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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GEORGE THOMAS; LINDA THOMAS,

Plaintiffs - Appellants,

v.

U.S. BANK, N.A.,

Defendant - Appellee.

No. 07-36100

D.C. No. CV-05-01725-MO

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael W. Mosman, District Judge, Presiding

Argued and Submitted May 6, 2009

Portland, Oregon

Before: W. FLETCHER and IKUTA, Circuit Judges, and SEABRIGHT,** District Judge.

Plaintiff George Thomas (“Thomas”) brought this suit against Defendant U.S. Bank for its attempts to collect an uncollectible debt from Thomas and for two

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The Honorable J. Michael Seabright, United States District Judge for the District of Hawaii, sitting by designation.

pulls of Thomas's credit report, claiming U.S. Bank's conduct violated Oregon statutes and the federal Fair Credit Reporting Act ("FCRA"). Thomas appeals various rulings by the district court.

We affirm the district court's grant of summary judgment on Thomas's claims under the Oregon Unlawful Debt Collection Practices Act ("UDCPA"). Thomas's claim under Or. Rev. Stat. § 646.639(2)(m) fails because he presented no evidence that U.S. Bank represented that Thomas's debt would be increased by fees or other charges. Thomas's claim under Or. Rev. Stat. § 646.639(2)(n) fails because he presented no evidence that the difference between his actual debt amount and the amount U.S. Bank attempted to collect was attributable to added interest or fees. Thomas's claim under Or. Rev. Stat. § 646.639(2)(k) fails because a litigation is not a "right or remedy" that was unavailable to U.S. Bank when it threatened to sue. *Porter v. Hill*, 838 P.2d 45, 49 (Or. 1992); *Pro Car Care, Inc. v. Johnson*, 118 P.3d 815, 818 (Or. Ct. App. 2005).

We also affirm the district court's grant of judgment as a matter of law to U.S. Bank on Thomas's "permissible purposes" FCRA claim under 15 U.S.C. § 1681b(f). Thomas presented no evidence that U.S. Bank or Capital Management Services, Inc., had requested his credit report for any reason other than to attempt to collect on the debt, and requesting a credit report with the intent to collect on a

debt is among the “permissible purposes” listed in the FCRA. 15 U.S.C. §
1681b(a)(3)(A).

Finally, the district court did not abuse its discretion in excluding the video testimony of Thomas’s deceased expert witness. Nor did it abuse its discretion in awarding attorney’s fees to U.S. Bank.

AFFIRMED.