

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.**

JAMES ALDERMAN, *on behalf of
himself and all others similarly situated,*

Plaintiff,

v.

GENPACT SERVICES, LLC,
a Delaware Limited Liability Company,

Defendant.

CLASS ACTION COMPLAINT

1. Plaintiff, James Alderman, alleges violations of the *Fair Debt Collection Practices Act*, 15 U.S.C. §1692 *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §1331, and 15 U.S.C. §1692k. Venue in this District is proper because Plaintiff resides here and Defendant conducts business in this District.

PARTIES

3. Plaintiff, James Alderman (“Plaintiff”), is a natural person, and citizen of the State of Florida, residing in Indian River County, Florida.

4. Defendant, Genpact Services LLC (“Defendant”), is a Delaware Limited Liability Company engaged in the business of collecting consumer debts, which operates from offices located at 42 Old Ridgebury Road, Danbury, Connecticut 06810.

5. Defendant regularly uses the United States Postal Service and telephone in the collection of consumer debt.

6. Defendant is licensed in the State of Florida as a consumer collection agency, license number CCA0900507.

7. Defendant regularly collects or attempts to collect debts for other parties. Defendant is a “debt collector” as defined in the *FDCPA*.

8. At all times material to the allegations of this complaint, Defendant was acting as a debt collector with respect to the collection of Plaintiff’s alleged debt.

FACTUAL ALLEGATIONS

9. Defendant sought to collect from Plaintiff an alleged debt incurred by Plaintiff for personal, family, or household purposes; more specifically, the debt at issue was a delinquent credit card debt.

10. In the month of April 2016, Defendant left three (3) telephone messages on Plaintiff’s phone. Phone number xxx-xxx-9902.

11. The first telephone message stated: “Hi this message is for James Alderman my name is Justin from Genpact Services uh uh please call me back 877-843-7934 thank you for your time, take care, you have a good day.”

12. The second telephone message stated: “Message for James Alderman, Steven calling from Genpact Services with a call back number as 877-843-7934, thank you.”

13. The third telephone message stated: “This is a message for James Alderman my name is Tom Carol and I’m calling from Genpact Services give us a call back at 877-843-7934 thank you and have a nice day bye bye thank you.”

14. None of the messages identified that the call was from a debt collector.

15. *15 U.S.C § 1692e(11)* states:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

xxxx

(11) The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, **and the failure to disclose in subsequent communications that the communication is from a debt collector**, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.

(emphasis added)

16. *15 U.S.C. § 1692d(6)* states:

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

xxxx

(6) Except as provided in section *1692b* of this title, the placement of telephone calls without meaningful disclosure of the caller's identity.

17. Defendant's phone messages falsely and misleadingly omit that the message is from a debt collector in violation of *15 U.S.C. § 1692e*.

18. Defendant's phone messages fail to provide meaningful disclosure of its identity in violation of *15 U.S.C. § 1692d(6)*.

19. Any potential *bona fide* error defense which relies upon Defendant's mistaken interpretation of the legal duties imposed upon it by the *FDCPA* would fail as a matter of law.

CLASS ACTION ALLEGATIONS

20. This action is brought on behalf of a Class consisting of (i) all persons located in Florida (ii) for whom Genpact Services, LLC, left, or caused to be left, a voice message, (iii) in connection with the collection of a consumer debt, (iv) that failed to state that Genpact Services, LLC was a debt collector (vi) during the one-year period prior to the filing of the original Complaint in this action through the date of certification.

21. Plaintiff alleges on information and belief based upon the Defendant's practice of leaving or causing to be left, voice messages that fail to state that Genpact Services, LLC was a debt collector, left as voice messages for the Class, that the Class is so numerous that joinder of all members of the Class is impractical.

22. There are questions of law or fact common to the Class, common issues predominate over any issues involving only individual Class members. The factual issue common to each Class member is that each was left or caused to be left a voice message by Defendant, that failed to state that Genpact Services, LLC was a debt collector. The common principal legal issue is whether Defendant's omission in its voice messages that it left or caused to be left, that Genpact Services, LLC was a debt collector violated the *FDCPA*.

23. Plaintiff's claim is typical of those of the Class members. All are based on the same facts and legal theories.

24. Plaintiff will fairly and adequately protect the interests of the Class. He has retained counsel experienced in handling actions involving unlawful practices under the *FDCPA* and Class actions. Neither Plaintiff nor his counsel has any interests which might cause them not to vigorously pursue this action.

25. Certification of the Class under *Rule 23(b)(3)* of the *Federal Rules of Civil Procedure* is also appropriate in that:

(1) The questions of law or fact common to the members of the class predominate over any questions affecting an individual member.

(2) A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

26. Plaintiff requests certification of a Class under *Rule 23(b)(3)*, of the *Federal Rules of Civil Procedure*, for monetary damages; his appointment as Class Representative; and that his attorney Leo W. Desmond be appointed Class Counsel.

COUNT I

VIOLATION OF 15 U.S.C. § 1692e(11)

27. Plaintiff re-alleges Paragraphs 1 through 19.

28. *15 U.S.C. § 1692e(11)* states:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

xxxx

(11) The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, **and the failure to disclose in subsequent communications that the communication is from a debt collector**, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.

(emphasis added)

29. Defendant left three voice messages on Plaintiff's phone in an attempt to collect a consumer debt.

30. Each voice message falsely and misleadingly omitted that the call was from a debt collector.

31. Defendant's failure to identify in the voice messages that it left on Plaintiff's phone that it was a debt collector is a violation of *15 U.S.C. § 1692e*.

32. Defendant's voice message would be confusing and misleading to the least sophisticated consumer with regard to his/her legal rights.

33. As a result of Defendant's conduct, Plaintiff and the Class are entitled to an award of statutory damages pursuant to *15 U.S.C. §1692k*.

34. As a result of Defendant's conduct, Plaintiff and the Class entitled to an award of costs and attorney's fees pursuant to *15 U.S.C. §1692k*.

COUNT II

VIOLATION OF 15 U.S.C. § 1692d(6)

35. Plaintiff re-alleges Paragraphs 1 through 19 and 28 through 32.

36. *15 U.S.C. § 1692d(6)* states:

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

xxxx

(6) Except as provided in section *1692b* of this title, the placement of telephone calls without meaningful disclosure of the caller's identity.

37. Defendant placed at least three telephone calls to Plaintiff and left three voice messages on Plaintiff's phone in an attempt to collect a consumer debt.

38. Each voice message did not provide meaningful disclosure of the caller's identity, i.e., that the call is from a debt collector.

39. Defendant's failure to provide meaningful disclosure of its identity in its voice messages it left on Plaintiff's phone is a violation of *15 U.S.C. § 1692d(6)*.

40. As a result of Defendant's conduct, Plaintiff and the Class are entitled to an award of statutory damages pursuant to *15 U.S.C. §1692k*.

41. As a result of Defendant's conduct, Plaintiff and the Class entitled to an award of costs and attorney's fees pursuant to *15 U.S.C. §1692k*.

WHEREFORE, Plaintiff requests that the Court enter judgment in his favor against Defendant for:

- a. An Order certifying this matter as a Class action and appointment of James Alderman as Class Representative as to all claims against Defendant;
- b. An Order appointing Leo W. Desmond as Class Counsel;
- c. An award of statutory damages for Plaintiff and the Class pursuant to *15 U.S.C. §1692k* for all Class claims;
- d. An award of attorney's fees, litigation expenses and costs of the instant suit; and
- e. Such other or further relief as the Court deems proper.

Dated: November 28, 2016.

Respectfully submitted,

DESMOND LAW FIRM, P.C.

/s/ Leo W. Desmond
LEO W. DESMOND, ESQ.
Florida Bar No. 0041920
5070 Highway A1A

Suite D
Vero Beach, FL 32963
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Facsimile: 772-231-0300
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/s/ Sovathary K. Jacobson
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Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

(a) PLAINTIFFS James Alderman DEFENDANTS Genpact Services, LLC

(b) County of Residence of First Listed Plaintiff Indian River (EXCEPT IN U.S. PLAINTIFF CASES) County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Desmond Law Firm, P.C. 5070 Highway A1A, Suite D, Vero Beach, FL 32963 Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

I. BASIS OF JURISDICTION (Place an "X" in One Box Only)
III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff, and One Box for Defendant)
U.S. Government Plaintiff/Federal Question
U.S. Government Defendant/Diversity
Citizen of This State/Another State/Foreign Country
Incorporated or Principal Place of Business In This State/Another State/Foreign Nation

V. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excl. Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise
REAL PROPERTY: 210 Land Condemnation, 220 Foreclosure, 230 Rent Lease & Ejectment, 240 Torts to Land, 245 Tort Product Liability, 290 All Other Real Property
PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Med. Malpractice
TORTS: 365 Personal Injury - Product Liability, 367 Health Care/Pharmaceutical Personal Injury Product Liability, 368 Asbestos Personal Injury Product Liability
PRISONER PETITIONS: Habeas Corpus: 463 Alien Detainee, 510 Motions to Vacate Sentence; Other: 530 General, 535 Death Penalty, 540 Mandamus & Other, 550 Civil Rights, 555 Prison Condition, 560 Civil Detainee - Conditions of Confinement
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC 881, 690 Other
LABOR: 710 Fair Labor Standards Act, 720 Labor/Mgmt. Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Empl. Ret. Inc. Security Act
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157
PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 840 Trademark
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g))
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS-Third Party 26 USC 7609
OTHER STATUTES: 375 False Claims Act, 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit, 490 Cable/Sat TV, 490 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of Statutes

VI. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Re-filed (See VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment
8 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S) (See instructions):
a) Re-filed Case YES NO
b) Related Cases YES NO
JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION Fair Debt Collection Practices Act 15 U.S.C. 1692 et al
LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 500,000.00
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
DATE 11/28/2016 SIGNATURE OF ATTORNEY OF RECORD Leon Dow FLA BAR # 0041920

FOR OFFICE USE ONLY
RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

JAMES ALDERMAN, on behalf of himself and all others similarly situated,

Plaintiff(s)

v.

GENPACT SERVICES, LLC, a Delaware Limited Liability Company,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) GENPACT SERVICES, LLC
C/O NATIONAL CORPORATE RESEARCH,LTD.,INC. (REGISTERED AGENT)
115 North Calhoun Street, Suite 4
Tallahassee, FL 32301

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

DESMOND LAW FIRM, P.C.
LEO W. DESMOND, ESQ.
5070 HIGHWAY A1A, SUITE D
VERO BEACH, FL 32963

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Genpact Services Hit with Class Action Over Debt Collection Practices](#)
