

BARSHAY SANDERS, PLLC
100 Garden City Plaza, Suite 500
Garden City, New York 11530
Tel: (516) 203-7600
Fax: (516) 706-5055
Email: *ConsumerRights@BarshaySanders.com*
Attorneys for Plaintiff
Our File No.: 114147

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

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

Plaintiff,

vs.

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

Defendants.

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 Prosper, Inc. and Monterey Financial Services, Inc. d/b/a Monterey Collections, as follows:

INTRODUCTION

1. This action seeks to recover for violations of NJ Rev Stat § 31:1-1 (2013), New Jersey’s Usury Law.

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

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, Defendants 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.

6. Plaintiff is a natural person residing Union County, New Jersey.

7. On information and belief, Defendant Prosper, Inc. (“Prosper”) is a Utah Corporation with a principal place of business in Provo, Utah.

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

ALLEGATIONS

9. On or about February 23, 2015, Plaintiff entered into a retail installment contract (“the Contract”) with Prosper.

10. The Contract provided for a personal loan of \$4,000.

11. The Contract included a New Jersey choice of law provision.

12. The Contract provides an annual percentage rate of interest of 17.99%.

13. Plaintiff had an absolute obligation to repay the loan.

14. Plaintiff had an absolute obligation to repay the loan, not contingent on any other event or circumstance.

15. At some time known only to Defendants, the Contract was assigned or otherwise transferred from Prosper to Monterey Financial.

16. NJ Rev Stat § 31:1-1 (2013), New Jersey’s usury law, provides a maximum rate of interest of 16.00%.

17. Pursuant to NJ Rev Stat § 31:1-1 (2013), the total rate of interest exceeds the permissible maximum interest rate that may be charged to a borrower pursuant to applicable New Jersey law.

18. The Contract exhibits Prosper’s intention to take more interest for the loan than the law allows.

19. Prosper’s conduct in doing so was knowing, deliberate, intentional, and willful.

20. Sometime beginning in early 2016, Monterey Financial began attempts to collect on the Contract, including the interest charged thereon.

21. Monterey Financial's attempts to collect on the Contract, including the interest charged thereon, exhibits Monterey Financial's intention to take more interest for the loan than the law allows.

22. Monterey Financial's conduct in doing so was knowing, deliberate, intentional, and willful.

23. NJ Rev Stat § 31:1-4 (2013) provides that where "more than lawful interest was taken or reserved the lender shall be obliged to accept his principal money ... without any interest or other consideration, and to pay costs."

24. Under N.J. Stat. § 31:1-4, Plaintiff is entitled to a declaration that the Contract is unlawful and usurious, and restitution of all amounts paid to Defendants in excess of the principal amount, plus the costs of bringing this action.

CLASS ALLEGATIONS

25. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of New Jersey.

26. Defendants routinely charged Plaintiff and members of the Class interest rates in excess of the maximum rates allowed under New Jersey law.

27. Defendants' purpose was to take more than the legal rate of interest for the money loaned to Plaintiff and members of the Class.

28. Under N.J. Stat. § 31:1-4, Plaintiff and the Class are entitled to a declaration that their loans are unlawful and usurious, and restitution of all amounts paid to Defendants in excess of the principal amount, plus the costs of bringing this action.

29. The class consists of, "All persons within the State of New Jersey who entered into a Contract with Prosper and/or Monterey Financial where such contract provides for an interest rate in excess of 16.00%, from, within the six years prior to the filing of the Complaint."

30. The Class consists of many more than 50 persons

31. Plaintiff's claims are typical of the claims of the Class. Common questions of law or fact raised by this 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.

32. 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.

33. Defendants have acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

34. Plaintiff will fairly and adequately protect and represent the interests of the Class.

35. 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 Monterey Financial'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 and common law.

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 Defendants violated NJ Rev Stat § 31:1-1 (2013); and
- d. Find that Plaintiff and the Class are entitled to a declaration that the contracts are unlawful and usurious, and restitution of all amounts paid to Defendants in excess of the principal amount; and

- e. Grant Plaintiff attorneys' fees as permitted by law; and
- f. Grant Plaintiff costs; together with
- g. Such other relief that the Court determines is just and proper.

DATED: September 25, 2017

BARSHAY SANDERS, PLLC

By: /s/ Melissa Pirillo
Melissa Pirillo, Esq.
100 Garden City Plaza, Suite 500
Garden City, New York 11530
Tel: (516) 203-7600
Fax: (516) 706-5055
dbarshay@barshaysanders.com
Attorneys for Plaintiff
Our File No.: 114147

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

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 PROSPER, INC. County of Residence of First Listed Defendant UTAH (IN U.S. PLAINTIFF CASES ONLY) 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) 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) III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) Citizen of This State O 1 PTF O 1 DEF O 1 Incorporated or Principal Place of Business In This State Citizen of Another State O 2 O 2 Incorporated and Principal Place of Business In Another State Citizen or Subject of a Foreign Country O 3 O 3 Foreign Nation O 4 O 4 PIF O 4 DEF O 5 O 5 O 6 O 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) CONTRACT 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 REAL PROPERTY O 210 Land Condemnation O 220 Foreclosure O 230 Rent Lease & Ejectment O 240 Torts to Land O 245 Tort Product Liability O 290 All Other Real Property TORTS PERSONAL INJURY 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 PERSONAL INJURY O 365 Personal Injury - Product Liability O 367 Health Care/ Pharmaceutical Personal Injury Product Liability O 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY O 370 Other Fraud O 371 Truth in Lending O 380 Other Personal Property Damage O 385 Property Damage Product Liability FORFEITURE/PENALTY O 625 Drug Related Seizure of Property 21 USC 881 O 690 Other LABOR O 710 Fair Labor Standards Act O 720 Labor/Management Relations O 740 Railway Labor Act O 751 Family and Medical Leave Act O 790 Other Labor Litigation O 791 Employee Retirement Income Security Act IMMIGRATION O 462 Naturalization Application O 465 Other Immigration Actions BANKRUPTCY O 422 Appeal 28 USC 158 O 423 Withdrawal 28 USC 157 SOCIAL SECURITY O 861 HIA (1395ff) O 862 Black Lung (923) O 863 DIWC/DIWW (405(g)) O 864 SSID Title XVI O 865 RSI (405(g)) FEDERAL TAX SUITS O 870 Taxes (U.S. Plaintiff or Defendant) O 871 IRS—Third Party 26 USC 7609 OTHER STATUTES O 375 False Claims Act O 400 State Reapportionment O 410 Antitrust O 430 Banks and Banking O 450 Commerce O 460 Deportation O 470 Racketeer Influenced and Corrupt Organizations O 480 Consumer Credit O 490 Cable/Sat TV O 850 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 Craig B. Sanders

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.

Prosper, Inc. and 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

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.

Prosper, Inc. and 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)*

Prosper, Inc.
5252 North Edgewood Drive , Ste 150
Provo, Utah 84604

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: [Man Claims Prosper, Inc., One Other Charge Excessive Interest on Loans](#)
