

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AMIR J. GOLDSTEIN

Plaintiff,

07 CV 1855 (JSR)
ECF CASE

-against-

COMPLAINT

CONTINENTAL SERVICE GROUP, INC.
D/B/A CONSERVE

Defendant.

Plaintiff, by and through his attorney, Adam J. Fishbein, as and for his complaint alleges as follows:

INTRODUCTION

0.1 This is an action for damages brought by an individual consumer for defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA") which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

PARTIES

0.2 Plaintiff is a natural person residing in New York County, New York.

0.3 Upon information and belief, defendant Continental Services Group, Inc. is a collection agency with its principal location in Fairport, New York. Defendant is a debt collector within the meaning of the FDCPA.

JURISDICTION

0.4 This Court has jurisdiction pursuant to 15 U.S.C. § 1692k (FDCPA) and 28 U.S.C. § 1331.

AS AND FOR A FIRST CAUSE OF ACTION

1.1 Plaintiff realleges paragraphs 0.1 through 0.4 as if fully restated herein.

1.2 That a personal debt was allegedly incurred by the plaintiff.

1.3 That at a time unknown to the plaintiff herein, the aforementioned debt was

referred to defendant for collection.

- 1.4 In or about September, 2006, the plaintiff began receiving calls from Samuel Campbell a debt collector representative for the defendant.
- 1.5 Campbell advised the plaintiff that plaintiff owed loans in excess of \$24,000.00.
- 1.6 The plaintiff was very surprised because he had already consolidated and was paying off several loans.
- 1.7 The plaintiff disputed the debt by telephone and followed up the telephone call with a letter requesting verification of the alleged debt.
- 1.8 The plaintiff was told that he would receive the documentation shortly, but that ultimately because plaintiff would have to pay because the plaintiff owed the money, and if the plaintiff did not want his credit to be effected and/or go to legal, that the plaintiff would have to pay.
- 1.9 A week later, the defendant called the plaintiff and inquired as to whether the plaintiff had received the papers.
- 1.10 The plaintiff responded that he had not.
- 1.11 Campbell called the plaintiff after the plaintiff had received the papers.
- 1.12 Plaintiff stated that he had to review his records.
- 1.13 Plaintiff also stated that the interest was unfair and the over \$6,000.00 in collection costs was unfair.
- 1.14 Plaintiff would not agree to pay those amounts.
- 1.15 Campbell read to the plaintiff the underlined portion of the agreement to convince the plaintiff that the plaintiff is responsible for a 30% collection fee.
- 1.16 The Promissory Note's relevant portion states as follows: "The maker promises to pay to the holder hereof the actual costs and expenses of collection of any legal proceedings to collect any amount due on this note, plus an attorney's fee of fifteen percent (15%) of the amount then due under this note."
- 1.17 The plaintiff protested that the language means that that the plaintiff must pay the

collection fees of the defendant.

- 1.18 The language is clear that it only applies to fees for legal proceedings
- 1.19 Defendant engaged in deceptive representations.
- 1.20 Defendant continued to attempt to collect the debt prior to verification thereof but after the plaintiff had disputed the debt and requested verification thereof.
- 1.21 Plaintiff became distressed when the defendant more money than was legally owed.
- 1.22 Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:
 - (a) The defendant is in violation of 15 U.S.C. § 1692g by attempting to collect the alleged debt after the plaintiff had requested verification and prior to plaintiff having received the verification documents.
 - (b) The defendant is in violation of 15 U.S.C. § 1692e(5) and 1692e(10) and by engaging in false threats and deceptive representations.
- 1.23 As a result of the above violations of the FDCPA, defendant is liable to the plaintiff for the sum of plaintiff's statutory and actual damages to be determined at trial, plus costs and attorney's fees.

WHEREFORE, plaintiff respectfully prays that judgment be entered against defendant in the amount of:

- (a) Statutory and actual damages pursuant to 15 U.S.C. § 1692k in an amount to be determined at the time of trial.
- (b) Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k.
- (c) For such other and further relief as may be just and proper.

Dated: Woodmere, New York
February 27, 2007

Adam J. Fishbein, P.C. (AF-9508)
Attorney At Law
Attorney for the Plaintiff
483 Chestnut Street
Cedarhurst, New York 11516
Telephone (516) 791-4400
Facsimile (516) 791-4411

Plaintiff requests trial by jury on all issues so triable.

Adam J. Fishbein (AF-9508)

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

FAIGY GOLDSTEIN

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Adam J. Fishbein, P.C. 735 Central Avenue Woodere NY 11516 516 668 6945 fishbeinadamj@gmail.com

DEFENDANTS

DIVERSIFIED ADJUSTMENT BUREAU, INCORPORATED

County of Residence of First Listed Defendant Minnesota (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, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 USC 1692 FAIR DEBT COLLECTION PRACTICES ACT. Brief description of cause: Failure to properly identify the creditor

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 08/11/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Adam J. Fishbein

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP 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, Adam J. Fishbein, 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 Class Action

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:

None

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? No
b) Did the events of 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/ Adam J. Fishbein

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

FAIGY GOLDSTEIN

Plaintiff(s)

v.

DIVERSIFIED ADJUSTMENT SERVICE, INCORPORATED

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) DIVERSIFIED ADJUSTMENT SERVICE, INCORPORATED C T CORPORATION SYSTEM 111 EIGHTH AVENUE NEW YORK, NEW YORK, 10011

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: Adam J. Fishbein, P.C. 735 Central Avenue Woodmere NY 11598

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

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

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