

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 98-1372

Rebecca Retzlaff, On Behalf of Herself
and All Others Similarly Situated,

Appellant,

v.

Richard J. Horgan and AFS Check
Systems, Inc.,

Appellees.

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Appeal from the United States
District Court for the District
of Minnesota.

[UNPUBLISHED]

Submitted: November 20, 1998

Filed: January 20, 1999

Before BEAM, MAGILL, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Rebecca Retzlaff sued Richard Horgan and AFS Check Systems, Inc., alleging that they violated the Fair Debt Collection Practices Act, see 15 U.S.C. §§ 1692-1692o, in their actions with respect to a dishonored check that she had written. The defendants moved to dismiss the complaint for failure to state a claim, see Fed. R. Civ. P. 12(b)(6), and Ms. Retzlaff responded to the motion.

The defendants then replied to Ms. Retzlaff's response; included with that reply was an affidavit with six exhibits. The reply also asked the district court to treat the motion to dismiss as a motion for summary judgment pursuant to Fed. R. Civ. P. 12(b). Ms. Retzlaff moved to exclude the affidavit and the exhibits from consideration and, concomitantly, asked the district court to evaluate the filings only with respect to whether her complaint stated a claim. Approximately three weeks later, the district court denied Ms. Retzlaff's motion to exclude and granted summary judgment to the defendants.

Ms. Retzlaff appeals. We have carefully considered the arguments and exhibits offered by the parties, and we affirm the judgment of the district court.¹ See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

¹The Honorable Ann D. Montgomery, United States District Judge for the District of Minnesota.