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11 *Attorneys for Plaintiff*
12 Alphonso Gregory

13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 HYDE & SWIGART, APC
16 2221 CAMINO DEL RIO SOUTH SUITE 101
17 SAN DIEGO, CA 92108

18 **ALPHONSO GREGORY, on**
19 **behalf of himself and all**
20 **other similarly situated class**
21 **members,**

22 Plaintiff,

23 v.

24 **SYSTEMATIC NATIONAL**
25 **COLLECTIONS, INC., and**
26 **DOES 1-20,**

27 Defendants.

28 **Case No: '18CV2657 DMS JLB**

CLASS ACTION COMPLAINT
FOR VIOLATIONS OF:

- (1) **THE FAIR DEBT**
COLLECTION
PRACTICES ACT, 15
U.S.C. §§ 1692, et seq.;
- AND**
- (2) **THE ROSENTHAL FAIR**
DEBT COLLECTION
PRACTICES ACT, Cal.
Civ Code §§ 1788, et seq.

JURY TRIAL DEMANDED

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INTRODUCTION

- 1
2 1. The United States Congress has found abundant evidence of the use of
3 abusive, deceptive, and unfair debt collection practices by many debt
4 collectors, and has determined that abusive debt collection practices contribute
5 to the number of personal bankruptcies, to marital instability, to the loss of
6 jobs, and to invasions of individual privacy. Congress wrote the Fair Debt
7 Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter “FDCPA”), to
8 eliminate abusive debt collection practices by debt collectors, to insure that
9 those debt collectors who refrain from using abusive debt collection practices
10 are not competitively disadvantaged, and to promote consistent state action to
11 protect consumers against debt collection abuses.
- 12 2. The California legislature has determined that the banking and credit system
13 and grantors of credit to consumers are dependent upon the collection of just
14 and owing debts and that unfair or deceptive collection practices undermine
15 the public confidence that is essential to the continued functioning of the
16 banking and credit system and sound extensions of credit to consumers. The
17 Legislature has further determined that there is a need to ensure that debt
18 collectors exercise this responsibility with fairness, honesty and due regard for
19 the debtor’s rights and that debt collectors must be prohibited from engaging
20 in unfair or deceptive acts or practices.
- 21 3. Alphonso Gregory (“Plaintiff”), through his attorneys, brings this action to
22 challenge the conduct of Systematic National Collections, Inc. (“Defendant”)
23 in response to Defendant’s attempts to unlawfully and abusively collect a debt
24 allegedly owed by Plaintiff, conduct that caused Plaintiff’s injuries.
- 25 4. Plaintiff makes these allegations on information and belief, with the exception
26 of those allegations that pertain to Plaintiff, which Plaintiff alleges on personal
27 knowledge.
- 28

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1 5. While many violations are described below with specificity, this Complaint
2 alleges violations of the statutes cited in their entirety.

3 6. Unless otherwise stated, all conduct engaged in by Defendant took place in
4 California.

5 7. All violations by Defendant were knowing, willful, and intentional, and
6 Defendant did not maintain procedures reasonably adapted to avoid these
7 violations.

8 8. All violations alleged regarding the FDCPA are material violations of the
9 FDCPA as these violations would limit the ability of a hypothetical least
10 sophisticated debtor to make an intelligent choice as to the alleged debt and
11 actions that should be taken to resolve the alleged debt.

12 **JURISDICTION AND VENUE**

13 9. This Court has original and supplemental jurisdiction pursuant to 15 U.S.C. §
14 1692, *et seq.*, 28 U.S.C. § 1331, and 28 U.S.C. § 1367.

15 10. This Court has personal jurisdiction because Defendant is a domestic
16 corporation located in Vista, California. Further, Defendant regularly conducts
17 business in California, collecting debts on behalf of its creditor client. Finally,
18 as illustrated below, Defendant directed its unlawful collection practices at the
19 forum state.

20 11. A substantial part of the events or omissions giving rise to this claim occurred
21 in San Diego, California against Plaintiff who resides in the County of San
22 Diego, State of California. Thus, venue is proper pursuant to 28 U.S.C. §
23 1391(b)(2).

24 12. At all times relevant, Defendant conducted business within the County of San
25 Diego, State of California.

26 **PARTIES AND DEFINITIONS**

27 13. Plaintiff is a natural person who resides in the City of San Diego, State of
28 California. As discussed below, Plaintiff allegedly incurred a financial

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1 obligation to San Luis Rey in regard to an automobile towing service that was
2 performed by San Luis Rey on behalf of Plaintiff. This tow was primarily for
3 personal purposes. Therefore, Plaintiff is a “consumer” and a “debtor,” as
4 those terms are defined by 15 U.S.C. § 1692a(3) and Cal Civ. Code §
5 1788.2(h).

6 14. Furthermore, the loan is a “consumer debt” and a “debt,” as those terms are
7 defined by 15 U.S.C. § 1692a(5) and Cal Civ. Code § 1788.2(d).

8 15. According to its very own website, Defendant “pursues past due consumer and
9 commercial account receivables through conventional collection efforts and
10 through a network of local and national bonded collection law firms.”
11 (<https://www.snccollections.com/index.php/services>). On behalf of its creditor
12 clients, Defendant regularly collects or attempts to collect, directly or
13 indirectly, debts owed or due or asserted to be owed or due, as illustrated
14 below. In doing so, Defendant uses instrumentalities of interstate commerce
15 and the mail for the principal purpose of collecting debts. Therefore,
16 Defendant is a “debt collector,” as that term is defined by 15 U.S.C. §
17 1692a(6) and Cal. Civ Code § 1788.2(c).

18 16. Defendant is a California corporation with its principal place of business in the
19 County of San Diego, State of California.

20 **FACTUAL ALLEGATIONS**

21 17. Sometime in 2005, Plaintiff allegedly incurred a financial obligation (the
22 “Debt”) to San Luis Rey Towing. Because this complaint alleges violations of
23 the FDCPA and the Rosenthal Fair Debt Collection Practices Act
24 (“RFDCPA”), the validity and circumstances surrounding the Debt are
25 irrelevant and will be discussed only to provide context.

26 18. Plaintiff allegedly fell behind in payments on the Debt, so it was placed with
27 Defendant for collection purposes.
28

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- 1 19. It was not until September 20, 2017—approximately twelve years after the
2 Debt was incurred—when Defendant sent its first of a series of collection
3 letters that demanded payment on the Debt.
- 4 20. Over the next ten months, Defendant consistently sent Plaintiff at least one
5 collection letter a month, totaling at least fourteen, all of which demanded
6 payment on the Debt.
- 7 21. Defendant’s letters initially indicated that Defendant may have already
8 reported the Debt to credit reporting agencies.
- 9 22. Then starting on November 22, 2017, Defendant progressed its ambiguous
10 threats to full-blown misrepresentations that it had in fact “chosen to exercise
11 [its] right to report this account to the three major nationwide credit bureaus,
12 TransUnion, Equifax, and Experian because of [Platiniff’s] refusal to pay.”
- 13 23. On December 6, 2017, after stating Plaintiff had “left [Defendant] no choice,”
14 Defendant sent a letter to Plaintiff threatening to take legal action in pursuit of
15 the twelve-year-old Debt.
- 16 24. In the proceeding months, Defendant continued a spree of similar letters. On
17 January 10, 2018; February 7, 2018; April 11, 2018; and July 19, 2018,
18 Defendant further intimidated Plaintiff with the threat that Defendant may
19 report the Debt, or some derivative thereof.
- 20 25. Between these months, on March 14, 2018, and June 14, 2018, Defendant
21 once again retained the position that it had in fact already reported the Debt to
22 the major credit reporting agencies.
- 23 26. However, in February 2018—approximately three months after Defendant first
24 unequivocally stated it had reported the Debt to the above credit bureaus—
25 Plaintiff ran a credit report. Despite Defendant’s bluster, the credit report
26 showed that the Debt was not reported. In other words, Defendant
27 misrepresented to Plaintiff that it credit reported the Debt.
- 28

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1 27. Further, following Defendant’s misrepresentation, and in accordance with its
2 pattern of threatening collection letters, in January 2018, Defendant sent
3 Plaintiff two additional letters attempting to intimidate Plaintiff into paying the
4 decade-old Debt with threats of legal action. Defendant went so far as to
5 threaten Plaintiff with wage garnishment and inappropriately stating to
6 Plaintiff that, “we cannot believe you wish these events to occur.”

7 28. And on May 3, 2018, Defendant implicitly represented that it was entitled to
8 the Debt by demanding Plaintiff pay an inexplicable interest rate.

9 29. In fact, upon information and belief, Defendant began charging Plaintiff
10 interest and demanding payment of the interest on each collection letter sent to
11 Plaintiff when Defendant acquired the Debt.

12 30. Despite the age of the Debt and Defendant’s failure to report the Debt to credit
13 bureaus, Defendant’s continued collection letters, explicitly state it is “not
14 going to stop [] collection effort on [Plaintiff’s] account.”

15 **15 U.S.C. § 1692e**

16 31. Under 15 U.S.C. § 1692e, “[a] debt collector may not use any false, deceptive,
17 or misleading representation or means in connection with the collection of any
18 debt.” This includes, but is not limited to, “[t]he threat to take any action that
19 cannot legally be taken or that is not intended to be taken,” and “the use of any
20 false representation or deceptive means to collect or attempt to collect any debt
21 or to obtain information concerning a consumer.” 15 U.S.C. § 1692e, subds. (5)
22 & (10).

23 32. A collection agency may not report a debt to a credit reporting bureau if the
24 debt is more than seven years old. 15 U.S.C. § 1681c(4).

25 33. Defendant not only made a false threat to take action that it could not legally
26 take, Defendant falsely represented to Plaintiff that it had already taken such
27 illegal actions. The Debt originated in 2005. Then on November 22, 2017—
28 approximately 12 years after the Debt originated—Defendant sent Plaintiff a

1 collection letter that it may have already reported the Debt, then subsequent
2 letters that it reserved the right to report the Debt to the three major credit
3 bureaus: Trans Union, Equifax, and Experian. Defendant, therefore,
4 threatened to take an action that it could not legally take. Moreover,
5 Defendant's knowledge of its unlawful conduct is evidenced by the
6 "Collection Procedures" section of its very own website states: "[a]ll
7 delinquent accounts are reported to the major bureaus on a monthly basis. This
8 derogatory information will remain on a debtor's credit report for a period of
9 up to seven years." ([https://www.snccollections.com/index.php/investigations-
10 collection-procedures](https://www.snccollections.com/index.php/investigations-collection-procedures)). Thus, not only did Defendant knowingly and willfully
11 make a false representation that the Debt could still be reported, it also
12 threatened to take an action that it could not legally take.

13 34. In addition, Defendant had no intention of credit reporting the Debt.
14 Defendant's November 22, 2017, March 3, 2018, and June 14, 2018, letters
15 were unambiguous statements that the Debt had been reported to the foregoing
16 credit bureaus. Upon an investigation into this claim, however, Plaintiff
17 discovered that this was a misrepresentation. In February 2018, Plaintiff pulled
18 his credit and discovered that the Debt had not been reported. Nonetheless,
19 Defendant continues to send Defendant collection letters indicating that it has
20 in fact reported the Debt. Thus, Defendant falsely represented that it had
21 reported the Debt, in addition to threatening to take an action that it had no
22 intention of taking.

23 35. Next, Defendant's string of letters in December 2017, and January 2018,
24 indicate Defendant's attempts to collect on a Debt well beyond the four-year
25 statute of limitations. Despite the expiration of the statute of limitations,
26 Defendant threatened Plaintiff with proceeding with legal action, potentially
27 obtaining a judgment against Plaintiff, and garnishing Plaintiff's wages.
28

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1 36. For the above reasons, Defendant violated 15 U.S.C. § 1692e and 15 U.S.C. §
2 1692e subds. (5) & (10).

3 **15 U.S.C § 1692f**

4 37. 15 U.S.C § 1692f states that “[a] debt collector may not use unfair or
5 unconscionable means to collect or attempt to collect any debt.” This includes,
6 but is not limited to, “[t]he collection of any amount . . . unless such amount is
7 expressly authorized by the agreement creating the debt or permitted by law.”

8 38. Defendant threatened to take action that it knew it could not legally take. This
9 is evidenced by Defendant’s admission on its website that “[t]his derogatory
10 information will remain on a debtor’s credit report for a period of up to seven
11 years.” This is further evidenced by the fact that Defendant did not actually
12 report the Debt. This empty threat, therefore, was nothing more than a scare
13 tactic that has no legal basis. Thus, it was unfair and unconscionable of
14 Defendant to threaten to take an action the it could not legally take, and did
15 not intent to take, that was in direct violation of Plaintiff’s consumer rights.

16 39. Further, debt collection laws override private agreements. Thus, a consumer
17 cannot waive its rights, including the right to stop debt collectors from
18 reporting debts that are more than seven years old. Thus, there is no private
19 agreement that could extend the seven year window. And as illustrated above,
20 reporting a debt that is more than seven years old is strictly forbidden by law.
21 For these reasons, Defendant violated 15 U.S.C § 1692f and 15 U.S.C § 1692f,
22 subd. (1).

23 **Cal Civ. Code §§ 1788, et seq.**

24 40. The RFDCPA incorporates the above FDCPA provisions through Cal. Civ.
25 Code § 1788.17. Thus, in violating the above provisions of the FDCPA,
26 Defendant violated Cal. Civ. Code § 1788.17.

27 **Class Action Allegations**

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1 41. Plaintiff brings this action on behalf of himself and all others similarly situated
2 as a member of the proposed class (“Class”). This class is defined as follows:
3 All persons within California who received any collection correspondence
4 from Defendant, within the year preceding the filing of this action that
5 contains language identical or substantially similar to the correspondences that
6 Plaintiff received from Defendant, for which the statute of limitations has
7 expired on the debt Defendant was seeking to collect.

8 42. Plaintiff alleges a statewide subclass of persons who received at least one
9 collection correspondence from Defendant between the date of filing this
10 action and one years preceding, that contains language identical or
11 substantially similar to the correspondences Plaintiff received from Defendant,
12 for which Defendant stated it had reported a debt to a collection reporting
13 agency when it had not actually done so.

14 43. Plaintiff alleges a third class of persons within California who received any
15 collection correspondence from Defendant, within the year preceding the
16 filing of this action that contains language identical or substantially similar to
17 the correspondences that Plaintiff received from Defendant, for which
18 Defendant threatened to report a debt to a credit reporting bureau where the
19 debt is more than seven years old.

20 44. Plaintiff represents, and is a member of, the Class because Plaintiff received
21 Defendant’s collection correspondences, which outline Defendant’s unlawful
22 debt collection practices that are the subject of this lawsuit.

23 45. Defendant, as well as its employees and agents, is excluded from the Class.
24 Plaintiff does not know the number of members in the Class, but believes the
25 Class members number is in the hundreds, if not more. Thus, this matter
26 should be certified as a Class Action to assist in the expeditious litigation of
27 the matter.
28

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1 46. Plaintiff and the Class were harmed by the acts of Defendant in at least the
2 following ways: Defendant, either directly or through its agents, threatened to
3 report the debts—that were more than seven years old—of Plaintiff and the
4 Class without any intention of actually doing so. Also, Defendant threatened to
5 legal action, which it had no right to take based on the expiration of the statute
6 of limitations for debt collection.

7 47. **Numerosity.** The Class is so numerous that the individual joinder of all of its
8 members is impractical. While the exact number and identities of the Class
9 members are unknown to Plaintiff at this time and can only be ascertained
10 through appropriate discovery, Plaintiff is informed and believes and thereon
11 alleges that the Class includes hundreds of members. Plaintiff alleges that the
12 Class members may be ascertained by the records maintained by Defendant.

13 48. This suit seeks damages on behalf of the Class. This suit does not request any
14 recovery for personal injury and claims related thereto. Plaintiff reserves the
15 right to expand the Class definition to seek recovery on behalf of additional
16 persons as facts are learned through investigation and discovery.

17 49. **Existence and Predominance of Common Questions of Law and Fact.**
18 Common questions of fact and law exist as to all members of the Class, which
19 predominate over any questions affecting individual members of the Class.
20 These common legal and factual questions, which do not vary between Class
21 members, and which may be determined without reference to the individual
22 circumstances of any Class members, include, but are not limited to, the
23 following: whether Defendant’s collection notices violated the FDCPA and
24 RFDCPA; whether Plaintiff and the Class members were damaged thereby,
25 and the extent of damages for such violation(s); and whether Defendant should
26 be enjoined from engaging in such conduct in the future.

27 50. **Typicality.** Plaintiff is asserting claims that are typical of the Class: Plaintiff
28 received a collection notice from Defendant that threatened to report a debt

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1 that was more than seven years old, even though Defendant had no intention
2 of actually reporting the debt. And Plaintiff received additional collection
3 notices threatening legal proceedings, which Defendant could not take.

4 51. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the
5 interests of the members of the Class. Plaintiff has retained attorneys
6 experienced in the prosecution of class actions. A class action is superior to
7 other available methods of fair and efficient adjudication of this controversy,
8 since individual litigation of the claims of all Class members is impracticable.

9 52. **Superiority.** Even if every Class member could afford individual litigation,
10 the court system could not. It would be unduly burdensome to the courts in
11 which individual litigation of numerous issues would proceed. Individualized
12 litigation would also present the potential for varying, inconsistent, or
13 contradictory judgments and would magnify the delay and expense to all
14 parties and to the court system resulting from multiple trials of the same
15 complex factual issues. By contrast, the conduct of this action as a class action
16 presents fewer management difficulties, conserves the resources of the parties
17 and of the court system, and protects the rights of each Class member.

18 53. Separate actions by individual Class members would create a risk of
19 adjudications with respect to them that would, as a practical matter, be
20 dispositive of the interests of the other Class members who are not parties to
21 such adjudications or that would substantially impair or impede the ability of
22 such non-party Class members to protect their interests.

23 **FIRST CAUSE OF ACTION**
24 **VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**
25 **15 U.S.C. §§ 1692 ET SEQ.**

26 54. Plaintiff repeats, re-alleges, and incorporates by reference, all allegations of
27 this Complaint as though fully stated herein.
28

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1 55. The foregoing acts and omissions constitute multiple violations of the FDCPA,
2 including but not limited to the above-cited provision of the FDCPA, 15
3 U.S.C. §1692 *et seq.*

4 56. As a result of each and every violation of the FDCPA, Plaintiff and the Class
5 are entitled to any actual damages pursuant to 15 U.S.C. §1692k(a)(1);
6 statutory damages in the amount up to \$1,000.00 pursuant to 15 U.S.C. §
7 1692k(a)(2)(A); and reasonable attorneys’ fees and costs pursuant to 15 U.S.C.
8 § 1692k(a)(3) from Defendant.

9
10 **SECOND CAUSE OF ACTION**
11 **VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION**
12 **PRACTICES ACT**
13 **CAL. CIV. CODE §§ 1788-1788.32**

14 57. Plaintiff repeats, re-alleges, and incorporates by reference, all allegations of
15 this Complaint as though fully stated herein.

16 58. The foregoing acts and omissions constitute numerous and multiple violations
17 of the RFDCPA, including but not limited to the above-cited provisions of the
18 FDCPA.

19 59. As a result of each and every violation of the FDCPA, Plaintiff and the Class
20 are entitled to any actual damages pursuant to Cal. Civ Code § 1788.30(a);
21 statutory damages in the amount up to \$1,000.00 pursuant to Cal. Civ Code §
22 1788.30(b); and reasonable attorneys’ fees and costs pursuant to Cal. Civ Code
23 § 1788.30(c) from Defendant.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE**, Plaintiff prays that judgment be entered against Defendant, and
26 Plaintiff be awarded damages from Defendant, as follows:

- 27 • Certify the Class as requested herein;
- 28 • Appoint Plaintiff to serve as the Class Representative in this matter;

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- 1 • Appoint Plaintiff’s Counsel as Class Counsel in this matter; and
- 2 • Any such further relief as may be just and proper.

3 In addition, Plaintiff and the Class pray for further judgment as follows against
4 each Defendant:

5 **FIRST CAUSE OF ACTION**

6 **FAIR DEBT COLLECTION PRACTICES ACT (FDCPA) 15 U.S.C. § 1692**
7 **ET SEQ.**

- 8 • An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- 9 • An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §
10 1692k(a)(2)(A), for himself and each Class member;
- 11 • An award of costs of litigation and reasonable attorney’s fees, pursuant to 15
12 U.S.C. § 1692k(a)(3); and
- 13 • Any other relief this Court should deem just and proper.

14 **SECOND CAUSE OF ACTION**

15 **ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT CAL. CIV.**
16 **CODE §§ 1788-1788.32**

- 17 • An award of actual damages pursuant to California Civil Code § 1788.30(a);
- 18 • An award of statutory damages of \$1,000.00 pursuant to Cal. Civ. Code §
19 1788.30(b), for himself and each Class member;
- 20 • An award of costs of litigation and reasonable attorney’s fees, pursuant to Cal.
21 Civ. Code § 1788.30(c); and
- 22 • Any other relief this Court should deem just and proper.

23 ///

24 ///

25 ///

26 ///

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28

TRIAL BY JURY

Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Date: November 19, 2018

Hyde & Swigart, APC

By: /s/ Joshua B. Swigart
Joshua B. Swigart, Esq.
Attorney For Plaintiff

Additional Attorney

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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

ALPHONSO GREGORY, on behalf of himself and all other similarly situated class members

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

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

Joshua B. Swigart, Esq. Hyde & Swigart 619-233-7770 2221Camino Del Rio S., Ste. 101, San Diego, CA 92108

DEFENDANTS

SYSTEMATIC NATIONAL COLLECTIONS, INC., and DOES 1-20

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)

'18CV2657 DMS JLB

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, Airplane, Personal Injury, 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 U.S.C. §§ 1692 et seq. ("FDCPA")

Brief description of cause: Defendant violated the Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 11/20/2018 SIGNATURE OF ATTORNEY OF RECORD s/ Joshua B. Swigart

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Systematic National Collections Sent Letters Containing 'Full-Blown Misrepresentations'](#) [\[UPDATE: AMICABLY RESOLVED\]](#)
