

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

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

Plaintiff,

v.

PRINCE-PARKER & ASSOCIATES, INC.,  
*a North Carolina Corporation,*

Defendant.

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**CLASS ACTION COMPLAINT AND JURY DEMAND**

1. On behalf of himself and the putative class, 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, Prince-Parker & Associates, Inc. (“Defendant”), is a North Carolina Corporation engaged in the business of collecting consumer debts, which operates from offices located at 8625 Crown Crescent Court, Suite 200, Charlotte, North Carolina 28227.

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 CCA9901393.

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, namely a home telephone bill from AT&T.

10. On March 31, 2017, Defendant left a voice message on Plaintiff’s telephone that stated: “The message is solely intended for Michael Alderman. Mr. Alderman, my name is Melody Gibson. When you get the message, please return my phone call. My number in the office it is 704-841-2424 and I am at extension 2512. When you call, I do need for you to request extension 2512.” (The “March 31 Voice Message”).

11. On April 4, 2017, Defendant left a voice message on Plaintiff’s telephone that stated: “Mike Alderman, this is Amanda Jones. Please give me a call at 704-841-2424 at extension 2484.” (The “April 4-1 Voice Message”).

12. On April 4, 2017, Defendant left another voice message on Plaintiff’s telephone that stated: “This message is for Mike Alderman. This is Steve and I need a return call at 704-841-2424 and my direct extension is 2517.” (The “April 4-2 Voice Message”).

13. On April 14, 2017, Defendant left another voice message on Plaintiff's telephone that stated: "Yes. This message is for Mike Alderman. Mr. Alderman this is Mike from Prince-Parker & Associates we spoke a couple days ago. Um actually about a week ago just following back up with you. If you would please give me a call back up at my office. My number is 704-841-2424 at extension 2582. I'll be in my office until 4 pm Eastern Standard Time today. Thank you." (The "April 14 Voice Message").

14. On April 21, 2017, Defendant left another voice message on Plaintiff's telephone that stated: "Yes. This message is for Mike Alderman. Mr. Alderman. This is Mike. If you would please give me a call back here in my office. Um, my number here is 704-841-2425 at extension 2582. It is important that I speak with you. Once again my number is 704-841-2425 at extension 2582." (The "April 21 Voice Message")

15. The March 31 Voice Message, the April 4-1 Voice Message, the April 4-2 Voice Message, the April 14 Voice Message, and the April 21 Voice Message shall be collectively referred to as the "Voice Messages."

16. The Voice Messages did not identify that the calls were from a debt collector and only the April 14 Voice Message identified the name of the debt collector.

17. *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.

18. *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.

19. The Voice Messages omit that the Voice Messages were from a debt collector in violation of *15 U.S.C. §1692e(11)*.

20. The Voice Messages failed to provide meaningful disclosure of the callers' identities in violation of *15 U.S.C. §1692d(6)*.

21. 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**

22. This action is brought on behalf of a Class consisting of (i) all persons with addresses in the Florida Counties that comprise the geographical boundaries of the United States District Court for the Southern District of Florida, namely Miami-Dade, Monroe, Broward, Palm Beach, Martin, Saint Lucie, Indian River, Okeechobee, and Highlands counties (ii) for whom a representative of Defendant 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 Defendant was a debt collector and did

not provide meaningful disclosure of Defendant's identity (v) during the one-year period prior to the filing of the original Complaint in this action through the date of certification.

23. Plaintiff alleges on information and belief based upon the Defendant's practice of leaving, or causing to be left, voice messages for consumer debtors that failed to state that Defendant was a debt collector, that the Class is so numerous that joinder of all members of the Class is impractical.

24. 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 Defendant was a debt collector and did not meaningfully identify that the calls were from Defendant. The common principal legal issue is whether Defendant's omission in its voice messages that it left, or caused to be left, that Defendant was a debt collector violated the *FDCPA*.

25. Plaintiff's claims are typical of those of the Class members. All are based on the same facts and legal theories.

26. 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.

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

28. 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**  
**CLASS CLAIM**  
**VIOLATION OF 15 U.S.C. §1692e(11)**

29. Plaintiff re-alleges and incorporates Paragraphs 1 through 27.

30. *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.

31. Defendant's representatives left at least five voice messages directed to Plaintiff in connection with an attempt to collect a consumer debt.

32. Defendant's representatives left similarly violating messages for members of the Class.

33. The Voice Messages omitted that the calls were from a debt collector and all but the April 14 Voice Message did not identify the name of the debt collection company.

34. Defendant's failure to identify in the Voice Messages that it was a debt collector is a violation of *15 U.S.C. §1692e(11)*.

35. Defendant's Voice Messages would be confusing and misleading to the least sophisticated consumer with regard to his/her legal rights as they would not know the identity of the company that the caller represented (except the April 14 Voice Message) or that the call was from a debt collector.

36. 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*.

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

**COUNT II**  
**CLASS CLAIM**  
**VIOLATION OF 15 U.S.C. §1692d(6)**

38. Plaintiff re-alleges and incorporates Paragraphs 1 through 27 and 29 through 35.

39. *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.

40. Defendant placed at least five telephone calls to Plaintiff and left at least five voice messages for Plaintiff in connection with an attempt to collect a consumer debt. Other similar messages were left for members of the Class.

41. The Voice Messages did not provide meaningful disclosure of the callers' identities, i.e., that the calls were from a debt collector, nor was the name of the debt collection company given, except in the April 14 Voice Message.

42. Defendant's failure to provide meaningful disclosure of their or the Defendant's identity in the Voice Messages is a violation of *15 U.S.C. §1692d(6)*.

43. 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*.

44. As a result of Defendant's conduct, Plaintiff and the Class are 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.

**JURY DEMAND**

Plaintiff demands a trial by jury.

Dated: May 12, 2017.

Respectfully submitted,

/s/ Leo W. Desmond



Leo W. Desmond, Esquire  
Florida Bar Number 0041920  
DESMOND LAW FIRM, P.C.  
5070 Highway A1A, Suite D  
Vero Beach, Florida 32963  
Telephone: 772.231.9600  
Facsimile: 772.231.0300  
lwd@desmondlawfirm.com  
*Attorney 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.

I. (a) PLAINTIFFS James Alderman

DEFENDANTS Prince-Parker & Associates, Inc.

(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)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Desmond Law Firm, P.C. 5070 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

II. 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)

- 1 U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant Diversity (Indicate Citizenship of Parties in Item III)

- Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State Incorporated and Principal Place of Business In Another State Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. 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 4 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 May 12, 2017 SIGNATURE OF ATTORNEY OF RECORD /s/Leo W. Desmond FL BAR 0041920

FOR OFFICE USE ONLY

RECEIPT # AMOUNT IFF 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.

Prince-Parker & Associates, Inc.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Prince-Parker & Associates, Inc.
c/o Registered Agent Solutions, Inc. (Registered Agent)
155 Office Plaza Dr Ste A
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:

Leo W. Desmond, Esq.
Desmond Law Firm, P.C.
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: [Prince-Parker & Associates Facing Debt Collection Lawsuit](#)

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