

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

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|---------------------------|---|----------------------|
| HERSCHEL COLLINS, ET AL., | : | |
| | : | |
| Plaintiffs, | : | |
| | : | No. 3:04CV1905 (MRK) |
| v. | : | |
| | : | |
| EXPERIAN CREDIT REPORTING | : | |
| SERVICE, ET AL., | : | |
| | : | |
| Defendants. | : | |

RULING AND ORDER

Pending before the Court are Defendants’ Consolidated Motion to Dismiss And In The Alternative for a More Definite Statement [**doc. #9**] and Plaintiffs’ Motion to Dismiss Defendants’ Consolidated Motion to Dismiss [**doc. #11**]. For the reasons stated below, Plaintiffs’ motion is DENIED and Defendants’ motion is GRANTED in part and DENIED in part.

Defendants move the Court to dismiss Plaintiffs’ Complaint, or in the alternative, to order Plaintiffs to provide a more definite statement of their claims. Defendants set forth three grounds for dismissal: (1) certain named parties failed to sign the complaint; (2) *pro se* plaintiffs cannot maintain a class action and (3) Plaintiffs’ fail to state a claim upon which relief can be granted. The Court declines to dismiss claims or strike plaintiffs on any of these grounds at this time.

First, the Court notes that contrary to Defendants’ contention, all named Plaintiffs did sign the Complaint on record in the Court file. *See* Compl. [doc. #1]. Therefore, the Court has no basis to strike Plaintiffs Estelle Jessup and Jovan Wooten under Rule 11(a) of the *Federal Rule of Civil Procedure* and they will remain in the case.

Second, the Court agrees with Defendants that a class action cannot be maintained by *pro se* litigants. *See e.g., Daniels v. Niagara Mohawk Power Corp.*, No. 04-CV-0734S(SC), 2004 WL 2315088, at *1 (W.D.N.Y. Oct. 12, 2004) (“non-attorneys cannot represent anyone other than themselves and cannot prosecute class actions on behalf of others”) (citing 28 U.S.C. § 1654). Therefore, the Court advises Plaintiffs that *pro se* litigants may only represent themselves and they may not sue in a representative capacity on behalf of any other person. *See Iannaccone v. Law*, 142 F.3d 553, 558 (2d Cir. 1998) (“because *pro se* means to appear for one's self, a person may not appear on another person's behalf in the other's cause”). In order to bring a class action, Plaintiffs must be represented by an attorney. However, rather than dismissing Plaintiffs’ claims at this time, the Court will treat this action as an individual action by Mr. Collins, Ms. Jessup and Mr. Wooten, unless and until Plaintiffs obtain class counsel. *See, e.g., Devlin v. Transportation Communications Int'l Union*, No. 95 Civ.0754 (JFK), 2002 WL 413919, at *2 (S.D.N.Y. Mar. 14, 2002) (given that plaintiffs had not moved for class certification and were acting *pro se*, the court would consider plaintiffs as individuals and not as a class).

Third, as to Defendants final ground for dismissal of the Complaint, it is well settled that "a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Flores v. S. Peru Copper Corp.*, 343 F.3d 140, 148 (2d Cir. 2003) (quoting *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957)). "Further, when the plaintiff proceeds *pro se*, as in this case, a court is obliged to construe his pleadings liberally." *McEachin v. McGuinnis*, 357 F.3d 197, 200 (2d Cir. 2004). Thus, while the Court agrees that the allegations in Plaintiffs’ Complaint

could be set forth more clearly, the Court declines to dismiss the Complaint for failure to state a claim without affording Plaintiffs an opportunity to amend their Complaint.

To that end, the Court will grant Defendant's request for a more definite statement. In doing so, the Court advises Plaintiffs that while *pro se* plaintiffs are entitled to liberal pleading standards, they "cannot completely avoid the pleading requirements of the Federal Rules of Civil Procedure." *Peterson v. Tomaselli*, No. 02 Civ.6325, 2004 WL 2211651, *12 (S.D.N.Y. Sep. 30, 2004); *Murphy*, 1996 WL 442797, at *7 (citing *Traguth v. Zuck*, 710 F.2d 90, 95 (2d Cir. 1983)). And as Defendants point out, Mr. Collins ought to be familiar with the federal pleading requirements after having himself filed nearly twenty-five actions in this District to date. Therefore, the Court directs the Plaintiffs to specify in greater detail their claims against each defendant and identify what conduct on the part of each defendant constitutes the basis for those claims. In particular, with respect to Plaintiffs' claims under the Fair Credit Reporting Act (FCRA), 15 U.S.C. §1681 *et seq.*, the Court directs Plaintiffs to state specifically which of their credit reports were inaccurate, on what basis they are claimed to be inaccurate, and what conduct of the Defendants allegedly violated the FCRA. If Plaintiffs make multiple claims, each claim against each Defendant should be listed as a separate count in the Complaint.

Additionally, to the extent that Plaintiffs are suing to enforce a settlement agreement between Mr. Collins and Experian in a prior case titled *Collins v. Ford Motor Credit Co., et al*, No. 3:01cv2060 (AVC),¹ it appears to the Court that all of Mr. Collins' claims in that case, including his prior allegations that the settlement had been breached, were dismissed in their

¹ The case was originally assigned to Judge Droney and was transferred to Judge Covello on November 8, 2002. *See* Order of Transfer [doc. #157].

entirety by Judge Covello. *See* Order of 2/24/03 [doc. #178]. Therefore, Mr. Collins' claims arising from an alleged settlement between Mr. Collins and Experian in that case appear to be barred as they were already litigated and have been decided by Judge Covello. *See Jeffreys v. Teamsters Local Union No. 1150*, 3:03CV460(MRK), 2004 WL 2516937, at *1 (D. Conn. Nov. 5, 2004) (explaining the doctrine of *res judicata*). To the extent that Mr. Collins is claiming any new breach that was not and could not have been litigated before Judge Covello, Mr. Collins must state any such claim in a separate count and should specify what precise conduct of Defendants forms the basis of Mr. Collins claims of a new breach.

Finally, Plaintiffs' Motion to Dismiss Defendants' Consolidated Motion to Dismiss [**doc. #11**], is essentially a brief opposing Defendants' motion to dismiss rather than a motion. However, in addition to opposing Defendants' motion, Plaintiffs also request the Court to conduct an investigation on Experian and its alleged non-compliance with federal registration requirements for foreign companies. The Court advises Plaintiffs that it cannot conduct an independent investigation at the request of any party. The role of a court is that of impartial adjudicator of a dispute between the parties. If the Court were to conduct the requested investigation to find information to support possible claims that Plaintiffs could assert, the Court would be acting as Plaintiffs' advocate and not as an impartial adjudicator. *See Martinez v. Court of Appeal of Cal., Fourth Appellate Dist.*, 528 U.S. 152, 162 (2000) ("[T]he trial judge is under no duty . . . to perform any legal 'chores' for the defendant that counsel would normally carry out."). Accordingly, Plaintiffs' request for an investigation by the Court is denied. The remainder of Plaintiffs' motion is also denied as moot in light of the Court's ruling denying Defendants' request to dismiss the action and granting their request for a more definite statement.

In conclusion, the Court DENIES Plaintiffs' Motion to Dismiss Defendants' Consolidated Motion to Dismiss [**doc. #11**] and GRANTS in part and DENIES in part Defendants' Consolidated Motion to Dismiss And In The Alternative for a More Definite Statement [**doc. #9**] as specified above. Plaintiffs shall amend the Complaint to provide a more definite statement of their claims in accordance with this Court's ruling no later than **January 24, 2005. Failure to comply with this deadline may result in dismissal of the case.**

IT IS SO ORDERED.

/s/ Mark R. Kravitz
United States District Judge

Dated at New Haven, Connecticut: December 22, 2004.