

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION AT LEXINGTON

SHERLTON DIETERICH, on behalf of  
himself and all others similarly situated

Plaintiff

vs.

DAVID F. PRATT, ATTORNEY AT LAW

Defendant.

) Case No.:

) CIVIL COMPLAINT

) AND

) JURY TRIAL DEMAND

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, Sherlton Dieterich, (hereinafter “Plaintiff”), brings this Complaint by and through his undersigned counsel against Defendant, David F. Pratt, Attorney at Law (hereinafter “Defendant”) and alleges as follows:

**JURISDICTION**

1. This action arises out of violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. (“FDCPA”) by Defendant.

2. Jurisdiction of this Court arises under 28 U.S.C. §1331 and pursuant to 15 U.S.C. §1692k(d).

3. Venue is proper in this District pursuant to 28 U.S.C. §1391(b)(1) and (2) because the acts and transactions occurred in this jurisdiction and because Defendant transacts business in this jurisdiction.

**PARTIES**

4. Plaintiff is a natural person who resides in Lexington, Kentucky and is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

5. Defendant is a debt collection law firm that regularly collects or attempts to collect, directly or indirectly, consumer debts owed or due or asserted to be owed or due another in this state and judicial district with its principal place of business located at 155 East Main Street, Suite 215, Lexington, Kentucky 40507.

6. Defendant is a “debt collector” as the phrase is defined and used in the FDCPA under 15 U.S.C. §1692a(6).

### **FACTUAL ALLEGATIONS**

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered 1 through 6 herein with the same force and effect as if the same were set forth at length herein.

8. Upon information and belief, on a date better known to Defendant, Baptist Health Lexington assigned a consumer debt to Defendant for collection (“Alleged Debt”).

9. The Alleged Debt arose out of a transaction in which money, property, insurance or services, which are the subject of the transaction, were primarily for personal, family or household purposes and is therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).

10. On or about April 4, 2017, Defendant sent a collection letter to Plaintiff in an attempt to collect the Alleged Debt (“Collection Letter”), which is included herein as Exhibit “A”.

11. The Collection Letter informs Plaintiff that Defendant has received Plaintiff’s account from the original creditor and provides the alleged amount due.

12. The Collection Letter is the initial communication from Defendant to Plaintiff regarding the debt.

13. The Collection Letter provides in pertinent part that:

Unless you, the consumer within thirty (30) days after receipt of this notice, dispute the validity of this debt, or any portion thereof, the debt will be assumed valid.

14. Upon information and belief, Defendant mails hundreds of such collection letters annually.

15. Defendant's Collection Letter fails to advise that only the debt collector may assume the debt is valid in the absence of a dispute from a consumer.

16. In addition, Defendant's Collection Letter advises "the hospital referenced in this letter intends to commence a civil action against for you for the collection of your account if it is not paid or if you have not applied for financial assistance within thirty (30) days of the date of this letter."

17. As Plaintiff has thirty days from receipt of the collection letter, not the date of the collection letter, Defendant's Collection Letter improperly overshadows Plaintiff's rights to dispute the debt pursuant to 15 U.S.C. § 1692g.

### **CLASS ACTION ALLEGATIONS**

18. Plaintiff brings this action as a class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure ("FRCP"), on behalf of themselves and all persons/consumers who live in the State of Kentucky, along with their successors-in-interest, who have received similar debt collection notices/letters/communications from Defendant which, as alleged herein, are in violation of the FDCPA, as of the date of Plaintiff' Complaint ("Class"). Excluded from the Class is Defendant herein, and any person, firm, trust, corporation or other entity related to or affiliated with Defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of Defendant as impracticable. On information and belief, hundreds of persons, have received debt collection notices/letters/communications from Defendant, which violate various provisions of the FDCPA.

19. This Class satisfies all the requirements of Rule 23 of the FRCP for maintaining a class action.

20. The Class is so numerous that joinder of all members is impracticable. On information and belief, hundreds of persons have received debt collection notices/letters/communications from Defendant that violate various provisions of the FDCPA.

21. The debt collection notices/letters/communications from Defendant, received by the Class, are to be evaluated by the objective standard of the hypothetical “least sophisticated consumer.”

22. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation: (i) Whether Defendant violated various provisions of the FDCPA; (ii) Whether Plaintiff and the Class have been injured by Defendant’s conduct; (iii) Whether Plaintiff and the Class have sustained damages and are entitled to restitution as a result of Defendant’s wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and, (iv) Whether Plaintiff and the Class are entitled to declaratory and/or injunctive relief.

23. Plaintiff’s claims are typical of the claims of the Class, and Plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

24. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted, this being specifically envisioned by Congress as a principal means of enforcing the FDCPA, as codified by 15 U.S.C. §1692(k).

25. The members of the Class have claims that are unlikely to be vindicated in the absence of a class action.

26. Prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties.

27. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without the duplication of effort and expense that numerous individual actions would engender. Class treatment will also permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein.

28. Plaintiff will fairly and adequately represent the Class members' interests in that Plaintiff's counsel is experienced and, further, anticipates no impediments in the pursuit and maintenance of the class action as sought herein.

29. Defendant has acted, and will act, on grounds generally applicable to the entire Class, thereby making appropriate a final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

**COUNT I**  
**VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
**15 U.S.C. §1692g(a)(3)**

30. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered 1 through 29 herein with the same force and effect as if the same were set forth at length herein.

31. Defendant's Collection Letter failed to advise that only a debt collector is entitled to assume the debt is valid in the absence of a dispute from a consumer.

32. Defendant's Collection Letter is in violation of 15 U.S.C. §1692g(a)(3) which requires 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.”

**COUNT II**  
**VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
**15 U.S.C. §1692g(b)**

33. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered 1 through 32 herein with the same force and effect as if the same were set forth at length herein.

34. Defendant’s Collection Letter overshadowed Plaintiff’s right to dispute by threatening to file a lawsuit if payment was not received within 30 days of the date of the letter.

35. Defendant’s Collection Letter is in violation of 15 U.S.C. §1692g(b) which prohibits the use of collection activities and communications during the thirty day period that overshadow or are inconsistent with the disclosure of the consumer’s right to dispute the debt or request the name and address of the original creditor.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby respectfully requests a trial by jury for all claims and issues in his Complaint to which they are or may be entitled to a jury trial.

**PRAAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demand judgment from the Defendant David F. Pratt, Attorney at Law as follows:

- A. Certification of the class pursuant to Rule 23(b)(3);
- B. Statutory damages for the Plaintiff pursuant to 15 U.S.C. §1692k;
- C. Statutory damages for the class pursuant to 15 U.S.C. § 1692k;
- D. For attorneys’ fees, costs and disbursements;
- E. For an award of pre-judgment interest on all sums awarded and/or

collected;

F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: September 14, 2017

Respectfully submitted,

By: s/ Pamela S. Petas  
Pamela S. Petas, Esq.  
7439 Montgomery Road, Suite 3  
Cincinnati, OH 45236  
Phone: 513-328-0995  
Fax: 513-813-2992  
Email: ppetas@petaslaw.com

Co-Counsel to the Firm:  
Law Offices of Michael Lupolover, P.C.  
120 Sylvan Avenue, Suite 300  
Englewood Cliffs, NJ 07632  
Phone: 201-461-0059  
Facsimile: 201-608-7116

**DAVID F. PRATT**

attorney at law

155 East Main Street, Suite 215  
Lexington, KY 40507

April 4, 2017

Sherlton Dieterich

[REDACTED]  
Lexington, KY 40505

**DELINQUENT DEBT VERIFICATION NOTICE**

**Re: Account(s) owed to Baptist Healthcare System, Inc. d/b/a Baptist Health  
Lexington in the amount of \$573.49**

Dear Sherlton Dieterich:

The debt shown above has been referred to this law office for collection. Your account is scheduled for disposition in thirty (30) days from the date of this letter. If you wish to register any claims or disputes, or wish to voluntarily pay your obligations, you should do so during this period. Please be advised that we are entitled to use all lawful means to collect this debt. If you wish to pay in full or set up payment arrangements, please contact my office at the address above or at the phone number or email address below.

Your account has been referred to my office by Baptist Healthcare System, Inc. which is a medical provider that offers financial assistance to eligible patients. This is to advise you that the hospital referenced in this letter intends to commence a civil action against you for the collection of your account if it is not paid or if you have not applied for financial assistance within thirty (30) days of the date of this letter. In the event that a civil action is commenced, it is the intent of the hospital to authorize its attorney to seek a judgment against you and, subject to due process and the court's granting of a judgment against you, to invoke specific remedies for the recovery of your account. These actions may include the garnishment of your wages in accordance with state and federal laws; attachment of personal property such as checking and savings accounts; and, the filing of judgment liens on real estate and real property that you may own. No action will be taken for a period of at least thirty (30) days from the date of this letter and nothing contained in this disclosure in any way prohibits or alters your right to request validation of the debt or debts listed above in accordance with Section 809 of the Fair Debt Collection Practices Act. To obtain information about the hospital's financial assistance program you may call:

Baptist Health Lexington  
1740 Nicholasville Road  
Lexington, KY40503  
(859) 260-6600  
[www.baptisthealthkentucky.com/financial-aid](http://www.baptisthealthkentucky.com/financial-aid).

Phone: (859) 254-1212 • Fax: (859) 243-9991  
e-mail: davidprattlaw@yahoo.com





Very truly yours,

A handwritten signature in black ink, appearing to read 'David F. Pratt', written over a horizontal line.

David F. Pratt

DFP/cms

**VALIDATION NOTICE: UNLESS YOU, THE CONSUMER, WITHIN THIRTY (30) DAYS AFTER RECEIPT OF THIS NOTICE, DISPUTE THE VALIDITY OF THIS DEBT, OR ANY PORTION THEREOF, THE DEBT WILL BE ASSUMED TO BE VALID. IF YOU NOTIFY US IN WRITING WITHIN THIRTY (30) DAYS THAT THIS DEBT, OR ANY PORTION THEREOF, IS DISPUTED, WE WILL OBTAIN VERIFICATION OF THE DEBT OR A COPY OF A JUDGMENT WILL BE MAILED TO YOU BY THIS OFFICE. THAT UPON RECEIPT OF YOUR WRITTEN REQUEST WITHIN THE THIRTY (30) DAY PERIOD, WE WILL PROVIDE YOU WITH THE CURRENT CREDITOR. THIS LETTER IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

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
SHERLTON DIETERICH, on behalf of himself and all others similarly situated
(b) County of Residence of First Listed Plaintiff Fayette County
(c) Attorneys (Firm Name, Address, and Telephone Number) Pamela S. Petas, Esq. 7439 Montgomery Road, Suite 3 Cincinnati, OH 45236 Phone: 513-328-0995

DEFENDANTS
DAVID F. PRATT, ATTORNEY AT LAW
County of Residence of First Listed Defendant
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)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
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
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

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. Includes various legal categories like Insurance, Land Condemnation, Personal Injury, Habeas Corpus, etc.

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

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. § 1692, et seq.
Brief description of cause:
Unlawful Debt Collection Practices

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$ TBD
JURY DEMAND: Yes No

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

DATE: 09/14/2017
SIGNATURE OF ATTORNEY OF RECORD: /s/Pamela S. Petas Esq.

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP 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.Cv.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; **NOTE: 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 clerk(s) 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 six 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.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- 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.
- VI. 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
- VII. 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 actual dollar amount 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.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**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

Eastern District of Kentucky

SHERLTON DIETERICH, on behalf of himself and all others similarly situated

Plaintiff(s)

v.

DAVID F. PRATT, ATTORNEY AT LAW

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

David F. Pratt, Attorney at Law
155 East Main Street, Suite 215
Lexington, KY 40507

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:

Pamela S. Petas, Esq.
7439 Montgomery Road, Suite 3
Cincinnati, OH 45236

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 \$ \_\_\_\_\_ .

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: [David F. Pratt Faces Debt Collection Lawsuit Filed in Kentucky](#)

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