

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA FLORIDA

Joann Davis, individually and on behalf of all others
similarly situated;

Plaintiff,

Civil Action No: _____

8:18 cv 676T 35 JSS

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

-v.-

Continental Service Group, Inc. and John Does 1-25,

Defendant(s).

Plaintiff Joann Davis (hereinafter, "Plaintiff" or "Davis"), a Florida resident, brings this Class Action Complaint by and through her attorneys, Zeig Law Firm, LLC, against Defendant Continental Service Group, Inc. (hereinafter "Defendant" or "CSG"), individually and on behalf of a class of all others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon information and belief of Plaintiff's counsel, except for allegations specifically pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

INTRODUCTION/PRELIMINARY STATEMENT

1. Congress enacted the Fair Debt Collection Practices Act ("FDCPA") in 1977 in response to the "abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors." 15 U.S.C. §1692(a). At that time, Congress was concerned that "abusive debt collection practices contribute to the number of personal bankruptcies, to material instability, to the loss of jobs, and to invasions of individual privacy." *Id.* Congress

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concluded that "existing laws...[we]re inadequate to protect consumers," and that "the effective collection of debts" does not require "misrepresentation or other abusive debt collection practices." 15 U.S.C. §§ 1692(b) & (c).

2. Congress explained that the purpose of the Act was not only to eliminate abusive debt collection practices, but also to "insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged." *Id.* § 1692(e). After determining that the existing consumer protection laws were inadequate~ *id.* § 1692(b), Congress gave consumers a private cause of action against debt collectors who fail to comply with the Act. *Id.* § 1692k.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this class action pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692 et. seq. The Court also has pendent jurisdiction over the State law claims in this action pursuant to 28 U.S.C. § 1367(a).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) as this is where a substantial part of the events or omissions giving rise to the claim occurred.

NATURE OF THE ACTION

5. Plaintiff brings this class action on behalf of a class of Florida consumers under § 1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA"), and

6. Plaintiff is seeking damages and declaratory and injunctive relief.

PARTIES

7. Plaintiff is a resident of the State of Florida, County of Hillsborough, residing at 9410 Bethune Drive, Thonotosassa, Florida 33592.

8. Continental Service Group, Inc. is a "debt collector" as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA with an address at 200 CrossKeys Office Park, Fairport, New York 14450.

9. Upon information and belief, Defendant is a company that uses the mail, telephone, and facsimile and regularly engages in business the principal purpose of which is to attempt to collect debts alleged to be due another.

10. Defendant is a "debt collector," as defined under the FDCPA under 15 U.S.C. § 1692a(6).

11. John Does 1-25, are fictitious names of individuals and businesses alleged for the purpose of substituting names of Defendants whose identities will be disclosed in discovery and should be made parties to this action.

CLASS ALLEGATIONS

12. Plaintiff brings this claim on behalf of the following case, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3).

13. The Class consists of:

- a. all individuals with addresses in the State of Florida;
- b. to whom Continental Service Group., Inc. sent an initial collection letter attempting to collect a consumer debt;
- c. that including false threats that creditor assessed interest and fees are continuously accruing;
- d. which letter was sent on or after a date one (1) year prior to the filing of this action and on or before a date twenty-one (21) days after the filing of this action.

14. The identities of all class members are readily ascertainable from the records of Defendants and those companies and entities on whose behalf they attempt to collect and/or have purchased debts.

15. Excluded from the Plaintiff Classes are the Defendants and all officer, members, partners, managers, directors and employees of the Defendants and their respective immediate families, and legal counsel for all parties to this action, and all members of their immediate families.

16. There are questions of law and fact common to the Plaintiff Classes, which common issues predominate over any issues involving only individual class members. The principal issue is whether the Defendants' written communications to consumers, in the forms attached as Exhibits A, violate 15 U.S.C. §§ 1692e and 1692g.

17. The Plaintiffs' claims are typical of the class members, as all are based upon the same facts and legal theories. The Plaintiffs will fairly and adequately protect the interests of the Plaintiff Classes defined in this complaint. The Plaintiffs have retained counsel with experience in handling consumer lawsuits, complex legal issues, and class actions, and neither the Plaintiffs nor their attorneys have any interests, which might cause them not to vigorously pursue this action.

18. This action has been brought, and may properly be maintained, as a class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure because there is a well-defined community interest in the litigation:

- a. **Numerosity:** The Plaintiffs are informed and believe, and on that basis allege, that the Plaintiff Classes defined above are so numerous that joinder of all members would be impractical.

- b. **Common Questions Predominate:** Common questions of law and fact exist as to all members of the Plaintiff Classes and those questions predominate over any questions or issues involving only individual class members. The principal issue is whether the Defendants' written communications to consumers, in the forms attached as Exhibit A violate 15 U.S.C. § 1692e and §1692g.
- c. **Typicality:** The Plaintiff's claims are typical of the claims of the class members. The Plaintiffs and all members of the Plaintiff Classes have claims arising out of the Defendants' common uniform course of conduct complained of herein.
- d. **Adequacy:** The Plaintiffs will fairly and adequately protect the interests of the class members insofar as Plaintiffs have no interests that are adverse to the absent class members. The Plaintiffs are committed to vigorously litigating this matter. Plaintiffs have also retained counsel experienced in handling consumer lawsuits, complex legal issues, and class actions. Neither the Plaintiffs nor their counsel have any interests which might cause them not to vigorously pursue the instant class action lawsuit.
- e. **Superiority:** A class action is superior to the other available means for the fair and efficient adjudication of this controversy because individual joinder of all members would be impracticable. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum efficiently and without unnecessary duplication of effort and expense that individual actions would engender.

19. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that the questions of law and fact common to members of the Plaintiff

Classes predominate over any questions affecting an individual member, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

20. Depending on the outcome of further investigation and discovery, Plaintiffs may, at the time of class certification motion, seek to certify a class(es) only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).

FACTUAL ALLEGATIONS

21. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered above herein with the same force and effect as if the same were set forth at length herein.

22. Some time prior to May 24, 2017, an obligation was allegedly incurred to Hillsborough Community College.

23. The Hillsborough Community College obligation arose out of transactions in which money, property, insurance or services, which are the subject of the transaction, are primarily for personal, family or household purposes. Specifically Hillsborough Community College provides personal educational services which constitute a consumer debt under the FDCPA.

24. The alleged Hillsborough Community College obligation is a "debt" as defined by 15 U.S.C. § 1692a(5).

25. Hillsborough Community College is a "creditor" as defined by 15 U.S.C. § 1692a(4).

26. Hillsborough Community College or a subsequent owner of the Hillsborough Community College debt contracted the Defendant to collect the alleged debt.

27. Defendant collects and attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone and internet.

Violation I – May 24, 2017 Collection Letter

28. On or about May 24, 2017, Defendant sent the Plaintiff an initial contact notice (the “Letter”) regarding the alleged debt owed to Hillsborough Community College. See Letter attached hereto as Exhibit A.

29. When a debt collector solicits payment from a consumer, it must, within five days of an initial communication

(1) the amount of the debt;

(2) the name of the creditor to whom the debt is owed;

(3) 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;

(4) 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 the judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

(5) 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. 15 U.S.C. § 1692g(a).

30. The FDCPA further provides 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 shall cease collection . . . until the debt collector obtains verification of the

debt . . . and a copy of such verification is mailed to the consumer by the debt collector." 15 U.S.C. § 1692g(b).

31. Although a collection letter may track the statutory language, "the collector nevertheless violates the Act if it conveys that information in a confusing or contradictory fashion so as to cloud the required message with uncertainty." Russell v. EQUIFAX A.R.S., 74 F.3d 30, 35 (2d Cir. 1996) ("It is not enough for a debt collection agency to simply include the proper debt validation notice in a mailing to a consumer-- Congress intended that such notice be clearly conveyed."). Put differently, a notice containing "language that 'overshadows or contradicts' other language informing a consumer of her rights . . . violates the Act." Russell, 74 F.3d at 34.

32. The top of the letter states:

Creditor:	Hillsborough Community College
For:	Student Account Balance
Principal:	\$917.00
Creditor Assessed Interest/Fees:	\$0.00
Creditor Assessed Misc.Fees:	\$0.00
Creditor Assessed Coll Costs:	\$274.99
Total Due:	\$1,191.99

33. Several paragraphs later the letter states:

"As of the date of this letter, you owe the balance shown on this letter. Because the debt may require you to pay interest on the outstanding portion of your balance, as well as other assessed charges, which may vary from day to day, the amount required to pay this debt in full may be greater than the amount stated here."

34. Defendant is aware that during the collection of this debt, creditor assessed interest and fees will not accrue on this debt and stating that they may accrue is merely a deceptive collection tactic to get the consumer to pay immediately.

35. The false threat of the addition of these interest and fees overshadows the "g-notice" language and coerces the consumer not to exert her rights under the Fair Debt Collection Practices Act.

36. Stating that the account may accrue interest and other charges is materially misleading to Plaintiff since it a knowingly false statement.

37. Plaintiff incurred an informational injury as Defendant falsely stated that creditor assessed interest and fees would be accruing when they were not.

38. Defendant's false statement overshadowed Plaintiff's §1692g right to dispute or validate the debt as she believed she must pay immediately to avoid accruing these interest and fees.

39. As a result of Defendant's deceptive, misleading and unfair debt collection practices, Plaintiff has been damaged.

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. §1692e
et seq.

40. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.

41. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692e.

42. Pursuant to 15 U.S.C. §1692e, a debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.

43. Defendant violated §1692e :

- a. As the Letter it is open to more than one reasonable interpretation, at least one of which is inaccurate.

b. By making a false and misleading representation in violation of §1692e(10).

44. By reason thereof, Defendant is liable to Plaintiff for judgment that Defendant's conduct violated Section 1692e et seq. of the FDCPA, actual damages, statutory damages, costs and attorneys' fees.

COUNT II
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C.
§1692g et seq.

45. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.

46. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692g.

47. Pursuant to 15 USC §1692g, a debt collector:

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 –

1. The amount of the debt;
2. The name of the creditor to whom the debt is owed;
3. 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;
4. A statement that the consumer notifies the debt collector in writing within 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; and

5. 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.

48. The Defendant violated 15 U.S.C. §1692g, threatening of a balance increase, which overshadows the "g-notice" language and coerces the consumer not to exert its rights under the FDCPA.

49. By reason thereof, Defendant is liable to Plaintiff for judgment that Defendant's conduct violated Section 1692g et seq. of the FDCPA, actual damages, statutory damages, costs and attorneys' fees.

DEMAND FOR TRIAL BY JURY

50. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Joann Davis, individually and on behalf of all others similarly situated, demands judgment from Continental Service Group, Inc., as follows:

1. Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative, and Justin Zeig, Esq. as Class Counsel;
2. Awarding Plaintiff and the Class statutory damages;
3. Awarding Plaintiff and the Class actual damages;

4. Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses;
5. Awarding pre-judgment interest and post-judgment interest; and
6. Awarding Plaintiff and the Class such other and further relief as this Court may deem just and proper.

Dated: March 8, 2018

Respectfully Submitted,

ZEIG LAW FIRM, LLC

/s/ Justin Zeig

Justin Zeig

3475 Sheridan St, Suite 310

Hollywood, FL 33021

Ph: 754-217-3084

justin@zeiglawfirm.com

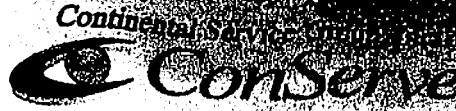
Counsel for Plaintiff Joann Davis

EXHIBIT A

PO Box 3023
Niagara Falls, NY 14304-7321



May 24, 2017



A Debt Collection Agency
200 CrossKeys Office Park
Fairport, NY 14450
866-518-0400 www.payconserve.com
855-421-1011 ConServe Mobile App

3003 1 AB *A 01-7ZA-AM-00608-2



JOANN DAVIS



Creditor: HILLSBOROUGH COMM COLL
For: STUDENT ACCT BALANCE
Creditor #: 46 16-SPRING
Acct #: 9641

Principal: \$917.00
Creditor Assessed Interest/Fees: \$0.00
Creditor Assessed Misc Fees: \$0.00
Creditor Assessed Coll Costs: \$274.00
TOTAL DUE: \$1,191.00

Date of Each Payment: None provided by Creditor
Rate of Interest: 0.000%

Dear Joann Davis:

HILLSBOROUGH COMM COLL has assigned your account to ConServe, a professional Collection Agency for collection. Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of this debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor. Federal law prohibits unfair collection practices.

As of the date of this letter, you owe the balance shown on this letter. Because this debt may require you to pay interest on the outstanding portion of your balance, as well as other assessed charges, which may vary from day to day, the amount required to pay this debt in full may be greater than the amount stated here. We encourage you to call prior to making a payment intended to pay your account in full.

Please use the information below to contact us for payment arrangements.

ConServe, P.O. Box 7, Fairport, NY 14450
Toll Free Telephone Number: 866-518-0400
Convenient 24 Hour Account Access Available Online

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

Notice: See Reverse Side for Important Information

PLEASE DETACH AND RETURN BOTTOM PORTION WITH YOUR PAYMENT

Enclosed is my checking account information.

Enclosed is my VISA, MASTERCARD, or DISCOVER #.

If paying by ACH, please complete this section

I authorize ConServe to electronically debit my checking account for the total amount listed below.

ACH Payment Amount		Checking Account Number	
Account Number	Date	Phone	Work Phone
Bank Name		Bank City, State	
ACH Payment Amount		Amount	

If paying by Credit Card, please complete this section

<input type="checkbox"/> VISA	CARD NUMBER	AMOUNT	CVN # (3 or 4 Digit code on Back of Card)
<input type="checkbox"/> MASTERCARD	BIGNATURE	EXP. DATE	
CARDHOLDER NAME (Please Print)		<input type="checkbox"/> Check Here if card owner is not the same as the address above. If not, provide card owner's name and address of record.	

Account # 9641
Balance as of 05/24/2017: \$1,191.00
JOANN DAVIS

JS 44 (Rev 09/10)

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

CIVIL COVER SHEET

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law.

Plaintiff(s):

First Listed Plaintiff:
Joann Davis, individually and on behalf of all others similarly situated ;
County of Residence: Hillsborough County

Defendant(s):

First Listed Defendant:
Continental Service Group, Inc. and John Does 1-25 ;
County of Residence: Outside This District

County Where Claim For Relief Arose: Hillsborough County

Plaintiff's Attorney(s):

Justin Zeig Esq. (Joann Davis, individually and on behalf of all others similarly situated)
Zeig Law Firm LLC
3475 Sheridan St, Suite 310
Hollywood, Florida 33021
Phone: 754-217-3084
Fax: 954-272-7807
Email: justin@zeiglawfirm.com

Defendant's Attorney(s):

Basis of Jurisdiction: 3. Federal Question (U.S. not a party)

Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: N/A

Defendant: N/A

Origin: 1. Original Proceeding

Nature of Suit: 890 Other Statutory Actions

Cause of Action: 15 U.S.C. Sect. 1692 et seq. Fair Debt Collection Practices Act

Requested in Complaint

Class Action: Class Action Under FRCP23

Monetary Demand (in Thousands):

Jury Demand: Yes

Related Cases: Is NOT a refiling of a previously dismissed action

Signature: /s/ Justin Zeig

3/7/2018

Date: 3/8/2018

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Debt Collection Suit Filed Against Continental Service Group](#)
