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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

CAROLYN HAMMETT,

Case No. 3:13-cv-00077-HU

Plaintiff,

v.

**AMENDED COMPLAINT FOR
VIOLATIONS OF THE OREGON
UNLAWFUL DEBT COLLECTION
PRACTICES ACT**

**COMCAST OF CALIFORNIA/
COLORADO/FLORIDA/OREGON, INC.,**
a Georgia corporation, **COMCAST CABLE
COMMUNICATIONS, LLC**, a yet unknown
entity, **COMCAST CABLE
COMMUNICATIONS, INC.**, a yet unknown
entity, and **DOES 1-50**.

JURY TRIAL DEMANDED

ORS 646.639 et seq.

Defendants.

AMENDED COMPLAINT - Page 1

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1.

Carolyn Hammett (“plaintiff”) alleges that at all times material:

2.

JURISDICTION AND THE PARTIES

This is a civil action brought under the Oregon Unlawful Debt Collection Practices Act (“OUDCPA”), ORS 646.639 *et seq.*

3.

This Court has jurisdiction pursuant to 28 U.S.C. § 1332 because true diversity exists between the parties and the amount in controversy requirement is met.

4.

Venue is proper in this district because the majority of the transactions and collections occurred here, plaintiff resides here, and defendant conducts business here.

5.

Plaintiff resided in Clackamas County, Oregon during all times material and is a “person” and a “consumer” as defined by the OUDCPA at ORS 646.639(1)(h) and (a).

6.

Defendant Comcast of California/Colorado/Florida/Oregon, Inc., also possibly doing business as Comcast Cable Communications, LLC and Comcast Cable Communications, Inc. (collectively as “Comcast”) is a Georgia corporation.

7.

Comcast provides consumer household communications services in Oregon.

8.

As such, Comcast is a “person” as defined by the OUDCPA at ORS 646.639(1)(h).

9.

Comcast entered into a consumer agreement with plaintiff, resulting in an alleged “debt” as defined by the OUDCPA at ORS 646.639(1)(e).

10.

Comcast regularly collects its consumer debts, directly and indirectly, and is a “debt collector” as defined by the OUDCPA at ORS 646.639(1)(g).

11.

Enhanced Recovery Company, Convergent Outsourcing Inc., and ER Solutions, Inc. are Comcast’s debt collectors (collectively referred to as “debt collectors”).

12.

Comcast and its debt collectors share a principal-agent relationship.

13.

For the purposes of the allegations in this complaint, Comcast and its debt collectors worked in partnership in an ongoing venture with a shared economic interest in collecting debt from plaintiff.

14.

Any wrongdoing committed by Comcast’s debt collectors against plaintiff was in furtherance of their principal-agent relationship with Comcast and in furtherance of Comcast’s economic interests.

15.

Comcast is vicariously liable for the wrongdoing committed by its debt collectors against plaintiff.

16.

Plaintiff does not yet know the true names and capacities of defendants named Comcast Cable Communications, LLC, Comcast Cable Communications, Inc., or Does 1-50. Plaintiff intends to amend the complaint to allege such names and capacities when known. Upon information and belief, each unknown or fictitiously named defendant acted in concert with one another with knowledge of one another.

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17.

FACTUAL ALLEGATIONS

Plaintiff is a 67 year old woman living alone in Clackamas County, Oregon.

18.

She suffers stage-four cancer.

19.

The cancer is in her lungs and cannot be operated on.

20.

In 2009 her doctor told her he didn't expect her to live more than a year.

21.

Her remaining time on Earth is very precious.

22.

In 2011 she canceled her consumer household communications services with Comcast.

23.

She immediately returned her Comcast equipment after canceling her services.

24.

Shortly after canceling her service, Comcast began harassing her to collect debt, at least a portion of which she did not owe.

25.

She retained an attorney to represent her with regard to her debts.

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26.

In or around October 2011 she informed Comcast she retained an attorney to file bankruptcy.

27.

She provided Comcast contact information for her attorney and advised Comcast to contact her attorney with any questions.

28.

She asked Comcast to stop calling her home phone number.

29.

Despite her attempts to refer collections to her attorney, Comcast persists in harassing her at home.

30.

Comcast, directly and through its various debt collectors, continues to harass her in an attempt to collect a debt, at least a portion of which she does not owe.

31.

She informs Comcast and its various debt collectors that she disputes the debt.

32.

She informs Comcast and its various debt collectors that she is represented by an attorney.

33.

She provides Comcast and its various debt collectors her attorney's contact information.

34.

She tells Comcast and its various debt collectors that she wishes for the harassment to stop.

35.

The harassment won't stop, leaving her no choice but to file this lawsuit for fair and just compensation.

36.

As a direct and proximate result of Comcast's malicious and unlawful debt collection and harassment, she suffers severe ongoing anxiety of future harassment, annoyance, frustration, and other negative emotions to be proved at trial.

37.

As a direct and proximate result of Comcast's malicious and unlawful debt collection and harassment, she suffers actual damages in the form of time spent and attorneys fees and costs.

38.

She is entitled to and so demands a trial by jury.

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39.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

(OUDCPA)

(ORS 646.641)

40.

Plaintiff re-alleges the above by reference.

41.

Comcast injures plaintiff through its willful and malicious use of unlawful collection practices as detailed above, violating the OUDCPA, specifically ORS 646.639(2)(e) and (k).

42.

As a result of Comcast's willful and malicious use of unlawful collection practices, plaintiff is entitled to the greater of actual damages or \$200, punitive damages, reasonable attorneys fees and costs, injunctive relief and declaratory relief pursuant to ORS 646.641.

43.

Plaintiff is entitled to and so demands a trial by jury.

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WHEREFORE, plaintiff seeks judgment against Comcast as follows:

- a. Injunctive relief enjoining Comcast from further harassing plaintiff;
- b. Declaratory relief holding Comcast in violation of the OUDCPA;
- c. An award of actual damages, statutory damages, punitive damages, and reimbursement of plaintiff's reasonable attorneys fees and costs; and
- d. For other such relief as this Honorable Court deems just and proper.

DATED: February 23, 2013

s/ Michael Fuller

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AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Oregon

CAROLYN HAMMETT

Plaintiff

v.

COMCAST et al.

Defendant

Civil Action No. 3:13-cv-00077-HU

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) COMCAST OF CALIFORNIA/COLORADO/FLORIDA/OREGON, INC.
C/O ATTORNEY DEREK GREEN
1300 SW FIFTH AVE, STE 2400
PORTLAND, OREGON 97201

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

CAROLYN HAMMETT
C/O ATTORNEY MICHAEL FULLER
OLSENDAINES, PC
9415 SE STARK ST., STE 207
PORTLAND, OR 97216

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk