

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In The Matter Of:)
)
The Complaint of Mary Ann Morgan)
vs. First Communications for Unfair)
and Unjust Billing Practices.)

Case No. 11-0331-TP-CSS

RESPONDENT'S MOTION TO DISMISS

NOW COMES the respondent, First Communications, LLC (the "Respondent"), by and through its attorneys, and submits its Motion to Dismiss in accordance with, among other things, Section 4901-1-12 of the Ohio Administrative Code ("O.A.C.").

In support of this Motion, Respondent first states that much of the Complaint herein is illegible. O.A.C. §4901-1-03(B) states, in pertinent part:

All pleadings or other papers to be filed with the commission shall be printed, typewritten, or legibly handwritten on 8 and 1-2 by 11 inch paper...

Respondent cannot decipher or understand many of the words hand-written by Complainant in the Complaint. Accordingly, the Complaint is not legibly hand-written and should be dismissed as violative of O.A.C. §4901-1-03(B).

In further support of this Motion, Respondent states that the Complaint is devoid of any statement clearly explaining facts which constitute the basis of the Complaint, in violation of O.A.C. §4901-9-01(B). That Section states, in pertinent part:

All complaints filed under §4905.26 of the Revised Code ... shall be in writing and shall contain the name of the public utility complained

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against, a statement which clearly explains the facts which constitute the basis of the complaint, and a statement of the relief sought...

O.A.C. §4901-9-01(B). There is nothing clearly stated in the Complaint, much less a clear explanation of underlying facts. Accordingly, the Complaint is violative of *O.A.C. §4901-9-01(B)* and should be dismissed as such.

In further support of the Motion, the Complaint herein fails to comply with Section 4905.26 of the Ohio Revised Code, in that it does not pertain to any of the appropriate subject matter described therein. Specifically, the Complaint discusses allegations of stealing an Experian credit report, reference to a demand for monetary damages in the amount of \$999 Trillion Dollars, and threats of physical harm to one or more respondents. The Complaint also references a class action suit, which likewise is outside this Commission's jurisdiction. In short, there are no claims that can be independently identified as within this Commission's subject matter jurisdiction. Accordingly, the Complaint in its entirety is outside this Commission's subject matter jurisdiction and should be dismissed pursuant to, among other things, *R.C. §4905.26*.

Finally, and in further support of Respondent's Motion, Respondent states that the Complaint contains no statement of relief sought, in violation of *O.A.C. §4901-9-01(B)*. The only reference to any relief is a class-action suit for \$999 Trillion Dollars, which clearly is outside the jurisdiction of this Commission.

CONCLUSION

For the reasons set forth herein, among others, Respondent's Motion should be granted, and Complainant's Complaint should be dismissed with prejudice.

Respectfully submitted:



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Motion to Dismiss of First Communications, LLC has been served this 14th day of February, 2011, via ordinary, First Class U.S. Mail, postage prepaid, upon the following party:

Mary Ann Morgan
3319 Somia Drive
Parma, OH 44134



David A. Ferris (0059804)