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Our File No.: 113452

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Leo Garcia, individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

Accelerated Servicing Group, LLC,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Leo Garcia, individually and on behalf of all others similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Accelerated Servicing Group, LLC (hereinafter referred to as “*Defendant*”), as follows:

INTRODUCTION

1. This action seeks to recover for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).

3. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

4. At all relevant times, Defendant conducted business within the State of New York.

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PARTIES

5. Plaintiff Leo Garcia is an individual who is a citizen of the State of New York residing in Suffolk County, New York.

6. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

7. On information and belief, Defendant Accelerated Servicing Group, LLC, is a New York Limited Liability Company with a principal place of business in Erie County, New York.

8. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

9. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

ALLEGATIONS

10. Defendant alleges Plaintiff owes a debt (“the Debt”).

11. The Debt was primarily for personal, family or household purposes and is therefore a “debt” as defined by 15 U.S.C. § 1692a(5).

12. Sometime after the incurrence of the Debt, Plaintiff fell behind on payments owed.

13. Thereafter, at an exact time known only to Defendant, the Debt was assigned or otherwise transferred to Defendant for collection.

14. In its efforts to collect the debt, Defendant contacted Plaintiff by letter (“the Letter”) dated January 20, 2017. (“**Exhibit 1.**”)

15. The Letter is a “communication” as defined by 15 U.S.C. § 1692a(2).

16. The Letter sets forth a “Balance” of \$3,923.47.

17. The Letter further states, “As of the date of this letter, the above referenced balance of \$3,923.47 is due. If you choose to immediately satisfy this account, please contact our office, prior to sending payment, for a correct payoff balance...”

18. The Letter fails to provide information that would allow Plaintiff to determine what Plaintiff will need to pay to resolve the debt at any given moment in the future.

19. The Letter fails to provide information that would allow the least sophisticated consumer to determine what he or she will need to pay to resolve the debt at any given moment in the future.

20. The Letter fails to provide information that would allow the least sophisticated consumer to determine the amount of interest owed.

21. For instance, the Letter fails to indicate the applicable interest rate.

22. For instance, the Letter fails to indicate the date of accrual of interest.

23. For instance, the Letter fails to indicate the amount of interest during any measurable period.

24. The Letter fails to contain an explanation, understandable by the least sophisticated consumer, of any fees and interest that may cause the amount stated to increase.

25. The Letter fails to state what part of the amount stated is attributable to principal.

26. The Letter fails to state what part of the amount stated is attributable to interest.

27. The Letter fails to state what part of the amount stated is attributable to late fees.

28. The Letter fails to state what part of the amount stated is attributable to other fees.

29. The Letter fails to state that the creditor will accept payment of the amount set forth in full satisfaction of the debt if payment is made by a specified date.

30. The Letter states that the amount due is increasing.

31. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine the minimum amount owed at the time of the Letter.

32. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine what she will need to pay to resolve the debt at any given moment in the future.

33. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine the amount of his or her debt.

34. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine the amount of her debt because the consumer would not know whether interest and fees would continue to accrue, or whether the amount of the debt was static.

35. The Letter, because of the aforementioned failures, did not convey “the amount of the debt” clearly from the perspective of the least sophisticated consumer.

36. The Letter, because of the aforementioned failures, did not convey “the amount of the debt” accurately from the perspective of the least sophisticated consumer.

37. The Letter, because of the aforementioned failures, did not convey “the amount of

the debt” without ambiguity from the perspective of the least sophisticated consumer.

38. The Letter, because of the aforementioned failures, violates 15 U.S.C. § 1692e and 15 U.S.C. § 1692g. *See Balke v. Alliance One Receivables Management, Inc.*, No. 16-CV-5624(ADS)(AKT), 2017 WL 2634653 (E.D.N.Y. June 19, 2017).

CLASS ALLEGATIONS

39. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of New York from whom Defendant attempted to collect a consumer debt using a collection letter which, like the Letter herein, fails to provide enough information to allow the least sophisticated consumer to determine the amount of the debt, from one year before the date of this Complaint to the present.

40. This action seeks a finding that Defendant’s conduct violates the FDCPA, and asks that the Court award damages as authorized by 15 U.S.C. § 1692k.

41. Defendant regularly engages in debt collection.

42. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using a collection letter which, like the Letter herein, fails to provide enough information to allow the least sophisticated consumer to determine the amount of the debt.

43. Plaintiff’s claims are typical of the claims of the Class. Common questions of law or fact raised by this class action complaint affect all members of the Class and predominate over any individual issues. Common relief is therefore sought on behalf of all members of the Class. This class action is superior to other available methods for the fair and efficient adjudication of this controversy.

44. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to the individual members of the Class, and a risk that any adjudications with respect to individual members of the Class would, as a practical matter, either be dispositive of the interests of other members of the Class not party to the adjudication, or substantially impair or impede their ability to protect their interests. Defendant has acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

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

The management of the class action proposed is not extraordinarily difficult, and the factual and legal issues raised by this class action complaint will not require extended contact with the members of the Class, because Defendant's conduct was perpetrated on all members of the Class and will be established by common proof. Moreover, Plaintiff has retained counsel experienced in actions brought under consumer protection laws.

JURY DEMAND

46. Plaintiff hereby demands a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

- a. Certify this action as a class action; and
- b. Appoint Plaintiff as Class Representative of the Class, and Plaintiff's attorneys as Class Counsel; and
- c. Find that Defendant's actions violate the FDCPA; and
- d. Grant damages against Defendant pursuant to 15 U.S.C. § 1692k; and
- e. Grant Plaintiff's attorneys' fees pursuant to 15 U.S.C. § 1692k; and
- f. Grant Plaintiff's costs; together with
- g. Such other relief that the Court determines is just and proper.

DATED: October 23, 2017

BARSHAY SANDERS, PLLC

By: /s/ Craig B. Sanders
Craig B. Sanders, Esq.
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Attorneys for Plaintiff
Our File No.: 113452



LEO GARCIA
4 WALKER AVE
EAST QUOGUE, NY 11942
123THE123456@GMAIL.COM

Date: 01/20/2017
Balance: \$3,923.47
Current Creditor: Brightwater Capital, LLC
Current Acct#: [REDACTED] 0932
Original Creditor: PC Richard
Original Creditor Acct#: [REDACTED] 7364

Dear LEO GARCIA,

The above PC Richard account has been placed in our office for collections by Brightwater Capital, LLC, the owner of this account.

As of the date of this letter, the above referenced balance of \$3,923.47 is due. If you choose to immediately satisfy this account, please contact our office, prior to sending the payment, for a correct payoff balance at 1-866-761-3027 Monday through Thursday from 9:00 a.m. to 5:00 p.m. or Friday from 8:30 a.m. to 2:00 p.m. Eastern Standard Time.

Federal law requires we notify you, this communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Sincerely,

Accelerated Servicing Group LLC

Please see important notices on the reverse side.



NOTICE OF IMPORTANT RIGHTS: **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 not 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. **Colorado** - FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.COLORADOATTORNEYGENERAL.GOV/CA. 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 in-state office information: Colorado Manager, Inc., 80 Garden Center, Suite 3, Broomfield, CO 80020, 303-920-4763. **Massachusetts** - 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 FOR ONLY 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. **Minnesota** - This collection agency is licensed by the Minnesota Department of Commerce. **North Carolina** - Department of Insurance Bond No.: 7752201566NC. **Tennessee** - This collection agency is licensed by the collection Service Board, State Department of Commerce and Insurance of Tennessee. **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. **Wisconsin** - This collection agency has been certified as being exempt from licensing by the State of Wisconsin Department of Financial Institutions. **PRIVACY STATEMENT:** Accelerated Servicing Group LLC wants to inform you of how we will handle confidential information we obtain about you. Information we collect – Accelerated Servicing Group LLC may collect nonpublic personal information about you from the original creditor, consumer reporting agencies, and other parties for the purposes of acquiring location information as provided for by the Fair Debt Collection Practices Act, 15 USC § 1692 et seq. Information we disclose – We do not disclose any nonpublic personal information about you to anyone, except as provided for by the Fair Debt Collection Practices Act, 15 USC § 1692 and the Fair Credit Reporting Act, 15 USC § 1681 et seq. Security - Accelerated Servicing Group LLC restricts access to nonpublic personal information about you to those employees who need to know that information to process this account. Accelerated Servicing Group LLC maintains physical, electronic and procedural safeguards that comply with federal regulations to guard your nonpublic personal information. **Additional Rights** - If your state's privacy laws provide for different rights, require a different procedure to exercise your privacy rights under those laws or you need additional explanations, we will explain your rights when you call (866) 416-8959.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NEW YORK

Leo Garcia, individually and on behalf of all others)	
similarly situated)	
_____)	
<i>Plaintiff(s)</i>)	
)	Civil Action No.
v.)	
)	
Accelerated Servicing Group, LLC)	
_____)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Accelerated Servicing Group, LLC
1840 Highland Drive
Tonawanda, New York 14150

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States, or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

BARSHAY SANDERS PLLC
100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NY 11530

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

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 LEO GARCIA
DEFENDANTS ACCELERATED SERVICING GROUP, LLC
(b) County of Residence of First Listed Plaintiff SUFFOLK
(c) Attorneys (Firm Name, Address, and Telephone Number) BARSHAY SANDERS, PLLC

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)
O 1 U.S. Government Plaintiff
O 2 U.S. Government Defendant
O 3 Federal Question
O 4 Diversity
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT
REAL PROPERTY
TORTS
PERSONAL INJURY
CIVIL RIGHTS
PRISONER PETITIONS
FORFEITURE/PENALTY
LABOR
IMMIGRATION
BANKRUPTCY
SOCIAL SECURITY
FEDERAL TAX SUITS
OTHER STATUTES

V. ORIGIN (Place an "X" in One Box Only)
O 1 Original Proceeding
O 2 Removed from State Court
O 3 Remanded from Appellate Court
O 4 Reinstated or Reopened
O 5 Transferred from Another District (specify)
O 6 Multidistrict Litigation - Transfer
O 8 Multidistrict Litigation - Direct File

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

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

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

DATE November 8, 2017 SIGNATURE OF ATTORNEY OF RECORD /s Craig B. Sanders

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFF JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Craig B. Sanders, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

1. Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County: NO
2. If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? YES
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? YES

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? _____

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.
 Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?
 Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: /s Craig B. Sanders

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Accelerated Servicing Group Failed to Convey Amount of Consumer's Debt](#)
