

**BARSHAY SANDERS, PLLC**  
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*Attorneys for Plaintiff*  
Our File No.: 113996

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

Patricia Asaro, individually and on behalf of all others  
similarly situated,

Plaintiff,

vs.

MCS Claim Services, Inc.,

Defendant.

Docket No:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

BARSHAY | SANDERS PLLC  
100 GARDEN CITY PLAZA, SUITE 500  
GARDEN CITY, NEW YORK 11530

Patricia Asaro, individually and on behalf of all others similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against MCS Claim Services, Inc. (hereinafter referred to as “*Defendant*”), as follows:

**INTRODUCTION**

1. This action seeks to recover for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).

**JURISDICTION AND VENUE**

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).

3. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

4. At all relevant times, Defendant conducted business within the State of New York.

**PARTIES**

5. Plaintiff Patricia Asaro is an individual who is a citizen of the State of New York residing in Suffolk County, New York.

6. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

7. On information and belief, Defendant MCS Claim Services, Inc., is a New York Corporation with a principal place of business in Nassau County, New York.

8. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

9. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

**ALLEGATIONS**

10. Defendant alleges Plaintiff owes a debt (“the Debt”).

11. The Debt was primarily for personal, family or household purposes and is therefore a “debt” as defined by 15 U.S.C. § 1692a(5).

12. Sometime after the incurrence of the Debt, Plaintiff fell behind on payments owed.

13. Thereafter, at an exact time known only to Defendant, the Debt was assigned or otherwise transferred to Defendant for collection.

14. In its efforts to collect the debt, Defendant contacted Plaintiff by letter (“the Letter”) dated July 6, 2017. (“**Exhibit 1.**”)

15. The Letter was the initial communication Plaintiff received from Defendant concerning the Debt.

16. The Letter is a “communication” as defined by 15 U.S.C. § 1692a(2).

**FIRST COUNT**

**Violation of 15 U.S.C. § 1692g(a)(3)**

17. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

18. 15 U.S.C. § 1692g(a)(3) requires that within five days after the initial communication with a consumer in connection with the collection of any debt a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing a statement that unless the

consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector.”

19. The Letter fails to contain the required 15 U.S.C. § 1692g(a)(3) disclosure.

20. Defendant violated 15 U.S.C. § 1692g(a)(3) by its failure to provide the information required by that Section.

**SECOND COUNT**  
**Violation of 15 U.S.C. § 1692g(a)(4)**

21. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

22. 15 U.S.C. § 1692g(a)(4) requires that within five days after the initial communication with a consumer in connection with the collection of any debt a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector.

23. The Letter fails to contain the required 15 U.S.C. § 1692g(a)(4) disclosure.

24. Defendant violated 15 U.S.C. § 1692g(a)(4) by its failure to provide the information required by that Section.

**THIRD COUNT**  
**Violation of 15 U.S.C. § 1692g(a)(5)**

25. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

26. 15 U.S.C. § 1692g(a)(5) requires that within five days after the initial communication with a consumer in connection with the collection of any debt a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

27. The Letter fails to contain the required 15 U.S.C. § 1692g(a)(5) disclosure.

28. Defendant violated 15 U.S.C. § 1692g(a)(5) by its failure to provide the information required by that Section.

### **CLASS ALLEGATIONS**

29. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of New York from whom Defendant attempted to collect a consumer debt where its initial communication with the consumer failed to include the required 15 U.S.C. § 1692g disclosures, from one year before the date of this Complaint to the present.

30. This action seeks a finding that Defendant's conduct violates the FDCPA, and asks that the Court award damages as authorized by 15 U.S.C. § 1692k.

31. Defendant regularly engages in debt collection.

32. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts where its initial communication with the consumer failed to include the required 15 U.S.C. § 1692g disclosures.

33. Plaintiff's claims are typical of the claims of the Class. Common questions of law or fact raised by this class action complaint affect all members of the Class and predominate over any individual issues. Common relief is therefore sought on behalf of all members of the Class. This class action is superior to other available methods for the fair and efficient adjudication of this controversy.

34. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to the individual members of the Class, and a risk that any adjudications with respect to individual members of the Class would, as a practical matter, either be dispositive of the interests of other members of the Class not party to the adjudication, or substantially impair or impede their ability to protect their interests. Defendant has acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

35. Plaintiff will fairly and adequately protect and represent the interests of the Class. The management of the class action proposed is not extraordinarily difficult, and the factual and legal issues raised by this class action complaint will not require extended contact with the members of the Class, because Defendant's conduct was perpetrated on all members of the Class

and will be established by common proof. Moreover, Plaintiff has retained counsel experienced in actions brought under consumer protection laws.

**JURY DEMAND**

36. Plaintiff hereby demands a trial of this action by jury.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests judgment as follows:

- a. Certify this action as a class action; and
- b. Appoint Plaintiff as Class Representative of the Class, and Plaintiff's attorneys as Class Counsel; and
- c. Find that Defendant's actions violate the FDCPA; and
- d. Grant damages against Defendant pursuant to 15 U.S.C. § 1692k; and
- e. Grant Plaintiff's attorneys' fees pursuant to 15 U.S.C. § 1692k; and
- f. Grant Plaintiff's costs; together with
- g. Such other relief that the Court determines is just and proper.

DATED: June 29, 2018

**BARSHAY SANDERS, PLLC**

By: /s/ Craig B. Sanders  
Craig B. Sanders, Esq.  
100 Garden City Plaza, Suite 500  
Garden City, New York 11530  
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*Attorneys for Plaintiff*  
Our File No.: 113996

SBMC2

# MCS Claim Services, Inc.

123 FROST STREET, SUITE 202, WESTBURY, NEW YORK 11590-5027  
(516) 338-1100 NEW YORK 1-800-406-1173 NEW JERSEY 1-800-242-1202

\*\*\*\*\*AUTO\*\*SCH 5-D 07-06-17  
ASARO, PATRICIA 13364730

46 STEWART CIR 2  
CENTEREACH NY 11720



PATIENT: ASARO, PATRICIA  
SERV DATE: 09-09-16 09-09-16  
BAL.DUE: 60.00  
FILE NO: [REDACTED] 0114  
STONY BROOK UNIVERSITY HOSPITAL

DEAR PATRICIA ASARO :

YOU HAVE NOT RESPONDED TO OUR PREVIOUS REQUEST FOR PAYMENT NOR HAVE YOU DISPUTED THE ACCOUNT AS STATED.

AT THIS TIME WE ARE AFFORDING YOU AN OPPORTUNITY TO RESOLVE THIS MATTER AMICABLY. UNLESS WE RECEIVE YOUR CHECK OR HEAR FROM YOU WITHIN THIRTY (30)DAYS WE WILL RECOMMEND TO OUR CLIENT STRONGER ACTION BE TAKEN.

WE WOULD SUGGEST YOU GIVE THIS SERIOUS MATTER YOUR ATTENTION AND SEND YOUR PAYMENT TO:

STONY BROOK UNIVERSITY HOSPITAL  
P O BOX 29320  
NEW YORK, NY 10087-9320

VERY TRULY YOURS,

RICH GARCES  
MCS CLAIM SERVICES, INC.

DEBTOR #: [REDACTED] 4730 REFERRAL DATE: 02-28-17 32304

PATIENT`S NAME:.....DATE OF BIRTH:.....  
SOC. SEC.#:.....HOME TELE.#:.....  
NAME OF POLICYHOLDER IF DIFFERENT THAN PATIENT:.....  
NAME OF INSURANCE CO:.....TELE.#:.....  
ADDRESS OF INS. CO.:.....  
BLUE CROSS/BLUE SHIELD I.D.#:.....GROUP #:.....  
MEDICAID CASE #:.....LINE #:.....  
MEDICARE #:.....SUPPLEMENTAL INS.#:.....

\*\*ANY INFORMATION RECEIVED WILL BE USED FOR INSURANCE BILLING ONLY\*\*

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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.)

I. (a) PLAINTIFFS: PATRICIA ASARO
(b) County of Residence of First Listed Plaintiff: SUFFOLK
(c) Attorneys: BARSHAY SANDERS, PLLC
DEFENDANTS: MCS CLAIM SERVICES, INC.
County of Residence of First Listed Defendant: NASSAU

II. BASIS OF JURISDICTION
III. CITIZENSHIP OF PRINCIPAL PARTIES
Grid with categories: U.S. Government Plaintiff/Defendant, Federal Question, Diversity, Citizen of This State, etc.

IV. NATURE OF SUIT
Grid with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN
Grid with categories: 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, etc.

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing: 15 USC §1692
Brief description of cause: 15 USC §1692 Fair Debt Collection Practices Act Violation

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

VIII. RELATED CASE(S) IF ANY
(See Instructions) JUDGE DOCKET NUMBER

DATE: June 29, 2018
SIGNATURE OF ATTORNEY OF RECORD: /s Craig B. Sanders

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Craig B. Sanders, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
the complaint seeks injunctive relief,
the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1. Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County: NO
2. If you answered "no" above:
a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? YES
b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? YES
c) If this is a Fair Debt Collection Practice Act case, specific the County in which the offending communication was received: SUFFOLK

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court. Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court? Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: /s Craig B. Sanders



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

**UNITED STATES DISTRICT COURT**  
for the  
**EASTERN DISTRICT OF NEW YORK**

|  |   |                  |
|--|---|------------------|
| Patricia Asaro, individually and on behalf of all<br>others similarly situated | ) |                  |
| _____  | ) |                  |
| <i>Plaintiff(s)</i>  | ) |                  |
|  | ) | Civil Action No. |
| v.   | ) |                  |
|  | ) |                  |
| MCS Claim Services, Inc.   | ) |                  |
| _____  | ) |                  |
| <i>Defendant(s)</i>  | ) |                  |

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*  
MCS Claim Services, Inc.  
123 Frost Street , Suite 202  
Westbury, New York 11590

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:

BARSHAY SANDERS PLLC  
100 GARDEN CITY PLAZA, SUITE 500  
GARDEN CITY, NY 11530

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*

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [MCS Claim Services Facing New York Woman's Debt Collection Lawsuit](#)

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