instructed Defendant to file a renewed motion to dismiss.

## ANALYSIS

According to the Illinois Code of Civil Procedure, for a 2-619(a)(9) Motion to Dismiss for Lack of Standing,

(a) Defendant may, within the time for pleading, file a motion for dismissal of the action or for other appropriate relief upon any of the following grounds. If the grounds do not appear on the face of the pleading attacked the motion shall be supported by affidavit:

(9) That the claim asserted against defendant is barred by other affirmative matter avoiding the legal effect of or defeating the claim.

735 ILCS 5/2-619(a)(9).

"Lack of standing is an 'affirmative matter' that is properly raised under section 2-619(a)(9)." *Glisson v. City of Marion*, 188 Ill. 2d 211, 220 (1999). Illinois standing principles apply even where a federal statute is implicated. *Fausett v. Walgreen Co.*, 2025 IL 131444, ¶ 37 (Nov. 20, 2025). Under Illinois law, there are two avenues to standing: common law standing and statutory standing. *Id.* ¶ 39: "There is common-law standing, which requires an injury-in-fact to a legally recognized interest, and there is statutory standing, which requires the fulfillment of statutory conditions to sue for legislatively created relief." *People v. Johnson*, 2021 IL 125738, ¶ 31.

To have common law standing, "the claimed injury, whether actual or threatened, must be: (1) distinct and palpable; (2) fairly traceable to the defendant's actions; and (3) substantially likely to be prevented or redressed by the grant of the requested relief." *Fausett* ¶ 39 (quoting *Petta v. Christie Bus. Holdings Co., P.C.*, 2025 IL 130337, ¶ 18) (cleaned up)). A right of action under statutory standing is created by the legislature who determines "who shall sue, and the conditions under which the suit may be brought." *Johnson*, 2021 IL 125738, ¶ 31 (quoting *Wilson v. Tromly*, 404 Ill. 307, 310 (1949)).

Alliance argues that common law standing principles apply to FDCPA cases filed in Illinois state court: Smith failed to allege a concrete injury-in-fact and therefore, he lacks standing to sue under the FDCPA in Illinois. Smith argues that statutory standing principles apply under the FDCPA because the statute defines who may sue and under what conditions.

In *Fausett*, the Illinois Supreme Court held that the plaintiff lacked standing to bring a claim in Illinois state court under the federal Fair Credit Reporting Act (“FCRA”)<sup>1</sup> because she failed to allege any concrete injury. *Fausett v. Walgreen Co.*, 2025 IL 131444, ¶ 50. The court found that common law, not statutory, standing applied because the FCRA’s liability provisions “are silent as to who may bring the cause of action for damages.” *Id.* ¶ 44.

The liability and jurisdiction sections of the FCRA states:

Any person who willfully fails to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of—

(1)(A) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000; or

(B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or \$1,000, whichever is greater;

(2) such amount of punitive damages as the court may allow; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney’s fees as determined by the court.

15 U.S.C. § 1681n(a).

An action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of (1) 2 years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or (2) 5 years after the date on which the violation that is the basis for such liability occurs.

15 U.S.C. § 1681p.

The FDCPA mirrors the language of the FCRA and the liability section of the FDCPA, section 1692k, states in relevant part:

(a) Amount of damages

Except as otherwise provided by this section, any debt collector who fails to comply with any provision of this subchapter with respect to any person is liable to such person in an amount equal to the sum of —

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<sup>1</sup> Amended by the Fair and Accurate Credit Transactions Act of 2003 (“FACTA”).

- (1) any actual damage sustained by such person as a result of such failure;
- (2)
  - (A) in the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$1,000; or
  - (B) in the case of a class action, (i) such amount for each named plaintiff as could be recovered under subparagraph (A), and (ii) such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed the lesser of \$500,000 or 1 per centum of the net worth of the debt collector; and
- (3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs.

...

(d) Jurisdiction

An action to enforce any liability created by this subchapter may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within one year from the date on which the violation occurs.

15 U.S.C. § 1692k.

The language in the liability and jurisdiction sections of the FCRA and FDCPA mirror one another. The FDCPA imposes requirements on “debt collectors,” while the FCRA imposes requirements on a person that accepts credit/debit cards for business transactions. Neither act expressly states who can bring the cause of action for damages. The *Fausett* court contrasted the language of the FCRA with the language of the Biometric Information Privacy Act (“BIPA”) and the Probate Act, which both expressly state who may sue. *Fausett* ¶ 44. BIPA states that “[a]ny person aggrieved by a violation of [the] Act” has a right of action in court (740 ILCS 14/20) and the Probate Act states that “any interested person may file a petition” (755 ILCS 5/8-1(a)). In contrast, the FCRA and FDCPA both contain passive language in their respective jurisdiction sections: “[a]n action to enforce . . . may be brought in any appropriate” court. 15 U.S.C. § 1681p; 15 U.S.C. § 1692k(d). Thus, there is no express language in the FDCPA conferring standing to sue.

Although § 1692k(a)(2) of the FDCPA outlines categories of who is intended to be protected by the FDCPA, it still does not contain any enabling language that expressly states who can bring the cause of action.

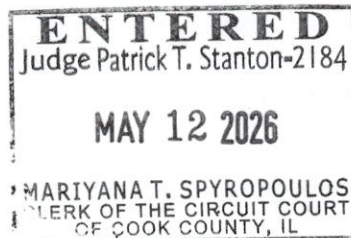
Therefore, based on the *Fausett* decision that common law standing principles applied to an action under the FCRA, which contains very similar language to the FDCPA, common law standing principles also apply to an action under the FDCPA. Common law standing requires a concrete injury-in-fact, which Smith has failed to allege. Smith only alleges a facial violation of § 1692f(8) of the FDCPA and claims no actual injury or damages. Thus, without any concrete injuries, Smith lacks standing to bring this claim.

### CONCLUSION

Following the Illinois Supreme Court's *Fausett* decision, to have standing under the FDCPA in Illinois courts, the plaintiff must allege a concrete injury-in-fact. Here, Smith does not allege any actual injury and thus lacks the required common law standing to bring a FDCPA claim.

The Court therefore GRANTS Alliance's Motion to Dismiss. This is a final order. Strike all future dates.

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A handwritten signature in blue ink, appearing to read "Patrick T. Stanton". Below the signature is a horizontal line, and underneath that line, the text "Judge Patrick T. Stanton" is printed in a black serif font.

Calendar 6  
[ccc.chancerycalendar6@cookcountyl.gov](mailto:ccc.chancerycalendar6@cookcountyl.gov)  
(312) 603-4890  
Zoom Meeting ID: 928 4730 2982  
Zoom Password: 411367  
Zoom Call-In: (312) 626-6799