UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

CARL HOWARD,	:	
	:	
Plaintiff,	:	
	:	
V.	:	CASE NO. 3:04CV784 (RNC)
	:	
ALBERTUS MAGNUS COLLEGE, ET AL.,	:	
	:	
Defendants.	:	

RULING AND ORDER

Plaintiff Carl Howard, proceeding pro se, brings this action against Albertus Magnus College and others alleging a variety of claims under federal and state law arising out of contacts he had with the defendants regarding a tuition bill. Motions to dismiss have been filed challenging the legal sufficiency of plaintiff's claims (Docs. # 12 and 17). Plaintiff has responded by filing a document bearing the caption Request of Court to Review Plaintiff's Complaint and Make Recommendations Correcting Potential Deficiencies of Complaint (Doc. # 20). Treating that document as a motion to amend the complaint, the motion is granted.[1] Accepting the allegations of the amended complaint (Doc. # 23) as true, and construing them in a manner most favorable to the plaintiff, the complaint fails to state a claim for relief under federal law. Accordingly, the motions to dismiss those claims are granted, leaving no federal claim in the case. In the absence of any federal claim, the court declines to exercise jurisdiction over the state law claims, which are dismissed without prejudice to refiling in state court.[2]

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[1] In view of this ruling, plaintiff's earlier Motion for Leave to Amend Complaint (Doc. #13) is denied as moot.

[2] As a result of this ruling, defendant Castaldi's Motion to Dismiss for failure to post security

(continued...)

BACKGROUND

Plaintiff, a black male, attended classes at Albertus Magnus College for a period of time ending in December 2001. A few months later, he was informed him that he needed to pay for a course that his employer would not cover. It was agreed that he would pay the College $25.00 per month.

On July 17, 2002, plaintiff received a call from defendant Del Vecchio, an employee of the College, about a payment that had not been received. Plaintiff alleges that Del Vecchio badgered and harassed him. Plaintiff attempted to explain that he did not realize the payment was late. Del Vecchio interrupted and said, "This is too much work for $25.00. You got my letter, and you know what I am going to do." Plaintiff terminated the conversation because he was distressed.

On July 21, 2002, plaintiff re-enrolled at the College and received written confirmation of his re-enrollment the next day. Several weeks later, he got a voice mail message from Del Vecchio at work stating, "There is a problem with your registration as you know." Plaintiff did not return the call because he was distressed.

A couple of days later, defendant Castaldi, another employee of the College, called plaintiff at work about the outstanding balance. When plaintiff returned the call, Castaldi became "extremely confrontational." She badgered and harassed him, causing more distress.

Based on these facts, plaintiff attempts to state claims for relief under the following federal laws: the Equal Education Opportunity Act, 20 U.S.C. § 1701, et seq.; the First Amendment (freedom of religious expression); the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq.; and Title VII

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[2](...continued)
for costs (Doc. # 15) is denied as moot.

of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq.[2]

DISCUSSION

A claim is adequately pleaded if the allegations of the complaint give the defendant fair notice of what the claim is and the grounds on which it rests, Swierkiewicz v. Sorema N.A., 534 U.S. 506, 508, 512 (2002), and show that the plaintiff is entitled to relief. Fed. R. Civ. P. 8(a)(2). A complaint filed by a pro se plaintiff is interpreted "to raise the strongest arguments that [it] suggests." Soto v. Walker, 44 F.3d 169, 173 (2d Cir. 1995) (citation omitted). Dismissal of a claim at the pleading stage for failure to state a claim on which relief can be granted is justified only when "it appears beyond doubt that plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Chance v. Armstrong, 143 F.3d 698, 701 (2d Cir. 1998) (citation omitted).

Applying this test, plaintiff's allegations are insufficient to state a claim for relief under federal law for the following reasons:

1. Equal Education Opportunity Act (Count 13)

This statute provides that "[n]o State shall deny equal educational opportunity to an individual on account of his or her race." 20 U.S.C. § 1703 (emphasis added). Plaintiff does not allege that Albertus Magnus College is a state institution or that the individual defendants are state officials.

2. First Amendment (Count 15)

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[2]In addition, he attempts to allege an array of state law claims: negligence as a matter of law; violation of the Connecticut Unfair Trade Practices Act (CUTPA); Conn. Gen. Stat. § 42-110A; interference of common law right; intentional violation; intentional infliction of mental distress; negligent infliction of mental distress; causation; willful noncompliance; negligent noncompliance; breach of contract; duty of care; ratification; libel; and defamation.

The First Amendment prohibits government from interfering with protected expression. Plaintiff does not allege that this case involves governmental action.

3. Fair Debt Collection Practices Act (Count 16).

This statute prohibits a "debt collector" from employing "false, deceptive, or misleading representation or means in connection with the collection of any debt." 15 U.S.C. § 1692e. Plaintiff does not allege that any of the defendants is a "debt collector" as defined in the statute, that is, a person engaged in "any business the principle purpose of which is the collection of any debts, or who regularly collects or attempts to collect . . . debts owed or due or asserted to be owed or due another." 15 U.S.C. § 1692a(6) (emphasis added). By its terms, the statute "limits its reach to those collecting the debts 'of another' and does not restrict the activities of creditors seeking to collect their own debts." Bleich v. Revenue Maximization Group, Inc., 239 F. Supp. 2d 262, 264 (E.D.N.Y. 2002) (citing Maguire v. Citicorp Retail Servs., Inc., 147 F.3d 232, 235 (2d Cir. 1998)). This case involves collection activities by employees of the College acting on behalf of the College, not some other creditor. 4. Title VII (Count 19)

Title VII prohibits discrimination in employment based on certain protected characteristics, including race. As a black male, plaintiff is protected by the statute. However, this case does not concern employment discrimination: plaintiff does not allege that he was employed by, or sought employment with, the College.

Generally speaking, in a situation like this, when a complaint containing both federal and state claims is brought in federal court and the federal claims are dismissed before trial, unless there is some other basis for federal jurisdiction, the court will not keep the case but will dismiss the state law claims

without prejudice to refiling in state court, where those claims could have been brought initially. I see no reason to do otherwise.

CONCLUSION

Accordingly, the motions to dismiss for failure to state a claim on which relief can be granted are hereby granted as to the federal claims, those claims are dismissed with prejudice, and the state law claims are dismissed without prejudice to refiling in state court. The Clerk may close the file.

So ordered.

Dated at Hartford, Connecticut this 7th day of September 2004.

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Robert N. Chatigny
United States District Judge