

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

2018 NOV 19 PM 3: 23

US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

DAVID AND FRANCES ELLINGSON
on behalf of themselves and all others similarly
situated,

PLAINTIFFS,

V.

ASPEN NATIONAL FINANCIAL, INC.
dba ASPEN NATIONAL COLLECTIONS

DEFENDANT.

Civil Case No. 6:18-cv-1994-ORL-37-GJK

PROPOSED CLASS ACTION

JURY TRIAL DEMANDED

PROPOSED CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

COME NOW the Plaintiffs, DAVID AND FRANCES ELLINGSON (“Plaintiffs” or “Ellingson”), on behalf of themselves and all others similarly situated, and by way of this Proposed Class Action Complaint against the Defendant ASPEN NATIONAL FINANCIAL, INC. dba ASPEN NATIONAL COLLECTIONS (“Defendant” or “ASPEN”), say:

I. PRELIMINARY STATEMENT

1. Plaintiffs, on behalf of themselves and all others similarly situated, and demanding a trial by jury, bring this action for the illegal practices of the Defendant ASPEN who, *inter alia*, used false, deceptive, misleading, unconscionable, and other illegal practices as debt collectors under the Fair Debt Collection Practices Act (“FDCPA”) and the Florida Consumer Collection Protection Act (“FCCPA”), in connection with Defendant’s attempts to collect an alleged timeshare debt from the Plaintiffs and charging 33% collection fees from Florida consumers without contractual or legal authorization to collect that amount.

2. The Plaintiffs allege that Defendant's collection practices violate the FDCPA, codified at 15 U.S.C. §§ 1692 *et seq.* and the FCCPA at FLA. STAT. §§ 559.55 *et seq.*

3. Such violative collection practices include, *inter alia*, sending consumers written communications that:

- (a) make false, deceptive, and misleading representations that Defendant is allowed and permitted by law to collect a one-third percentage of the principal amount owed, in the form of percentage "Collection Costs" as opposed to the actual earned costs of collection permitted in the original contract between Plaintiffs and the Original Creditor, Aqua Sun Investments ("Original Creditor"), and Maverick Condominium Association, Inc. ("Current Creditor" or "Association"), at **Exhibit 1**; and
- (b) Collect and/or attempt to collect interest and other amounts that are not permitted by law or contract, as charged to Plaintiffs and/or the class members in collection letters in the form of **Exhibit 1**; and
- (c) Threaten damage to the credit history and reports of Plaintiffs and class members, if the illegal or unsubstantiated amounts go unpaid after a 30-day time period described in Defendant's letter at **Exhibit 1**.

4. The FDCPA regulates the behavior of collection agencies attempting to collect a debt on behalf of another. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to a number of personal bankruptcies, marital instability, loss of jobs, and invasions of individual privacy. Congress enacted the FDCPA to eliminate abusive debt collection practices by debt collectors, to ensure

that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote uniform State action to protect consumers against debt collection abuses. 15 U.S.C. §§ 1692(a)-(e). To advance the purposes of the FDCPA, Congress included several specific consumer-protective rights, including, but not limited to, those in § 1692e and § 1692f.

5. The FDCPA is a strict liability statute, which provides for actual or statutory damages upon the showing of one violation. Courts use the “least sophisticated consumer” standard, an objective test, when assessing whether conduct violates the FDCPA. “A debt collector's failure to provide the information required by § 1692g is actionable as a violation of § 1692e ‘if the variance is one that would tend to mislead the least sophisticated consumer.’” *Leonard*, 2017 WL 4979160, at *4 (quoting *Caceres v. McCalla Raymer, LLC*, 755 F.3d 1299, 1304 (11th Cir. 2014)).

6. Allegations of FDCPA violations are evaluated using the “least sophisticated consumer” perspective, which assumes the consumer “posses[es] a rudimentary amount of information about the world and a willingness to read a collection notice with some care.” *Leonard*, 2017 WL 4979160 at *2 (alteration in original) (quoting *LeBlanc v. Unifund CCR Partners*, 601 F.3d 1185, 1193-94 (11th Cir. 2010) and *Jeter v. Credit Bureau, Inc.*, 760 F.2d 1168, 1175 (11th Cir. 1985)). Using this standard, the FDCPA protects “naïve consumers” while at the same time “prevent[ing] liability for bizarre or idiosyncratic interpretations of collections notices by preserving a quotient of reasonableness.” *Id.* (quoting *LeBlanc*, 601 F.3d at 1194.

7. To prohibit deceptive practices, the FDCPA outlaws the use of false, deceptive, and misleading collection letters and names a non-exhaustive list of certain *per se* violations of false and deceptive collection conduct. See 15 U.S.C. § 1692e. Among these *per se* violations

prohibited by that section are: false representations concerning the character, amount, or legal status of any debt, 15 U.S.C. §1692e(2)(A); and the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer, 15 U.S.C. § 1692e(10).

8. To prohibit unconscionable and unfair practices, the FDCPA outlaws the use of unfair or unconscionable means to collect or attempt to collect any debt and names a non-exhaustive list of certain *per se* violations of unconscionable and unfair collection conduct. See 15 U.S.C. §§ 1692f. Included among the *per se* violations prohibited in this section is the collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly permitted by law, 15 U.S.C. § 1692f (1).

9. The collection of any amount not expressly authorized in the underlying debt contract is a violation of the FDCPA. See 15 U.S.C. § 1692f. Debts including the collection fees based on a percentage, e.g. 33-1/3%, rather than the actual costs of collection have routinely been found to violate the FDCPA. *See, e.g., Bradley v. Franklin Collection Serv. Inc.*, 739 F.3d 606 (11th Cir., 2014).

10. The FDCPA offers a mandatory guide for debt collectors to avoid charging debtors for charges, fees and costs beyond the guidelines of the Original Contract at 15 U.S.C. §§ 1692f:

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

11. The FCCPA is an act to regulate the collection practices of certain persons; to provide for the powers and duties of certain state agencies; and to provide penalties and civil fines.

12. Under the FCCPA, a person who suffers injury, loss, or damage, or from whom money was collected by the use of a method, act, or practice in violation of this act may bring an action for actual damages and for additional statutory damages of up to \$1,000, together with court costs and reasonable attorney's fees incurred by the plaintiff. See FLA. STAT. § 559.77. In an action so brought, in determining the Defendant's liability for any additional statutory damages, the court shall consider the nature of the Defendant's noncompliance with § 559.72, the frequency and persistence of such noncompliance, and the extent to which such noncompliance was intentional.

13. A "debt collector" means any person who uses any instrumentality of commerce within this state, whether initiated from within or outside this state, in any business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. The term "debt collector" includes any creditor who, in the process of collecting her or his own debts, uses any name other than her or his own which would indicate that a third person is collecting or attempting to collect such debts. *Id.* § 559.55(7). Defendant ASPEN is a debt collector under the FCCPA.

14. "Debtor" or "consumer" means any natural person obligated or allegedly obligated to pay any debt. *Id.* § 559.55(8). Each of the Plaintiffs is a "debtor" or "consumer" under the FCCPA.

15. Prohibited acts by debt collectors or collection agencies under FLA. STAT. § 559.72, include violations where here:

a. Defendant violated § 559.72(7) by willfully engaging in conduct which can reasonably be expected to abuse or harass the debtor or any member of her or his family with **Exhibit 1**; and

b. Defendant violated § 559.72(9) when it claimed, attempted, or threatened to enforce a debt when such person knows that the debt is not legitimate or asserted the existence of some other legal right when such person knows that the right does not exist at **Exhibit 1**.

16. “Communication” under both the FDCPA and FCCPA means the conveying of information regarding a debt directly or indirectly to a person through any medium. ASPEN is communicating the demand for payment of a debt through its letters at **Exhibit 1 and Exhibit 4**.

II. PARTIES

17. Each Plaintiff is a natural person and consumer under the FDCPA and FCCPA, and at all times relevant to this complaint, Plaintiffs lived in Longwood, County of Seminole, State of Michigan.

18. At all times relevant to this complaint, ASPEN is a debt collector under the FDCPA and FCCPA collecting on timeshare and association management debt and is incorporated in the State of Colorado with a Florida Resident Agent and Address of Corporation Service Company, 1201 Hays Street, Tallahassee, Florida, 32301-2525.

19. At all times relevant to this lawsuit, ASPEN is a debt collector under the FDCPA and FCCPA in collecting on the debt of Plaintiff and the Purported Class Members.

. III. JURISDICTION & VENUE

20. Jurisdiction arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. §§ 1331, 1337.

21. Supplemental jurisdiction for Plaintiffs’ state law claims arise under 28 U.S.C. §

1367. The factual basis of the FCCPA claim is the same as the factual basis of the FDCPA claim and this district court has supplemental jurisdiction over all other claims that are so related to the claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. 28 U.S.C. § 1367(a).

22. Declaratory relief is available pursuant to under 28 U.S.C. §§ 2201, 2202.

23. Venue is appropriate in this federal district pursuant to 28 U.S.C. §1391(b) because a substantial part of the events giving rise to Plaintiffs' claims occurred within this federal judicial district, and because Defendant is subject to personal jurisdiction in the State of Florida at the time this action is commenced.

IV. FACTS CONCERNING PLAINTIFFS AND PROPOSED CLASS MEMBERS

24. Assessments for condominium and homeowners' associations on property acquired for personal family or household purposes are FDCPA debts. This case involves a debt obligation, or an alleged debt obligation, primarily for personal, family, or household purposes, and arising from a transaction or alleged transaction under the FDCPA and FCCPA.

25. On or around June 28, 1989, Ellingson signed an agreement to purchase a timeshare property from Aqua Sun Investments, Inc. in Maverick, Phase VI, a condominium, and pay yearly maintenance fees and association fees and costs to Maverick Condominium Association, Inc. ("Creditor"). **Please see Exhibit 2.**

26. Plaintiffs were unable to pay the 2018 maintenance fees. On information and belief, the 2018 maintenance fees were due December 31, 2017. At some point after Plaintiffs' alleged default thereafter, the Creditor transferred or assigned the collection of the debt to Defendant.

27. The alleged debt obligation is a "debt" as defined by 15 U.S.C. §1692a(5) and

FLA. STAT. § 559.55(6).

28. Each Plaintiff is, at all times relevant to this complaint, a “consumer” as that term is defined by the FDCPA and the FCCPA.

29. The agreement at **Exhibit 2** does not authorize the charging of a percentage fee amount of collection costs from a debtor or purchaser of a timeshare such as Plaintiffs. However, Defendant charges “Fees” relative the principal amount of the alleged debt obligation totaling exactly 33%. **Please see Exhibit 1.**

30. Defendant ASPEN collects, and attempts to collect, student loans, college receivables, utility bills and defaulted debts incurred, or alleged to have been incurred by consumers for personal, family, or household purposes on behalf of itself and other debt buyers throughout Florida as stated on its website:

Welcome to Aspen National Collections

- **Timeshare Collections**
- **Student Loans**
- **Utility Coops**
- **Other Consumer Debt**

Aspen National Collections is a national debt collection agency with specialized expertise in consumer debt collections for companies involved in timeshare or vacation ownership resorts, educational loans, utility cooperatives and other niches. Our professional collectors are carefully trained to understand your business and to perform their work in a firm, assertive manner, while adhering to Aspen National’s commitment to high ethical standards. At Aspen, we recognize that our success depends on the recovery of your bad debt and we design accounts receivable collection and bad debt collection programs specifically to fit your company's needs. **Please see Exhibit 3.**

31. Defendant ASPEN collects defaulted debts for Timeshare Associations using letters in the format of **Exhibit 1** and **Exhibit 4, which shows other similar letters sent all**

seeking the unauthorized and illegal 33% of the principle amount, in seeking collection “Fees.”

32. Defendant is, at all times relevant to this complaint, engaged in the act and/or practice of “debt collection” as that term is contemplated by the FDCPA and FCCPA.

33. Defendant is, at all times relevant to this complaint, a “debt collector” as defined by 15 U.S.C. § 1692a(6).

34. Defendant is not a “creditor” as defined by 15 U.S.C. § 1692a(4).

35. On or about September 20, 2018, Plaintiffs received a letter from Defendant ASPEN stating that they now owed a principal “Amount” of \$637.06. The letter at **Exhibit 1** also stated that the Plaintiffs owed “Fees” of \$210.23. The amount of “Fees” is exactly 33% of the principal “Amount” owed.

36. At **Exhibit 4**, there are numerous other letters from Defendant, on behalf of several creditors, all charging consumers a 33% fee. It is expected that there are hundreds or thousands of these types of 33% letters throughout Florida.

37. Defendant’s letters all threaten the credit of debtors if the debt is not paid within 30 days.

Collection Notice				
Creditor	Amount	Interest	Fees	Total
Maverick Condominium Assn Inc	\$637.06	\$0.10	\$210.23	\$847.39

The above referenced account has been placed with our agency for collection.

Negative credit information may be submitted to the credit reporting agencies if you fail to fulfill the terms of your credit obligation. However, we will not submit a negative credit report to a credit reporting agency about this credit obligation until the expiration of the 30-day time period described in this letter.

As of the date of this letter you owe \$847.39. Because of interest, late charges and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your payment, in which event we will inform you before depositing the check for collection. For further information about the exact amount due write the undersigned or call 1-800-981-9420. If you dispute this debt, please read the important notice below.

Please see Exhibit 1.

38. Plaintiffs sent ASPEN a letter asking for proof and verification of the amount owed, pursuant to the FDCPA and FCCPA. **Please see Exhibit 5.** The letter seeking verification of the debt amount was sent within 30 days of the receipt of the letter by Plaintiffs. To date, Defendant ASPEN has not responded with proof as to why the amount and fees are owed.

39. The Letters from Defendant are a “communication” as defined by 15 U.S.C. § 1692a(2). The alleged debt obligations arose out of transactions in which the money, property, insurance, or services are the subject of the transaction that are primarily for personal, family, or household purposes.

40. This Class Action is founded upon the fact that Defendant violated the FDCPA and FCCPA in letters to the Plaintiffs and the class members demanding from Plaintiffs and the class members payment of collection “Fees” based on a percentage of the debt balance rather than actual costs of collection that were incurred by ASPEN and/or pursuant to the agreement with the Creditor or by law.

41. Under FLA. STAT. 721.15(3), the managing entity or Association that was seeking the Timeshare debt must notify the Plaintiff at least 60 days prior to turning the matter over to a collection agency that the purchaser may be liable for the fees of the collection agency and that a lien may result therein:

(3) Delinquent assessments may bear interest at the highest rate permitted by law or at some lesser rate established by the managing entity. In addition to such interest, the managing entity may charge an administrative late fee in an amount not to exceed \$25 for each delinquent assessment. Any costs of collection, including reasonable collection agency fees and reasonable attorney’s fees, incurred in the collection of a delinquent assessment shall be paid by the purchaser and shall be secured by a lien in favor of the managing entity upon the timeshare interest with respect to which the delinquent assessment has been incurred; however, in the event

that a managing entity turns the matter over to a collection agency, the managing entity must advise the purchaser at least 60 days prior to turning the matter over to the collection agency that the purchaser may be liable for the fees of the collection agency and that a lien may result therefrom.

42. Plaintiffs were not advised with the “60 days” notice prior to Defendant ASPEN collecting upon the debt.

43. Upon information and belief, Plaintiffs allege that the letters to Plaintiffs and the class members are intended to falsely convey that Defendant is legally permitted to charge a collection fee based on a percentage of the debt balance rather than the actual costs incurred pursuant to the agreement with the Creditor.

44. Like the class members here, Plaintiffs suffered injury in fact when Defendant made false, deceptive, and misleading representations in the amounts Defendant could lawfully collect or attempt to collect or in the amounts Defendant was authorized to collect or attempt to collect, which caused significant risk to the Plaintiffs of paying more than was actually owed.

45. Like the class members here, Plaintiffs further suffered injury in fact when Defendant threatened damage to Plaintiffs’ credit ratings and reputations, if the Plaintiffs failed to pay amounts Defendants could not lawfully collect or attempt to collect or amounts Defendant was not authorized to collect or attempt to collect. Plaintiffs and the proposed class members still face risks of such harms.

46. Defendant is charging Plaintiffs and Class Members “Fees” that are unauthorized by contract or law in violation of the FDCPA and FCCPA.

V. PROHIBITED ACTS COMMITTED BY DEFENDANT

47. It is Defendant’s policy and practice as to the Proposed Class here to send written collection communications, in the form attached as **Exhibit 1 and Exhibit 4**, in connection with

the collection of alleged consumer debts to collect percentages of collection costs that are not expressly authorized by the agreement creating the debt or permitted by law. See 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(2)(B), and 1692f and f (1).

48. On information and belief, the Defendant's written communications, in the form attached as **Exhibit 1 and 4**, seeking 33% collection "fees," as alleged in Part IV of this complaint, number in the hundreds and thousands.

VI. CLASS ALLEGATIONS

49. This action is brought as a class action. Plaintiffs bring this action on behalf of themselves and on behalf of all other persons similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure.

50. Plaintiffs seek to certify two classes as set forth and defined, *infra*.

51. With respect to the First FDCPA Plaintiff Class, this claim is brought on behalf of a class of (a) all persons with addresses in the State of Florida; (b) to whom ASPEN sent a written communication materially like the form attached as **Exhibits 1 and 4**; (c) in an attempt to collect a debt, on behalf of various timeshare condominium, homeowners, or other associations, that charged a percentage of collection "Fees" in the amount of 33% percentage of the debt balance principal "Amount" *rather* than actual costs incurred by ASPEN pursuant to the agreement between Plaintiffs and the Creditor or State law; (d) which was not returned as undeliverable by the United States Postal Service; (e) during the period beginning one year prior to the filing of this action and ending 21 days after the filing of this action.

52. With respect to the Second FCCPA Plaintiff Class, this claim is brought on behalf of a class of (a) all persons with addresses in the State of Florida; (b) to whom ASPEN sent a written communication materially similar to the form attached as **Exhibits 1 and 4**; (c) in an

attempt to collect a debt on behalf of various timeshare condominium, homeowners, or other associations, that charged a percentage of collection “Fees” in the amount of 33% percentage of the debt balance principal “Amount” *rather* than actual costs incurred by ASPEN pursuant to the agreement between Plaintiffs and the Creditor or State law; (d) which was not returned as undeliverable by the United States Postal Service;; (d) which was not returned as undeliverable by the United States Postal Service; (e) during the period beginning two years prior to the filing of this action and ending 21 days after the filing of this action.

53. The identities of all class members are readily ascertainable from the business records of ASPEN and/or the known or unknown creditors for which ASPEN collects defaulted timeshare obligations.

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

55. There are questions of law and fact common to First Plaintiff Class, which common issues predominate over any issues involving only individual class members. The principal issues are whether the Defendants’ initial written communications, in the form attached as **Exhibit 1 and Exhibit 4**, violate 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e (10), 1692f, and 1692f (1).

56. There are questions of law and fact common to Second Plaintiff Class, which common issues predominate over any issues involving only individual class members. The principal issues are whether the Defendants’ initial written communications, in the form attached as **Exhibit 1 and Exhibit 4**, violate FLA. STAT. §§ 559.72(7) and 559.72(9).

57. The Plaintiffs' claims are typical of the class members, as all claims are based upon the same facts and legal theories.

58. The Plaintiffs will fairly and adequately protect the interests of the Plaintiff Classes defined in this complaint. Plaintiffs have retained counsel with experience in handling consumer lawsuits, complex legal issues, and class actions, and neither the Plaintiffs nor Plaintiffs' attorneys have any interests, which might cause them not to vigorously pursue this action.

59. 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 those bases 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 Defendant's written communications, in the form attached as **Exhibit 1 and Exhibit 4**, violate 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e (10), 1692f, and 1692f (1), as well as, FLA. STAT. §§ 559.72(7) and 559.72(9).
- (c) **Typicality:** The Plaintiffs' claims are typical of the claims of the class members. Plaintiffs and all members of the Plaintiff Classes have claims arising out of the Defendant's common uniform course of conduct complained of herein: Is each class member being asked to pay a percentage "collection cost" that is not

authorized by the original contract or obligation as through letters in **Exhibit 1 and 4**.

(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 Plaintiffs' counsel has 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.

60. Certification of a class under Rule 23(b)(1)(A) of the Federal Rules of Civil Procedure is appropriate because adjudications with respect to individual members create a risk of inconsistent or varying adjudications which could establish incompatible standards of conduct for Defendant, who collects debts throughout the United States of America.

61. Certification of a class(es) under Rule 23(b)(2) of the Federal Rules of Civil Procedure is appropriate in that a determination that ASPEN's written communications, in the form attached as **Exhibits 1 and 4**, violated the FCCPA and FDCPA would permit Plaintiffs and the Plaintiff Classes to obtain injunctive relief.

62. 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.

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

VII. FIRST CAUSE OF ACTION: VIOLATIONS OF THE FDCPA

64. Plaintiffs reallege and incorporate by reference the allegations in paragraphs 1 through 48 of this Complaint.

65. Defendant violated the FDCPA. Defendant's violations, with respect to their written communications in the form attached as **Exhibit 1 and Exhibit 4** include, but are not limited to, the following:

- (a) Using false, deceptive, and misleading representations or means in connection with the collection of any debt in violation of 15 U.S.C. § 1692e;
- (b) Making false, deceptive, and misleading representations concerning the character, amount, or legal status of any debt in violation of 15 U.S.C. §1692e(2)(A);
- (c) Making false, deceptive, and misleading representations concerning any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt in violation of 15 U.S.C. §1692e(2)(B);
- (d) Using false representations and/or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer in violation of 15 U.S.C.

§ 1692e(10);

- (e) Using an unfair or unconscionable means to collect or attempt to collect any debt in violation of 15 U.S.C. §§ 1692f and f (1);
- (f) Collecting amounts that are incidental to the principal obligation, where such amounts are not expressly authorized by the agreement creating the debt or permitted by law in violation of 15 U.S.C. §§ 1692e, 1692e(2), 1692f, and 1692f (1).

VIII. SECOND CAUSE OF ACTION: VIOLATIONS OF THE FCCPA

66. Plaintiffs reallege and incorporate by reference the allegations in paragraphs 1 through 48 of this Complaint.

67. Defendant ASPEN violated FLA. STAT. §§ 559.72(7) and 559.72(9) in the form attached at **Exhibit 1 and Exhibit 4**, including the attempts to collect unauthorized “Fees” not authorized by an original agreement or State law that created the obligation to the consumers.

IX. PRAYER FOR RELIEF

68. WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in favor of Plaintiffs and the Plaintiff Class as follows:

A. For the FIRST CAUSE OF ACTION:

- (i) An order certifying that the First Cause of Action may be maintained as a class pursuant to Rule 23 of the Federal Rules of Civil Procedure and appointing Plaintiffs and the undersigned counsel to represent the First Plaintiff Class as previously set forth and defined *supra*;
- (ii) An award of the maximum statutory damages for Plaintiffs and the First Plaintiff Class pursuant to 15 U.S.C. § 1692k(a)(2)(B);

- (iii) An award of actual damages for Plaintiffs and the First Plaintiff Class pursuant to 15 U.S.C. § 1692k(a)(1);
- (iv) For declaratory relief pursuant to 28 U.S.C. §§ 2201, 2202, adjudging Defendant's collection letters, which are attached hereto as **Exhibits 1 and 4**, and which are complained of herein, violate the FDCPA;
- (v) Damages for the credit history of Class Members because of the increased cost of paying off the debt created by ASPEN;
- (vi) Attorney's fees, litigation expenses, and costs pursuant to 15 U.S.C. § 1692k(a)(3); and
- (vii) For such other and further relief as may be just and proper.

B. For the SECOND CAUSE OF ACTION:

- (i) An order certifying that the Second Cause of Action may be maintained as a class pursuant to Rule 23 of the Federal Rules of Civil Procedure and Florida law and appointing Plaintiffs and the undersigned counsel to represent the Second Plaintiff Class as previously set forth and defined above.
- (ii) An award of statutory and/or actual damages for Plaintiffs and the Second Plaintiff Class, including all amounts collected for the percentage "Fees" being charged of Plaintiffs and the class through **Exhibit 1** and **Exhibit 4** pursuant to an amount to be determined by the Court on Motion or at trial;
- (iii) For injunctive relief for Plaintiffs and the Second Plaintiff Class;
- (iv) For declaratory relief pursuant to 28 U.S.C. §§ 2201, 2202, adjudicating that Defendant's collection conduct complained of herein violated the FCCPA using **Exhibit 1** and **Exhibit 4**;

- (v) Attorney's fees, litigation expenses, and costs pursuant to the FDCPA and FCCPA; and
- (vi) For such other and further relief as may be just and proper.

X. JURY DEMAND

Plaintiff hereby demands that this case be tried before a Jury.

Respectfully submitted this 8th day of November 2018

/s/ Brian P. Parker

Brian P. Parker, Esq. – *Trial Counsel*

DC Capital Law, LLP

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*Attorneys for Plaintiffs and all others
similarly situated*

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

David and Frances Ellingson, on behalf of themselves and all others similarly situated,

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

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202-723-5905 bparker@dccapitalaw.com

DEFENDANTS

Aspen National Financial, Inc. dba Aspen National Collections

County of Residence of First Listed Defendant _____

(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)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 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)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| 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)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER PARTIES
<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 (Excludes 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 - Medical 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/Management 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 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<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"/> 835 Patent - Abbreviated New Drug Application <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 checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input 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 <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	CIVIL RIGHTS <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 PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <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			

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 - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

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. Sec. 1692 et seq.

Brief description of cause:

Violations of the Fair Debt Collections Practices Act

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
TBD

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/08/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Brian P. Parker

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

EXHIBIT #1

PO Box 10689
 Brooksville FL 34603-0689
 ADDRESS SERVICE REQUESTED



(800) 981-9420
 Fax: (352) 754-4538
 contactus@aspennational.com

Date	ANC Acct #	Total Due
September 20, 2018	0004	\$847.39

Aspen National Collections
 PO Box 10689
 Brooksville FL 34603-0689

David Ellingson / Frances Ellingson
 4
 Longwood

IF PAYING BY CREDIT CARD, COMPLETE ALL, SIGN AND RETURN			
CHECK CARD USING FOR PAYMENT	<input type="checkbox"/> VISA	<input type="checkbox"/> MASTERCARD	<input type="checkbox"/> DISCOVER
CARD NUMBER PLUS 3 DIGIT SECURITY CODE (on back of card)			EXP. DATE
CARDHOLDER NAME			CARDHOLDER SIGNATURE
AMOUNT			\$

Detach Upper Portion and Return with Payment

Collection Notice

Creditor	Amount	Interest	Fees	Total
Maverick Condominium Assn Inc	\$637.06	\$0.10	\$210.23	\$847.39

The above referenced account has been placed with our agency for collection.

Negative credit information may be submitted to the credit reporting agencies if you fail to fulfill the terms of your credit obligation. However, we will not submit a negative credit report to a credit reporting agency about this credit obligation until the expiration of the 30-day time period described in this letter.

As of the date of this letter you owe \$847.39. Because of interest, late charges and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your payment, in which event we will inform you before depositing the check for collection. For further information about the exact amount due write the undersigned or call 1-800-981-9420. If you dispute this debt, please read the important notice below.

Regards,

John Brown
 Collection Manager

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.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, our office will assume the debt is valid. If you notify this office in writing within 30 days after receiving this notice that you dispute this or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgement if one exists and mail you a copy of the judgement or verification. Upon your written request 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.

ONLINE PAYMENTS CAN BE MADE AT www.payaspen.com
 Please use your account number and PIN number for online payments.

Account Number	000
PIN Number	457

Please see reverse side for important consumer information.

EXHIBIT #2

MAVERICK

485 South Atlantic Avenue, Ormond Beach, Florida 32074

Phase VI

PURCHASE AGREEMENT

DEVELOPER/SELLER: Aqua Sun Investments, Inc.
 OWNER OF FEE: 573 South Atlantic Avenue
 Ormond Beach, Florida 32074
 (904) 677-0573

Date: June 28, 1989

(Date Actually Signed)

Account No. 06

PURCHASER

First Party David J. Ellingson
(As it will appear on Deed)Soc. Sec. No. 27Second Party Frances H. Ellingson, his wife
(As it will appear on Deed)

Soc. Sec. No.

Address 660f Phones: Res: 41 Bus: 46City La County D State C Zip 31

The above designated Seller agrees to sell, and the Purchaser agrees to purchase, the following described Condominium Unit Week(s) in Maverick, Phase VI, a condominium, according to the Declaration of Condominium thereof, to be recorded in the Public Records of Volusia County, Florida, a copy of which Declaration of Condominium is supplied with and made a part of this Agreement, upon the following terms and conditions.

485 South Atlantic Avenue, Ormond Beach, Florida, condominium Unit Number:

307 Unit Week(s) 45
 ESTIMATED DATE OF COMPLETION IS COMPLETED
 ESTIMATED DATE OF CLOSING IS July 10, 1989
 Occupancy of this apartment may commence: 1989

PURCHASE TERMS

- Purchase Price of Unit Week(s)\$ 5900.00
 - Closing Costs: Recording Fees (16.50), State Documentary Stamps (40.85)
 Intangible Taxes (11.20), Title Insurance (75.00)
 Closing Fees (130.00)\$ 273.55
 - Total Purchase Price (U.S. Funds) (Lines 1 and 2)\$ 6173.55
 - Deposit (U.S. Funds)\$ 623.55
 - Balance Required on or before\$ -0-
 (Date)
 - Amount of Financing (Mortgage Requested)\$ 5550.00
 - Finance Charge\$ 4248.60
 - Total Payments\$ 9798.60
- Interest Rate (APR) 18 % FOR 84 Months
 to Aqua Sun Investments, Inc., with monthly payments of \$ 116.65

This Agreement is subject to all terms and conditions contained herein. If a mortgage is requested by Purchaser this Agreement is subject to the Purchaser being approved for such mortgage loan.

YOU MAY CANCEL WITHOUT PENALTY OR OBLIGATION THIS SALES AGREEMENT FOR THE PURCHASE OR LEASE OF A TIME-SHARE INTERVAL WITHIN SEVEN DAYS, SUNDAYS AND HOLIDAYS EXCEPTED, AFTER SIGNING AND RECEIVE A REFUND OF ANY FUNDS PAID. IF YOU DID NOT RECEIVE A PUBLIC OFFERING STATEMENT PRIOR TO SIGNING THIS SALES AGREEMENT, YOU MAY CANCEL THIS SALES AGREEMENT WITHIN SEVEN DAYS, SUNDAYS AND HOLIDAYS EXCEPTED, AFTER RECEIPT OF A PUBLIC OFFERING STATEMENT. YOU MAY NOT GIVE UP OR WAIVE THIS RIGHT TO CANCEL. IF YOU DECIDE TO CANCEL, YOU MUST NOTIFY THE DEVELOPER IN WRITING WITHIN THE CANCELLATION PERIOD OF YOUR INTENT TO CANCEL BY SENDING NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO AQUA SUN INVESTMENTS, INC., 573 SO. ATLANTIC AVE., ORMOND BEACH, FL 32074. YOUR NOTICE WILL BE EFFECTIVE UPON THE DATE YOU SEND IT.

PURCHASER:

David J. Ellingson (SEAL)
Frances H. Ellingson (SEAL)

SELLER:

By Joseph Hal (SEAL)
 Authorized Agent
 Attest: Charles H. [Signature] (SEAL)
 Aqua Sun Investments, Inc.
 Acceptance Date: June 28, 1989
August 20 1989

1. DEPOSITS

The initial or subsequent payment made pursuant to this Agreement by Purchaser to Seller shall, prior to the closing of title, be held in escrow in either an interest bearing or non-interest bearing account with Torry W. Haines, Registered Real Estate Broker, 2759 Oak Road, Marietta, GA 30067. These funds may be used prior to closing only for refund to Purchaser. Purchaser shall obtain a receipt for his deposit.

2. UNIT WEEK

Unit Week No. 1 is the seven (7) days commencing on the first Saturday in each year. Unit Week No. 2 is the seven (7) days succeeding. Additional Weeks up to and including Unit Week No. 52 are computed in a like manner. Unit Week 52 contains the seven (7) days succeeding the end of Unit Week No. 51 without regard to the month or year. Unit Week No. 53 contains any excess days not otherwise assigned. Unit Weeks run from noon on the first Saturday of the Unit Weeks purchased to noon on the last Saturday of said Unit Weeks. Ownership of Unit Week(s) includes a percentage interest in the underlying real property. Fee Simple Interest ownership will be conveyed from the Seller/Owner of the fee in perpetuity. There is no time or limit of years for this time-share plan.

3. MAINTENANCE FEE & MANAGEMENT FEE

Purchaser understands and agrees that in accordance with the Declaration of Condominium, Purchaser will be responsible for the above described Unit Week Owner's share of common expenses, assessments, maintenance fee, and any and all other expenses incurred in the operation of said Condominium. The annual maintenance fee is \$175.00 per Unit Week at the time of purchase, which includes a management fee paid to the managing entity. Reference should be made to the Association budget for that portion attributable for the management fee. These amounts are subject to increase or decrease in the future.

4. PURCHASER'S ACKNOWLEDGEMENTS

Purchaser acknowledges by execution of this Agreement that prior to the execution of this Agreement, Purchaser received and read a copy of the Developer's Public Offering Statement, together with Exhibits attached thereto, which include the Bylaws and Articles of Incorporation of the Condominium Association and the Management Agreement. Purchaser also acknowledges that he has received and read a copy of the Initial Rules and Regulations of the Condominium, a copy of the Floor Plan and the Condominium Unit being sold hereunder and the estimated Operating Budget for the Condominium. Purchaser further acknowledges, represents and warrants that the purchase of the Condominium is made for Purchaser's personal use without reliance on representations concerning rentals, rent return, tax advantages, depreciation, or investment potential, or other monetary or financial advantage by Seller, its agents, employees, or associates and that Purchaser will not use the unit as his principal residence. Purchaser further acknowledges that the unit being sold hereunder has been previously occupied as a motel and that additional information regarding the structural history of the building or unit, has been provided by the Seller in the Public Offering Statement.

5. MODIFICATIONS AND CHANGES

The Declaration of Condominium will be recorded prior to closing. Purchaser hereby authorizes Seller, as Seller deems necessary, to record among the public records of Volusia County, Florida, such documents and instruments as are required to be filed under the laws of the State of Florida, in order to create and maintain the Condominium. Seller reserves the right to make changes in any such condominium documents as Seller, governmental authorities having jurisdiction over the property or title insurance companies require or deem necessary, providing the changes do not materially alter the boundaries of the Unit, change the size of the Common Elements to the prejudice of Purchaser, decrease Purchaser's share in the common surplus or increase Purchaser's share in the common expenses or otherwise materially affect the rights of Purchaser, or the value of the Unit. Purchaser acknowledges that dimensions are approximate.

6. CLOSING AND TITLE

Purchaser and Seller, at the execution hereof, have executed all necessary documents to effectuate a closing of this transaction, including a Warranty Deed, note and mortgage, if applicable. Upon expiration of Purchaser's rights of rescission and upon approval of financing, if requested, this transaction shall be closed by the Closing Agent by recording the necessary documents and issuing title insurance insuring Purchaser as owner of the Unit Weeks purchased under a plan of Interval Ownership as defined in the Declaration of Condominium free and clear of all encumbrances, except conditions, restrictions, limitations, zoning and easements of record at the time of closing, survey exceptions, and terms and conditions of the Declaration of Condominium and taxes for the then current and subsequent years. All representations, duties and obligations of the Purchaser and the terms and conditions of this Agreement shall survive the closing.

7. REFUND PRIVILEGE

In the event Purchaser cancels the contract during the 10-day cancellation period, Developer will refund to the Purchaser the total amount of all payments made by the Purchaser under the contract reduced by the proportion of any contract benefits the Purchaser has actually received under the contract prior to the effective date of the cancellation. The refund shall be made within 20 days after demand therefor or within 5 days after receipt of funds from the Purchaser's cleared check, whichever is later.

8. FURNISHINGS

Although all models are for display purposes only, the above described unit shall have furniture, appliances, equipment and all accent furnishings of equal quality to those shown or used in the models.

9. TITLE INSURANCE

Upon closing, Seller shall cause to issue to Purchaser an owner's title insurance policy insuring Purchaser's title for the Unit Week(s) purchased, subject only to the conditions of the title set forth herein. If, after use of reasonable diligence to make the title insurable, Seller is unable to do so, Seller shall refund to the Purchaser all monies paid under this Agreement and shall thereupon be released from any and all obligations hereunder.

10. CLOSING COSTS

Purchaser will be responsible for all closing costs described hereinabove.

11. BINDING EFFECT

This Agreement is binding upon the parties hereto and their heirs, legal representatives, successors and assigns. This Agreement will supersede any and all understandings and agreements between the parties hereto, and it is mutually understood and agreed that this Agreement represents the entire Agreement between the parties hereto, and no representations or inducements prior hereto, which are not included in and embodied in this Agreement, shall be of any force and effect, and this Agreement may only be amended and modified by an instrument in writing between the parties. This Agreement shall be construed under the laws of the State of Florida and shall not be recorded in the Office of the Clerk in any Circuit of the State of Florida and the recording of same by the Purchaser shall be considered a breach of this Agreement and shall terminate this Agreement at Seller's option.

12. PURCHASER'S DEFAULT

Time is of the essence except where otherwise specifically provided herein. After expiration of the 10-day rescission period, failure to close, or make payments within the time provided above, or to comply with the provisions of this Agreement, other than cancellation within the 10-day time period, shall be considered a breach of this Agreement, and all sums paid hereunder may be retained by the Seller as liquidated and agreed damages and not as a penalty, and the parties hereto may thereafter be relieved from all obligations hereunder. Purchaser shall be liable for Seller's reasonable attorneys' fees and costs incurred by it by virtue of any litigation as to the parties rights under the Agreement if the Seller is the prevailing party. Purchaser covenants to defend and indemnify Seller against all claims of real estate brokers and/or salesmen due to acts of Purchaser's representatives other than brokers or salesmen employed by Seller.

13. TRADING NETWORK

Seller has executed an agreement with Resort Condominiums International, Inc., such agreement allowing for a reciprocal exchange program for member-owners at Maverick, Phase _____, a condominium. Seller makes no representations as to Resort Condominiums International, Inc., and all representations set forth within the brochures and literature of Resort Condominiums International, Inc. are representations of that organization.

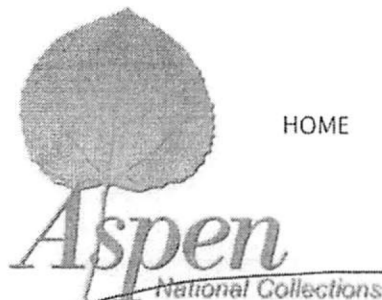
14. TAXATION

FOR THE PURPOSE OF AD VALOREM ASSESSMENT, TAXATION AND SPECIAL ASSESSMENTS, THE MANAGING ENTITY WILL BE CONSIDERED THE TAXPAYER AS AGENT PURSUANT TO SECTION 192.037, FLORIDA STATUTES.

15. RELEASE OF MORTGAGES

Aqua Sun Investments, Inc. is the fee simple owner of the accommodations and facilities of the time-share plan, subject to a first mortgage held by USM Savings and Loan Association, c/o Tampa Bay Financial, 10000 Dale Mabry Drive, Suite 212, Tampa, Florida 33618, and subject to a second mortgage held by Bill Carlson, 573 So. Atlantic Ave., Ormond Beach, Florida, upon recording of the warranty deed to Purchaser, financial arrangements have been previously made for release of the Unit Week from both of those mortgages so that Purchaser receives fee simple title subject only to those items in paragraph 6 above.

EXHIBIT #3



[HOME](#) [ABOUT US](#) [COLLECTION SERVICES](#) [CONTACT US](#)

[search...](#)

[Home](#) [About Us](#)

Welcome to Aspen National Collections

Aspen National Collections is a national debt collection agency with specialized expertise in consumer debt collections for companies involved in timeshare or vacation ownership resorts, educational loans, utility cooperatives and other niches. Our professional collectors are carefully trained to understand your business and to perform their work in a firm, assertive manner, while adhering to Aspen National's commitment to high ethical standards. At Aspen, we recognize that our success depends on the recovery of your bad debt and we design accounts receivable collection and bad debt collection programs specifically to fit your company's needs.

[Continue Reading »](#)

[Timeshare Collections](#)

[Student Loans](#)

[Utility Coops](#)

[Other Consumer Debt](#)

What's Next?



Most Read

[Timeshare, Vacation Ownership, Shared Ownership Industry](#)

[Student Loan Collections](#)

[Welcome to Aspen National Collections](#)

[Other Consumer Debt Collections](#)

[History of Company](#)

How We Collect

Providing you peace of mind by collecting your accounts professionally and safely....

- Licensed, Bonded, Insured
- Trust Accounts
- American Resort Development Association Member
- American Collectors Association Member
- Better Business Bureau of America Member

[Continue Reading »](#)

History of Company

Aspen began its collection operations in Grand Junction, CO, in 2000 with one client in the vacation ownership industry. We now have locations in Colorado and Florida serving more than 200 clients, representing thousands of consumer debts. We attribute the success we consistently experience to maintaining our commitments to: full compliance with laws and regulations, technological advances and delivering excellent customer service.

[Continue Reading »](#)

Testimonials

"We never used a collection agency because of the stigma attached. However Aspen National relieved us of our fears with their great customer service directed towards our owners and our office staff."

--J.B. North Conway, New Hampshire

[Continue Reading »](#)

Bottom Links

- [Trade Links](#)
- [SiteMap](#)

Contact Us

PO Box 10680
Brooksville FL 34603

Members Of...

- American Collectors Association
- Better Business Bureau of America
- Timeshare Board Members Association

EXHIBIT #4

PO Box 10689
 Brooksville FL 34603-0689
 ADDRESS SERVICE REQUESTED



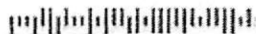
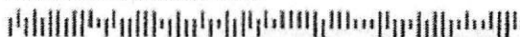
Aspen
 National Collections

(800) 981-9420
 Fax: (352) 754-4538
 contactus@aspennational.com

Date	ANC Acct #	Total Due
September 20, 2018	00	

Aspen National Collections

PO Box 10689
 Brooksville FL 34603-0689



11/19/18

11/19/18

11/19/18

IF PAYING BY CREDIT CARD, COMPLETE ALL, SIGN AND RETURN.	
CHECK CARD USING FOR PAYMENT	<input type="checkbox"/> VISA <input type="checkbox"/> MASTERCARD <input type="checkbox"/> DISCOVER
CARD NUMBER PLUS 3 DIGIT SECURITY CODE (on back of card)	EXP. DATE /
CARDHOLDER NAME	CARDHOLDER SIGNATURE
AMOUNT \$	

Detach Upper Portion and Return with Payment

Collection Notice

Creditor	Amount	Interest	Fees	Total
Maverick Condominium Assn Inc	\$629.38	\$0.10	\$207.70	\$837.18

The above referenced account has been placed with our agency for collection.

Negative credit information may be submitted to the credit reporting agencies if you fail to fulfill the terms of your credit obligation. However, we will not submit a negative credit report to a credit reporting agency about this credit obligation until the expiration of the 30-day time period described in this letter.

As of the date of this letter you owe \$837.18. Because of interest, late charges and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your payment, in which event we will inform you before depositing the check for collection. For further information about the exact amount due write the undersigned or call 1-800-981-9420. If you dispute this debt, please read the important notice below.

Regards,

John Brown

Collection Manager

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.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, our office will assume the debt is valid. If you notify this office in writing within 30 days after receiving this notice that you dispute this or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgement if one exists and mail you a copy of the judgement or verification. Upon your written request 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.

ONLINE PAYMENTS CAN BE MADE AT www.payaspenn.com
 Please use your account number and PIN number for online payments.

Account Number	0061...
PIN Number	47...

Please see reverse side for important consumer information.

The states listed below require our company to notify their residents of the following rights. This list does not contain a complete list of the rights consumers have under state and federal law.

CALIFORNIA: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov. *Nonprofit credit counseling services may be available in the area.*

COLORADO: "FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.COAG.GOV/CAR."

"A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt."

Colorado Office – Aspen National Collections, 827 Rood Ave., Grand Junction, CO 81501
(800) 283-2797, (970) 263-7320

IDAHO: Toll Free Number: 800-981-9420

MAINE: Hours of Operation:

9 AM – 9 PM Mon – Tues, 9 AM – 8 PM Wed – Thurs, 9 AM – 5 PM Friday EST

MASSACHUSETTS: Hours of Operation:

9 AM – 8 PM Mon – Thurs, 9 AM – 5 PM Friday EST

MASSACHUSETTS NOTICE OF IMPORTANT RIGHTS

You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid only for ten days unless you provide written confirmation of the request postmarked or delivered within seven days of such request. You may terminate this request by writing to the debt collector.

NORTH CAROLINA: North Carolina Permit Number: 104132

TENNESSEE: This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance.

UTAH: As required by Utah law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

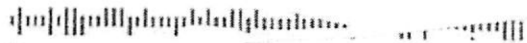
PO Box 10689
 Brooksville FL 34603-0689
 ADDRESS SERVICE REQUESTED



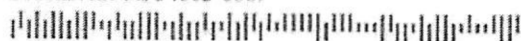
(800) 981-9420
 Fax: (352) 754-4538
 contactus@aspennational.com

Date	ANC Acct #	Total Due
August 30, 2018	06	\$924.00

Aspen National Collections
 PO Box 10689
 Brooksville FL 34603-0689



700 12th St NW Ste 700
 Washington DC 20005-4052



IF PAYING BY CREDIT CARD, COMPLETE ALL, SIGN AND RETURN.		
CHECK CARD	<input type="checkbox"/>	
USING FOR PAYMENT	<input type="checkbox"/> AMEX <input type="checkbox"/> VISA <input type="checkbox"/> MASTERCARD <input type="checkbox"/> DISCOVER	
CARD NUMBER PLUS 3 DIGIT SECURITY CODE (on back of card)	EXP. DATE	
CARDHOLDER NAME	CARDHOLDER SIGNATURE	AMOUNT
		\$

Detach Upper Portion and Return with Payment

Collection Notice

Creditor	Amount	Interest	Fees	Total
Enchanted Isle Condo Assn	\$684.37	\$0.10	\$239.53	\$924.00

The above referenced account has been placed with our agency for collection.

Negative credit information may be submitted to the credit reporting agencies if you fail to fulfill the terms of your credit obligation. However, we will not submit a negative credit report to a credit reporting agency about this credit obligation until the expiration of the 30-day time period described in this letter.

As of the date of this letter you owe \$924.00. Because of interest, late charges and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your payment, in which event we will inform you before depositing the check for collection. For further information about the exact amount due write the undersigned or call 1-800-981-9420. If you dispute this debt, please read the important notice below.

Regards,

John Brown
 Collection Manager

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.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, our office will assume the debt is valid. If you notify this office in writing within 30 days after receiving this notice that you dispute this or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgement if one exists and mail you a copy of the judgement or verification. Upon your written request 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.

ONLINE PAYMENTS CAN BE MADE AT www.payaspen.com
 Please use your account number and PIN number for online payments.

Account Number	006
PIN Number	5

Please see reverse side for important consumer information.

The states listed below require our company to notify their residents of the following rights. This list does not contain a complete list of the rights consumers have under state and federal law.

CALIFORNIA: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov. *Nonprofit credit counseling services may be available in the area.*

COLORADO: "FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.COAG.GOV/CAR."

"A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt."

Colorado Office – Aspen National Collections, 827 Rood Ave., Grand Junction, CO 81501
(800) 283-2797, (970) 263-7320

IDAHO: Toll Free Number: 800-981-9420

MAINE: Hours of Operation:

9 AM – 9 PM Mon – Tues, 9 AM – 8 PM Wed – Thurs, 9 AM – 5 PM Friday EST

MASSACHUSETTS: Hours of Operation:

9 AM – 8 PM Mon – Thurs, 9 AM – 5 PM Friday EST

MASSACHUSETTS NOTICE OF IMPORTANT RIGHTS

You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid only for ten days unless you provide written confirmation of the request postmarked or delivered within seven days of such request. You may terminate this request by writing to the debt collector.

NORTH CAROLINA: North Carolina Permit Number: 104132

TENNESSEE: This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance.

UTAH: As required by Utah law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

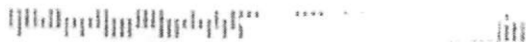
PO Box 10689
 Brooksville FL 34603-0689
 ADDRESS SERVICE REQUESTED



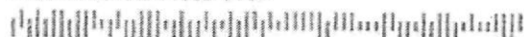
(800) 981-9420
 Fax: (352) 754-4538
 contactus@aspennational.com

Date	ANC Acct #
July 6, 2018	01- 20

Aspen National Collections
 PO Box 10689
 Brooksville FL 34603-0689



K: 55
 B: 6280



IF PAYING BY CREDIT CARD, COMPLETE ALL, SIGN AND RETURN.			
CHECK CARD USING FOR PAYMENT	<input type="checkbox"/> 16A USA	<input type="checkbox"/> MASTERCARD	<input type="checkbox"/> DISCOVER
CARD NUMBER PLUS 3 DIGIT SECURITY CODE (on back of card)			EXP. DATE /
CARDHOLDER NAME		CARDHOLDER SIGNATURE	AMOUNT \$

Detach Upper Portion and Return with Payment

Collection Notice

Creditor	Account #	Amount	Interest	Fees	Total
HEIDELBERG INN TIMESHARE OA	00600920	\$354.68	\$2.48	\$141.87	\$499.03

You have not responded to our initial letter regarding the outstanding balance on your account. Your failure to respond will not prevent further collection activity from being undertaken. Communication is necessary for both parties to reach a reasonable conclusion to this account.

Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater than the total amount shown above. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection. For further information about the exact amount due, write the undersigned or call 1-800-981-9420.

A negative credit report reflecting on your credit record may be submitted to a credit reporting agency, if not already submitted, if you fail to fulfill the terms of your credit obligations. Send your payment in full today or contact our office at (800) 981-9420.

Regards,

Celeste Luz

Account Representative

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

ONLINE PAYMENTS CAN BE MADE AT www.payaspenn.com
 Please use your account number and PIN number for online payments.

Please see reverse side for important consumer information.

Account Number	00600920
PIN Number	4

PO Box 10689
Brooksville FL 34603-0689

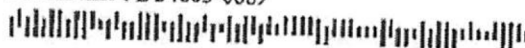
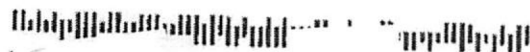
ADDRESS SERVICE REQUESTED



(800) 981-9420
Fax: (352) 754-4538
contactus@aspennational.com

Date	ANC Acct #	Total Due
May 14, 2018	0	\$1

Aspen National Collections
PO Box 10689
Brooksville FL 34603-0689



Wit _____

IF PAYING BY CREDIT CARD, COMPLETE ALL, SIGN AND RETURN.			
CHECK CARD USING FOR PAYMENT	<input type="checkbox"/> VISA	<input type="checkbox"/> MASTERCARD	<input type="checkbox"/> DISCOVER
CARD NUMBER PLUS 3 DIGIT SECURITY CODE (on back of card)			EXP. DATE
CARDHOLDER NAME		CARDHOLDER SIGNATURE	AMOUNT
			\$ _____

Detach Upper Portion and Return with Payment

Collection Notice

Creditor	Amount	Interest	Fees	Total
Vac Villg @ Parkway Oa	\$925.00	\$0.28	\$323.75	\$1,249.03

The above referenced account has been placed with our agency for collection.

Negative credit information may be submitted to the credit reporting agencies if you fail to fulfill the terms of your credit obligation. However, we will not submit a negative credit report to a credit reporting agency about this credit obligation until the expiration of the 30-day time period described in this letter.

As of the date of this letter you owe \$1,249.03. Because of interest, late charges and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your payment, in which event we will inform you before depositing the check for collection. For further information about the exact amount due write the undersigned or call 1-800-981-9420. If you dispute this debt, please read the important notice below.

Regards,

John Brown

Collection Manager

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ONLINE PAYMENTS CAN BE MADE AT www.payaspenn.com
Please use your account number and PIN number for online payments.

Please see reverse side for important consumer information.

Account Number	00
PIN Number	XXXX

Aspen National Collections • 18110 Powell Road • Brooksville FL 34604 • 352-754-4509
Office Hrs 9am-8pm Mon - Thurs • 9am-5pm Fri EST

3DAKS1896201
7761671A4

PO Box 10689
 Brooksville FL 34603-0689
 ADDRESS SERVICE REQUESTED



Aspen
 National Collections

(800) 981-9420
 Fax: (352) 754-4538
 contactus@aspennational.com

Date	Amount	Total Due
September 20, 2018	0689	\$1,828.52

Aspen National Collections
 PO Box 10689
 Brooksville FL 34603-0689



Ste... 10-6942

IF PAYING BY CREDIT CARD, COMPLETE ALL, SIGN AND RETURN.		
CHECK CARD	<input type="checkbox"/>	<input type="checkbox"/>
USING FOR PAYMENT	<input type="checkbox"/> VISA	<input type="checkbox"/> MASTERCARD
CARD NUMBER PLUS 3 DIGIT SECURITY CODE (on back of card)	EXP. DATE	
CARDHOLDER NAME	CARDHOLDER SIGNATURE	AMOUNT
		\$

Detach Upper Portion and Return with Payment

Collection Notice

Creditor	Amount	Interest	Fees	Total
Maverick Condominium Assn Inc	\$1,374.67	\$0.21	\$453.64	\$1,828.52

The above referenced account has been placed with our agency for collection.

Negative credit information may be submitted to the credit reporting agencies if you fail to fulfill the terms of your credit obligation. However, we will not submit a negative credit report to a credit reporting agency about this credit obligation until the expiration of the 30-day time period described in this letter.

As of the date of this letter you owe \$1,828.52. Because of interest, late charges and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your payment, in which event we will inform you before depositing the check for collection. For further information about the exact amount due write the undersigned or call 1-800-981-9420. If you dispute this debt, please read the important notice below.

Regards,

John Brown

Collection Manager

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.

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ONLINE PAYMENTS CAN BE MADE AT www.payaspen.com
 Please use your account number and PIN number for online payments.

Account Number	006
PIN Number	3

Please see reverse side for important consumer information.

Aspen National Collections • 18110 Powell Road • Brooksville FL 34604 • 352-754-4509
 Office Hrs 9am-8pm Mon - Thurs • 9am-5pm Fri EST

2DAKS1896201
 80280513

EXHIBIT #5



DELIVERED VIA CERTIFIED U.S. MAIL / SIGNED COPY RETAINED

October 01, 2018

Aspen National Collections
Attn: John Brown
18110 Powell Road
Brooksville, FL 34604

RE: Buyers:
ANC Acct. No.:

Mr. David Ellingson and Mrs. Frances Ellingson
00611-1111

Dear Aspen National Collections:

I am in receipt of your correspondence dated September 20, 2018 saying Mr. and Mrs. Ellingson owe a debt of \$847.39. We have not seen any proof that my clients owe this debt. You have notified us that you are a debt collector and that your letter "is an attempt to collect a debt" and "that any information obtained will be used for that purpose." Accordingly, and under the FDCPA, please show why and by what contract Mr. and Mrs. Ellingson owe the specific amount of the debt and please cease and desist until you VALIDATE THE DEBT.

PURSUANT TO THE FDCPA, I WOULD LIKE THE FOLLOWING PROVIDED:

- THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR; and
- CONTRACT THAT ALLOWS YOU TO CHARGE COSTS AND FEES; and
- NAME OF CURRENT CREDITOR AND HOW THEY OBTAINED THE DEBT; and
- VERIFICATION OF THE DEBT and why the debt of \$847.39 is owed.

Pursuant to 15 U.S.C. § 1692f(1), please provide the contract and explanation as to why Mr. and Mrs. Ellingson owe all listed extra fees or collection costs. We seek something in detail required by the FDCPA that includes a statement history showing how this amount of \$847.39 was determined. As you are aware, the law requires certainty in the initial contact to the debtor. As you also aware, 15 U.S.C. § 1692g(b) requires that you cease all collection attempts until the debt is validated. Do you have the right person? If you pass this on to another debt collector, please notify them that we dispute the debt. In the meantime, we respectfully request that you refrain from all prohibited conduct as directed by Florida Statute §559.72(18). You may direct all correspondence concerning my clients to our office at legalmail@dccapitallaw.com or by U.S. mail at the address on this letterhead. As your request for payment is in dispute, we expect that you will adhere to the dictates of the FCRA and Florida Statute §559.72(6). Thank you for your immediate cooperation.

Sincerely,

DC Capital Law Firm, LLP

A handwritten signature in black ink, appearing to read 'Robert Baldwin'.

Robert Baldwin, Esquire*

*Licensed member of the Bar in Florida, Michigan, and Washington, D.C.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Aspen National Collections Sued After Allegedly Attempting to Collect Unauthorized Fee](#)
