

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.

JEAN G. DOANE, *on behalf
of herself and all others similarly situated,*

Plaintiff,

v.

POLLACK & ROSEN, P.A.,
a Florida Corporation, and
JOSEPH F. ROSEN, *individually,*

Defendants.

CLASS ACTION COMPLAINT

1. Plaintiff alleges violations of the *Fair Debt Collection Practices Act*, 15 U.S.C. §1692 *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has jurisdiction under the *Fair Debt Collection Practices Act*, pursuant to 28 U.S.C. §1331 and 15 U.S.C. §1692k.

3. Venue in this District is proper because Plaintiff resides here, and Defendants conduct business in this District.

PARTIES

4. Plaintiff, Jean G. Doane (“Plaintiff”), is a natural person residing in Indian River County in the State of Florida.

5. Defendant, Pollack & Rosen, P.A. (“Defendant Law Firm”), is a Florida Corporation and law firm engaged in the business of collecting consumer debts, which operates from offices located at 806 South Douglas Road, Coral Gables, Florida 33134.

6. Defendant Joseph F. Rosen (“Defendant Rosen”), is an attorney and is engaged in the business of collecting consumer debts, who operates from offices located at 806 South Douglas Road, Coral Gables, Florida 33134.

7. Defendant Law Firm and Defendant Rosen are herein collectively referred to as “Defendants.”

8. Defendants regularly use the United States Postal Service and telephone in the collection of consumer debts.

9. Defendants regularly collect or attempt to collect consumer debts for other parties. Defendants are “debt collectors” as defined by the *FDCPA*.

10. At all times material to the allegations of this Complaint, Defendants were acting as debt collectors with respect to the collection of Plaintiff’s alleged debt.

FACTUAL ALLEGATIONS

11. Defendants sought to collect a consumer debt from Plaintiff arising from an alleged delinquency on a credit card. The debt was incurred primarily for personal, household or family use, more specifically, the debt at issue was a credit card debt which Plaintiff used to purchase personal and household goods.

12. On or about January 19, 2018, Defendants mailed, or caused to be mailed, a written communication to Plaintiff seeking payment of an alleged debt. (The “Demand Letter” is attached hereto as “Exhibit 1”).

13. The Demand Letter states in part:

Please contact our office upon receipt so that we can make the necessary arrangements with you regarding the payment of this obligation. For your convenience, you can also make payments via our website at www.pollackrosen.com.

Unless the consumer (you) within thirty (30) 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 (us). If the consumer (you) notifies the debt collector (us) in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector (we) will obtain verification of the debt or a copy of a judgment (if a judgment exists) against the consumer (you) and a copy of such verification or judgment will be mailed to the consumer (you) by the debt collector (us). Upon the consumer's (your) written request within the thirty-day period, the debt collector (we) will provide the consumer (you) with the name and address of the original creditor, if different from the current creditor.

xxxx

Your cooperation is essential in order to resolve this matter promptly.

Very truly yours,

Joseph F. Rosen, for the Firm

14. The Demand Letter was Defendants' initial communication with Plaintiff with respect to the debt alleged therein.

15. *15 U.S.C. §1692g(a)-(b)* states:

Validation of debts

(a) Notice of debt; contents

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 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; 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.

(b) Disputed debts

If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector. Collection activities and communications that do not otherwise violate this subchapter may continue during the 30-day period referred to in subsection (a) of this section unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. **Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.**

(Emphasis added).

16. Defendant Rosen is a “managing partner of a major national firm.”¹

¹ See <https://www.pollackrosen.com/> last accessed February 8, 2018.

17. On information and belief, Defendant Rosen did not have meaningful or significant involvement in the collection of Plaintiff's alleged debt.

18. Any potential *bona fide* error defense which relies upon Defendants' mistaken interpretation of the legal duties imposed upon it by the *FDCPA* would fail as a matter of law.

CLASS ACTION ALLEGATIONS

19. This action is brought on behalf of a Class consisting of (i) all natural persons with addresses in the Florida Counties that comprise the geographical boundaries of the United States District Court for the Southern District of Florida, namely Miami-Dade, Monroe, Broward, Palm Beach, Martin, Saint Lucie, Indian River, Okeechobee, and Highlands Counties (ii) to whom initial communication letters were mailed, or caused to be mailed, (iii) that contained the phrases: "Please contact our office upon receipt so that we can make the necessary arrangements with you regarding the payment of this obligation." and "Your cooperation is essential in order to resolve this matter promptly." (iv) by the Defendants (v) in connection with the collection of a debt incurred for personal, family, or household purposes (vi) that were not returned undeliverable by the U.S. Post Office (vii) during the one-year period prior to the filing of the Complaint in this action.

20. Plaintiff alleges on information and belief that Defendants' practice of mailing, or causing to be mailed, initial written communications that stated, "Please contact our office upon receipt so that we can make the necessary arrangements with you regarding the payment of this obligation." and "Your cooperation is essential in order to resolve this matter promptly." in the initial written communication served upon the Class is so numerous that joinder of all members of the Class is impractical.

21. There are questions of law or fact common to the Class. The common issues predominate over any issues involving only individual Class members. The common legal and factual issue to each Class member is that each was mailed, or caused to be mailed, an initial communication letter by Defendants that stated, “Please contact our office upon receipt so that we can make the necessary arrangements with you regarding the payment of this obligation.” and “Your cooperation is essential in order to resolve this matter promptly.”

22. Plaintiff’s claim is typical of those of the Class members. All are based on the same facts and legal theories.

23. Plaintiff will fairly and adequately protect the interests of the Class. She has retained counsel experienced in handling actions involving unlawful practices under the *FDCPA* and Class actions. Neither Plaintiff nor her counsel has any interests which might cause them not to vigorously pursue this action.

24. Certification of the Class under *Rule 23(b)(3)* of the *Federal Rules of Civil Procedure* is also appropriate in that:

(1) The questions of law or fact common to the members of the class predominate over any questions affecting an individual member.

(2) A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

25. Plaintiff requests certification of a Class under *Rule 23(b)(3)* of the *Federal Rules of Civil Procedure* for monetary damages; her appointment as Class Representative; and that her attorney, Leo W. Desmond, be appointed Class Counsel.

COUNT I CLASS CLAIM
VIOLATION OF 15 U.S.C. §1692g(b)

26. Plaintiff re-alleges Paragraphs 1 through 18.

27. *15 U.S.C. §1692g(b)* states:

(b) Disputed debts

If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) of this section that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector. Collection activities and communications that do not otherwise violate this subchapter may continue during the 30-day period referred to in subsection (a) of this section unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. **Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.**

(Emphasis added).

28. Defendants mailed, or caused to be mailed, the Demand Letter to Plaintiff in an attempt to collect a consumer debt, namely to collect the balance owed on a credit card debt.

29. Pursuant to the *FDCPA*, the Demand Letter was an initial communication between Defendants and Plaintiff.

30. Defendants' statement "Please contact our office **upon receipt** so that we can make the necessary arrangements with you regarding the payment of this obligation." and "Your cooperation is essential in order to resolve this matter promptly." overshadows Plaintiff's thirty-day dispute and verification rights period as provided by *15 U.S.C. §1692g*. (Emphasis added).

31. Defendants' statement instructing Plaintiff to contact the office "upon receipt" to make arrangements for payment creates a sense of urgency that overshadows the notice requirement of *15 U.S.C. §1692g(a)* by encouraging the Plaintiff and members of the Class to disregard the required debt validation notice prescribed by *15 U.S.C. §1692g* and call Defendant Law Firm immediately upon receiving the Demand Letter to arrange for payment. This urgency is accentuated by the sentence "Your cooperation is essential in order to resolve this matter promptly."

32. The verification rights provided by *15 U.S.C. §1692g* must be effectively conveyed to the consumer.

33. Defendants' demand that immediate arrangements be made for payment of the debt by use of the phrase in Defendants' Demand Letter "Please contact our office upon receipt so that we can make the necessary arrangements with you regarding the payment of this obligation." overshadows and contradicts Plaintiff's thirty-day dispute and verification rights period as provided by *15 U.S.C. §1692g(a)*.

34. As a result of Defendants' conduct, Plaintiff and the Class are entitled to an award of statutory damages pursuant to *15 U.S.C. §1692k*.

35. As a result of Defendants' conduct, Plaintiff and the Class are entitled to an award of costs and attorney's fees pursuant to *15 U.S.C. §1692k*.

COUNT II CLASS CLAIM
VIOLATION OF *15 U.S.C. §1692e*

36. Plaintiff re-alleges Paragraphs 1 through 18, and Paragraphs 27 through 33.

37. *15 U.S.C. §§1692e(3)* and *(10)* state:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

xxxx

(3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

38. Defendants mailed, or caused to be mailed, the Demand Letter to Plaintiff in an attempt to collect a consumer debt, namely to collect the balance owed on a credit card debt.

39. The Demand Letter was an initial communication used in the collection of a debt between Defendants and Plaintiff.

40. Defendants' Demand Letter is represented to be from Defendant Rosen which misleadingly leaves the Plaintiff and Class to believe that Defendant Rosen has meaningful involvement in the collection of the debt and therefore is in violation of *15 U.S.C. §1692e(3)*. See *Clomon v. Jackson*, 988 F.2d 1314 (2d Cir. 1993) (Misrepresenting that a communication is from a lawyer when the lawyer had no significant involvement in the collection of the debt is a violation of *15 U.S.C. §1692e(3)*).

41. Defendants' Demand Letter would be deceptive to the least sophisticated consumer with regard to his/her legal rights.

42. As a result of Defendants' conduct, Plaintiff and the Class are entitled to an award of statutory damages pursuant to *15 U.S.C. §1692k*.

43. As a result of Defendants' conduct, Plaintiff and the Class are entitled to an award of costs and attorney's fees pursuant to *15 U.S.C. §1692k*.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

- a. An Order certifying the *FDCPA* matter as a Class Action and appointment of Plaintiff as Class Representative;
- b. An Order appointing Leo W. Desmond as Class Counsel;

- c. An award of statutory damages for Plaintiff and the Class pursuant to *15 U.S.C. §1692k* for all Class claims;
- d. An award of attorney's fees, litigation expenses and costs of the instant suit;
and
- e. Such other and further relief as the Court deems proper.

Dated: February 26, 2018.

Respectfully submitted,

By: /s/ Leo W. Desmond

Leo W. Desmond, Esq.

Florida Bar Number 0041920

DESMOND LAW FIRM, P.C.

5070 Highway A1A, Suite D

Vero Beach, Florida 32963

Telephone: 772.231.9600

Facsimile: 772.231.0300

lwd@desmondlawfirm.com

Attorney for Plaintiff

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.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS **JEAN G. DOANE** **DEFENDANTS** **POLLACK & ROSEN, P.A.**a Florida Corporation, and **JOSEPH F. ROSEN**, individually

(b) County of Residence of First Listed Plaintiff **County of Residence of First Listed Defendant**
(EXCEPT IN U.S. PLAINTIFF CASES) (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) **Attorneys (If Known)**
Leo W. Desmond, Desmond Law Firm, P.C.
5070 Highway A1A, Suite D, Vero Beach, FL 32963 772-231-9600
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(d) Check County Where Action Arose: ☐ MIAMI-DADE ☐ MONROE ☐ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☒ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

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)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence Other: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Re-filed (See VI below)	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation Transfer	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File	<input type="checkbox"/> 9 Remanded from Appellate Court
---	---	--	---	--	--	--	---	--

VI. RELATED/RE-FILED CASE(S) (See instructions): a) Re-filed Case ☐ YES ☒ NO **JUDGE:** b) Related Cases ☒ YES ☐ NO **DOCKET NUMBER:** 2:17-cv-14405

VII. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
15 USC 1692 et seq. Violation of the Fair Debt Collection Practices Act.
LENGTH OF TRIAL via 3-4 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: ☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** 500,000.00 **CHECK YES only if demanded in complaint:**
JURY DEMAND: ☐ Yes ☒ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
DATE February 26, 2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Leo W. Desmond Fla. Bar 0041920

FOR OFFICE USE ONLY
RECEIPT # AMOUNT 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.C.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; 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 clerks 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 seven 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.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

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.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. 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

VIII. 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 dollar amount (in thousands of dollars) 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.

Date and Attorney Signature. Date and sign the civil cover sheet.

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 \$ _____ 0.00 .

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:

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

JEAN G. DOANE, on behalf
of herself and all others similarly situated,

JEAN G. DOANE, on behalf

of herself and all others similarly situated,

Plaintiff(s)

V.

Civil Action No.

POLLACK & ROSEN, P.A.
a Florida Corporation, and
JOSEPH F. ROSEN, individually,

Defendant(s)

SUMMONS IN A CIVIL ACTION

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

Joseph F. Rosen
806 Douglas Road
South Tower Suite 200
Coral Gables, FL 33134

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:

Leo W. Desmond, Esq.
Desmond Law Firm, P.C.
5070 Highway A1A
Suite D
Vero Beach, FL 32963

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 \$ _____ 0.00 .

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:

 The Law Offices
Pollack & Rosen P.A.
806 S. DOUGLAS ROAD
SUITE 200, SOUTH TOWER
CORAL GABLES, FLORIDA 33134

PHONE: (305) 448-0006
TOLL FREE: (888) 448-1557
FACSIMILE: (305) 569-0101

January 19, 2018

ACCOUNT IDENTIFICATION

JEAN G DOANE
[REDACTED]
VERO BEACH FL, 32966-1790

Original Creditor: CAPITAL ONE BANK (USA), N.A.
Original Creditor Acct No.: *****8930
Current Creditor: CAPITAL ONE BANK (USA), N.A.
Balance: \$1597.93
Our File #: 3144786

Dear JEAN G DOANE,

Our office represents CAPITAL ONE BANK (USA), N.A., regarding the above account. We are sending this letter based on account information provided by our client. Please direct any future communications to our office.

Please contact our office upon receipt so that we can make the necessary arrangements with you regarding the payment of this obligation. For your convenience, you can also make payments via our website at www.pollackrosen.com.

Unless the consumer (you) within thirty (30) 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 (us). If the consumer (you) notifies the debt collector (us) in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector (we) will obtain verification of the debt or a copy of a judgment (if a judgment exists) against the consumer (you) and a copy of such verification or judgment will be mailed to the consumer (you) by the debt collector (us). Upon the consumer's (your) written request within the thirty-day period, the debt collector (we) will provide the consumer (you) with the name and address of the original creditor, if different from the current creditor.

If you have any questions, please contact this office.

Your cooperation is essential in order to resolve this matter promptly.

Very truly yours,

Joseph F. Rosen, for the Firm

Your Account Representative is: Jose Bercande

**THIS IS A COMMUNICATION FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT.
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Debt Collection Firm Accused of Sending Misleading Collection Letter to Florida Woman](#)
