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Our File No.: 114148

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Lazarao Cintron, individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

Monterey Financial Services, Inc. d/b/a Monterey
Collections,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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

Lazarao Cintron, 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 Monterey Financial Services, Inc. d/b/a Monterey Collections (hereinafter referred to as “Monterey Financial”), 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 Jersey.

PARTIES

5. Plaintiff Lazarao Cintron is an individual who is a citizen of the State of New Jersey residing in Union County, New Jersey.

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

7. On information and belief, Defendant Monterey Financial Services, Inc. d/b/a Monterey Collections, is a California Corporation with a principal place of business in San Diego County, California.

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 January 11, 2017. (“**Exhibit 1.**”)

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

FIRST COUNT
Violation of 15 U.S.C. § 1692f

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

17. 15 U.S.C. § 1692f provides a debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt.

18. 15 U.S.C. § 1692f(8) limits the language and symbols that a debt collector may

place on envelopes it sends to consumers.

19. 15 U.S.C. § 1692f(8) prohibits a debt collector from using any language or symbols on the envelope, other than the debt collector's address, when communicating with a consumer by mail, except that a debt collector may place its business name on the envelope if such name does not indicate that the debt collector is in the debt collection business.

20. As evidenced by "Exhibit 1," the Letter was a bi-fold letter that also acted as a mailing envelope.

21. The envelope stated, in red typeface, "**IMPORTANT TAX INFORMATION ENCLOSED.**"

22. As evidenced by "Exhibit 1," the Letter does not include "Important Tax Information."

23. Instead, the Letter advises Plaintiff that he can use his tax refund to pay Defendant.

24. Defendant's placement of "**IMPORTANT TAX INFORMATION ENCLOSED**" on the Letter is a patent violation of Section § 1692f.

25. Defendant's placement of "**IMPORTANT TAX INFORMATION ENCLOSED**" on the Letter is a patent violation of Section 1692f(8).

26. For the foregoing reasons, the letter violates 15 U.S.C. § 1692f.

27. For the foregoing reasons, the letter violates 15 U.S.C. § 1692f(8).

SECOND COUNT
Violation of 15 U.S.C. § 1692e(9)

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

29. Section 1692e(9) prohibits the use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval.

30. The Letter, because of the statement "**IMPORTANT TAX INFORMATION ENCLOSED,**" simulates a document authorized by the Internal Revenue Service and/or the New Jersey Division of Taxation.

31. The Letter, because of the statement “**IMPORTANT TAX INFORMATION ENCLOSED**,” simulates a document issued by the Internal Revenue Service and/or the New Jersey Division of Taxation.

32. The Letter, because of the statement “**IMPORTANT TAX INFORMATION ENCLOSED**,” simulates a document approved by the Internal Revenue Service and/or the New Jersey Division of Taxation.

33. The Letter, because of the statement “**IMPORTANT TAX INFORMATION ENCLOSED**,” creates a false impression that it is from Internal Revenue Service and/or the New Jersey Division of Taxation.

34. The Letter, because of the statement “**IMPORTANT TAX INFORMATION ENCLOSED**,” creates a false impression that it is authorized by Internal Revenue Service and/or the New Jersey Division of Taxation.

35. The Letter, because of the statement “**IMPORTANT TAX INFORMATION ENCLOSED**,” creates a false impression that it is approved by Internal Revenue Service and/or the New Jersey Division of Taxation.

36. For the foregoing reasons, the letter violates 15 U.S.C. § 1692e(9).

THIRD COUNT
Violation of 15 U.S.C. § 1692e and 1692e(10)

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

38. 15 U.S.C. § 1692e prohibits a debt collector from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

39. While § 1692e specifically prohibits certain practices, the list is non-exhaustive, and does not preclude a claim of falsity or deception based on any non-enumerated practice

40. 15 U.S.C. § 1692e(10) specifically prohibits the “use of any false representation or deceptive means to collect or attempt to collect any debt.”

41. The least sophisticated consumer would likely believe that the placement of “**IMPORTANT TAX INFORMATION ENCLOSED**” on the Letter meant that the Letter was from the Internal Revenue Service and/or the New Jersey Division of Taxation.

42. The least sophisticated consumer would likely believe that the placement of **“IMPORTANT TAX INFORMATION ENCLOSED”** on the Letter meant that the Letter was a legitimate notification of tax information.

43. The least sophisticated consumer would likely be deceived by the Letter.

44. The least sophisticated consumer would likely be deceived in a material way by the Letter.

45. The least sophisticated consumer would likely be deceived into believing that the Letter was from the Internal Revenue Service and/or the New Jersey Division of Taxation.

46. The least sophisticated consumer would likely be deceived into believing that the Letter was a legitimate notification of tax information.

47. For the foregoing reasons, the Letter violates 15 U.S.C. § 1692e.

48. For the foregoing reasons, the Letter violates 15 U.S.C. § 1692e(10).

CLASS ALLEGATIONS

49. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of New Jersey from whom Defendant attempted to collect a consumer debt using an envelope that stated, **“IMPORTANT TAX INFORMATION ENCLOSED,”** from one year before the date of this Complaint to the present.

50. 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.

51. Defendant regularly engages in debt collection.

52. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using an envelope that stated, **“IMPORTANT TAX INFORMATION ENCLOSED.”**

53. 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.

54. 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.

55. 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

56. 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: September 26, 2017

BARSHAY SANDERS, PLLC

By: /s/ Melissa Pirillo

Melissa Pirillo, Esq.

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Garden City, New York 11530

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dbarshay@barshaysanders.com

Attorneys for Plaintiff

Our File No.: 114148

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Monterey Collections
P.O. Box 5199
Oceanside, CA 92052-5199

TELEPHONE: (877) 775-3091
FAX: (760) 639-3541
TOLL FREE FROM MEXICO: 001-866-928-9343

Monterey Financial Services | Monterey Loan Servicing | Monterey Collection

THIS HAS BEEN SENT TO YOU BY A COLLECTION AGENCY

Re: PROSPER INC
Account# [REDACTED] 6677

January 11, 2017

Dear Customer,

Monterey Financial Services, LLC has agreed to **discount** your seriously delinquent loan balance! Monterey Financial Services, LLC is ready and willing to reduce the account balance up to **50%** if the balance is paid in full by **March 15, 2017**.

YES, you can use your tax refund (or other funds) to clear this debt and allow us to **delete** this account from your credit bureau the following month.

We'll even include a "SECOND CHANCE" SAVINGS offer. Monterey will reduce your account balance on the above referenced account up to **25%** if this account is paid in full by **April 28, 2017**.

This offer will end soon, so hurry and call our collection representatives toll free at **(877) 775-3091**.

Sincerely,

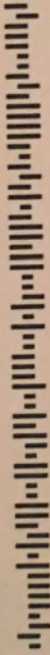
Patricia Baker
Account Representative

For your convenience, you may also go to <https://www.montereyfinancial.com/mfonline/> to review your account information, make a payment, sign up for automatic payments, or to receive payoff quotes. Our privacy policy is also available for your review at <http://www.montereyfinancial.com/montfin/privacy-policy/>.

This is an attempt to collect a debt. Any information obtained will be used for that purpose.

P.O. Box 5199
Oceanside, CA 92052-5199

IMPORTANT TAX INFORMATION ENCLOSED


 LAZARO CINTRON
 246 EDGAR PL
 APT 2L
 ELIZABETH NJ 07202-1317

5-311

Presorted Standard
U.S. Postage
PAID
San Diego CA
Permit No. 3601

[EN431]

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: LAZARAO CINTRON; (b) County of Residence of First Listed Plaintiff UNION; (c) Attorneys (Firm Name, Address, and Telephone Number) BARSHAY SANDERS, PLLC, 100 Garden City Plaza, Ste 500, Garden City, NY 11530 (516) 203-7600; DEFENDANTS: MONTEREY FINANCIAL SERVICES, INC. D/B/A MONTEREY COLLECTIONS; County of Residence of First Listed Defendant SAN DIEGO; NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED; Attorneys (If Known)

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); O 1 U.S. Government Plaintiff; O 2 U.S. Government Defendant; O 3 Federal Question (U.S. Government Not a Party); O 4 Diversity (Indicate Citizenship of Parties in Item III); Citizen of This State; Citizen of Another State; Citizen or Subject of a Foreign Country; PTF DEF; O 1 O 1; O 2 O 2; O 3 O 3; Incorporated or Principal Place of Business In This State; Incorporated and Principal Place of Business In Another State; Foreign Nation; PIF DEF; O 4 O 4; O 5 O 5; O 6 O 6

IV. NATURE OF SUIT (Place an "X" in One Box Only); CONTRACT; REAL PROPERTY; TORTS; CIVIL RIGHTS; PRISONER PETITIONS; FORFEITURE/PENALTY; LABOR; IMMIGRATION; BANKRUPTCY; SOCIAL SECURITY; FEDERAL TAX SUITS; OTHER STATUTES; O 110 Insurance; O 120 Marine; O 130 Miller Act; O 140 Negotiable Instrument; O 150 Recovery of Overpayment & Enforcement of Judgment; O 151 Medicare Act; O 152 Recovery of Defaulted Student Loans (Excludes Veterans); O 153 Recovery of Overpayment of Veteran's Benefits; O 160 Stockholders' Suits; O 190 Other Contract; O 195 Contract Product Liability; O 196 Franchise; O 310 Airplane; O 315 Airplane Product Liability; O 320 Assault, Libel & Slander; O 330 Federal Employers' Liability; O 340 Marine; O 345 Marine Product Liability; O 350 Motor Vehicle; O 355 Motor Vehicle Product Liability; O 360 Other Personal Injury; O 362 Personal Injury - Medical Malpractice; O 365 Personal Injury - Product Liability; O 367 Health Care/Pharmaceutical Personal Injury Product Liability; O 368 Asbestos Personal Injury Product Liability; O 370 Other Fraud; O 371 Truth in Lending; O 380 Other Personal Property Damage; O 385 Property Damage Product Liability; O 422 Appeal 28 USC 158; O 423 Withdrawal 28 USC 157; O 460 Deportation; O 470 Racketeer Influenced and Corrupt Organizations; O 480 Consumer Credit; O 490 Cable/Sat TV; O 495 Securities/Commodities/Exchange; O 890 Other Statutory Actions; O 891 Agricultural Acts; O 893 Environmental Matters; O 895 Freedom of Information Act; O 896 Arbitration; O 899 Administrative Procedure Act/Review or Appeal of Agency Decision; O 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only); O 1 Original Proceeding; O 2 Removed from State Court; O 3 Remanded from Appellate Court; O 4 Reinstated or Reopened; O 5 Transferred from Another District (specify); O 6 Multidistrict Litigation - Transfer; O 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION: (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.) 15 USC §1692 - Fair Debt Collection Practices; VII. Previous Bankruptcy Matters: ((For nature of suite 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.

VIII. 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

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

X. This Case (check one box) Is not a refiling of a previously dismissed action is a refiling of case number previously dismissed by Judge

DATE November 10, 2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Melissa A. Pirillo

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

UNITED STATES DISTRICT COURT

for the

DISTRICT OF NEW JERSEY

Lazarao Cintron, individually and on behalf of all
others similarly situated

Plaintiff(s)

v.

Monterey Financial Services, Inc. d/b/a Monterey
Collections

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Monterey Financial Services, Inc. d/b/a Monterey Collections
4095 Avenida De La Plata
Oceanside, California 92056

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: [Lawsuit: Monterey Financial Services Included False Information on Collection Letter Envelope](#)
