

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

THOMAS MCGLYNN and  
ROGER LEVESQUE

v.

CA 98-273ML

THE CREDIT STORE, INC.;  
CITIZENS BANK; and FIRST  
NATIONAL BANK IN BROOKINGS.

MEMORANDUM AND ORDER

Plaintiffs filed suit against the Credit Store, Inc. (“Credit Store”), first National Bank in Brookings (“First National”), and Citizens Bank (“Citizens”). Plaintiffs allege that the defendants violated 11 U.S.C. § 524 and conspired to engage in an unlawful civil conspiracy. Plaintiffs also aver that the defendant Credit Store and First National violated the Fair Debt Collection Practices Act (“FDCPA”). In turn, Defendants filed an array of motions to dismiss, to stay, or in the alternative, to transfer the present matter.

The court referred these motions to Magistrate Judge Robert W. Lovegreen for his preliminary review, findings, and recommended disposition. See 28 U.S.C. § 636(b)(1); D.R.I. Loc. R. 32(c). In his report, the magistrate judge recommended that the Credit Store and First National’s motion to dismiss, stay, or transfer the case to the Northern District of Illinois be denied; that Plaintiffs’ § 524 and civil conspiracy claims be transferred to the United States Bankruptcy court for the District of Rhode Island; and, that Citizens’ Rule 12(b)(6) motion to dismiss should also be transferred to the bankruptcy court and decided therein.

The defendants subsequently filed objections to the magistrate judge’s report. After

reviewing the parties' motions, the report and recommendation, the parties objections thereto and the relevant law, this court adopts the findings, conclusions and recommendations of Magistrate Judge Lovegreen. Finding that Plaintiffs' FDCPA claim does not "arise under" Title 11, this court retains jurisdiction over Count One and stays proceedings pertaining thereto until Plaintiffs' other claims have been resolved in the bankruptcy court.

SO ORDERED:

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Mary M. Lisi  
United States District Judge  
May , 1999