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Our File No.: 115126

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

Abdul W. Haider, individually and on behalf of all those
similarly situated,

Plaintiff,

vs.

Phoenix Financial Services LLC,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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GARDEN CITY, NEW YORK 11530

Abdul W. Haider, individually and on behalf of all those similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Phoenix Financial Services 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.

PARTIES

5. Plaintiff Abdul W. Haider is an individual who is a citizen of the State of New York residing in Orange County, New York.

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

7. On information and belief, Defendant Phoenix Financial Services LLC, is an Indiana Limited Liability Company with a principal place of business in Marion County, Indiana.

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 3, 2018. (“**Exhibit 1.**”)

15. The Letter was the initial communication Plaintiff received from Defendant.

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

17. The Letter indicates Plaintiff’s debt was accruing interest.

18. The Letter indicates Plaintiff’s debt was accruing fees.

19. 23 N.Y.C.R.R. § 1.2(b) requires debt collectors to provide an itemized account of the debt, including: (i) the total amount of the debt due as of charge-off; (ii) the total amount of interest accrued since charge-off; (iii) the total amount of non-interest charges or fees accrued since charge-off; and (iv) the total amount of payments made on the debt since the charge-off.

20. The Letter fails to provide the required 23 N.Y.C.R.R. § 1.2(b) disclosures.

21. 15 U.S.C. § 1692g provides that within five days after the initial communication

with a consumer in connection with the collection of any debt, a debt collector shall, unless the information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing certain enumerated information.

22. 15 U.S.C. § 1692g(a)(1) requires the written notice provide “the amount of the debt.”

23. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must convey the amount of the debt clearly from the perspective of the least sophisticated consumer.

24. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must convey the amount of the debt accurately from the perspective of the least sophisticated consumer.

25. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must convey the amount of the debt without ambiguity from the perspective of the least sophisticated consumer.

26. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must state whether interest, late fees and/or other fees are accruing.

27. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must allow the least sophisticated consumer to determine the minimum amount he or she owes at the time of the notice.

28. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must 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.

29. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must contain an explanation, understandable by the least sophisticated consumer, of any fees or interest that may cause the balance to increase at any time in the future.

30. The failure to include the foregoing information renders an otherwise accurate statement of the “amount of the debt” violative of 15 U.S.C. § 1692g(a)(1).

31. 15 U.S.C. § 1692e prohibits a debt collector from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

32. Section 1692e requires debt collectors, when they notify consumers of their account balance, to disclose whether the balance may increase due to interest and fees.

33. The Letter fails to include any “safe harbor” language concerning the accrual of interest and/or fees. *Carlin v. Davidson Fink*, 852 F.3d 207, 216 (2d Cir. 2017); *Avila v. Riexinger & Associates, LLC*, 817 F.3d 72, 76 (2d Cir. 2016).

34. The Letter fails to indicate the minimum amount Plaintiff owed at the time of receipt of the Letter.

35. The Letter fails to provide information that would allow the least sophisticated consumer to determine the minimum amount he or she owes at the time of receipt of the Letter.

36. 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.

37. 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.

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

39. For instance, the Letter fails to indicate whether additional interest will be added.

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

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

42. The Letter fails to provide information that would allow the least sophisticated consumer to determine the amount of late fees owed.

43. For instance, the Letter fails to indicate the amount of late fees.

44. For instance, the Letter fails to indicate the date such fees will be added.

45. For instance, the Letter fails to indicate the amount of late fees during any measurable period.

46. 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.

47. The Letter fails to state whether interest, late fees and/or other fees are accruing.

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

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

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

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

52. 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.

53. The Letter fails to contain an explanation, understandable by the least

sophisticated consumer, of any interest that may cause the amount stated to increase.

54. 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.

55. 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.

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

57. 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.

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

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

60. 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.

61. Because of the aforementioned failures, the least sophisticated consumer would likely be confused as to the amount of the debt.

62. Because of the aforementioned failures, the least sophisticated consumer would likely be uncertain as to the amount of the debt.

63. The Letter, because of the aforementioned failures, violates 15 U.S.C. § 1692e and 15 U.S.C. § 1692g.

CLASS ALLEGATIONS

64. 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 that fails to provide a “safe harbor” concerning the accrual of interest and/or late fees, from one year before the date of this Complaint to the present.

65. This action seeks a finding that Defendant’s conduct violates the FDCPA, and

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asks that the Court award damages as authorized by 15 U.S.C. § 1692k.

66. Defendant regularly engages in debt collection.

67. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using a collection letter that fails to provide a “safe harbor” concerning the accrual of interest and/or late fees.

68. 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.

69. 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.

70. 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

71. 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: May 3, 2018

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ONPHXF01
 PO Box 1280
 Oaks PA 19456-1280
 ADDRESS SERVICE REQUESTED

January 3, 2018

Total of Accounts listed below: \$79,700.19
 Please reference this number on your check: [REDACTED] 3826
 Current Creditor: GREAT LAKES HIGHER EDUCATION



Abdul W Haider
 248 Tompkins Rd
 Montgomery NY 12549-1246

PHOENIX FINANCIAL SERVICES LLC
 PO Box 361450
 Indianapolis IN 46236-1450



Phoenix Financial Services LLC ♦ 8902 Otis Ave, Ste 103A ♦ Indianapolis, IN 46216-1077 ♦ 855-350-4676

PLEASE DETACH TOP PORTION AND RETURN WITH PAYMENT

Account Number	Principal Balance	Interest Balance	Fees Balance	Account Balance	Interest Rate	Creditor
[REDACTED] 3826	79467.68	232.51	0.00	79700.19	7.12%	GREAT LAKES HIGHER EDUCATION

Dear Abdul W Haider,

This letter is to notify you the Current Creditor has referred your account(s) listed above to Phoenix Financial Services LLC for collection of your defaulted student debt. The Current Creditor lists the entire balance as due and payable.

If you are unable to pay the full balance in one payment, please call the toll-free number below to discuss available options for repayment of your debt. Our representatives will work with you to help you determine the best resolution for your obligation.

The above demand is subject to your rights to validate the above-listed debt(s) as follows:

This notice is from a debt collector. This is an attempt to collect a debt and any information obtained will be used to collect the debt. Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office, in writing, within 30 days from receiving this notice that you dispute the validity of this debt, or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing 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.

Phone: 855-350-4676 Chad Edmonson ♦ Hours: 9AM-9PM EST Mon-Thur; 9AM-5PM EST Fri

Calls to or from this company may be monitored or recorded.

info@phoenixfinancialsvcs.com



630ONPHXF011401
 609603793

Notice: See reverse side for important information

Phoenix Financial Services LLC ♦ 8902 Otis Ave, Ste 103A ♦ Indianapolis, IN 46216-1077 ♦ 855-350-4676

Please be advised, if you are unable to pay in full the outstanding balance on your defaulted loan(s), you have the following additional options for resolving your loan default, subject to your rights to validate on the first page of this letter.

- 1) **Repayment Arrangements with the Collection Contractor**
You may contact us to arrange for acceptable repayment terms. Please ensure that you understand all of the agreed-upon terms, as you will be required to fulfill these commitments. If the agreed-upon repayment arrangement is not met and maintained, collection costs will be assessed on your account 60 days after the default claim purchase. A portion of each payment received from you will be allocated to pay collection costs once they are added to your account.
- 2) **Loan Rehabilitation**
Loan rehabilitation offers you the opportunity to resolve your loan default and may remove your guarantors' report of your loan default from your credit report. When you complete your rehabilitation commitment, your defaulted student loan(s) will be eligible for purchase by a lender, and the loan(s) will no longer be considered in default. If your guarantor is currently reporting the applicable loan(s) to the national consumer reporting agencies and you successfully rehabilitate those loan(s), then your guarantor will request the reporting agencies to delete all credit entries related to your loan(s) previous default. Your guarantor will also notify the default claim lender of your rehabilitation and notify the lender to delete its reporting of the default, as applicable. To participate in the loan rehabilitation program, you must advise Phoenix Financial Services LLC. that you wish to rehabilitate your defaulted loan(s) and establish acceptable repayment terms. You will be notified of all the loan rehabilitation requirements, which include making at least nine, on-time, qualifying payments during a 10-month period. Your guarantor will make every effort to secure a lender for you, but note that purchasing rehabilitated loan(s) is at the discretion of the lender.
- 3) **William D. Ford (Direct) Loan Consolidation**
You may consolidate all your FFELP loans, including any defaulted loan(s), into a new, single loan. Direct loan consolidation may simplify your loan repayment by requiring only one monthly payment, and may reduce your monthly loan payment amount by extending the repayment term. To be eligible for loan consolidation, you must advise Phoenix Financial Services LLC., that you wish to consolidate your loan(s). To consolidate your defaulted loans, you should establish repayment arrangements and may be required to make three, on-time, consecutive, monthly payments. Once you have made these payments and/or met other Direct Loan Program requirements, you may apply for a consolidation loan. Note that if you consolidate your loans, your guarantor will not remove the report of your loans' default from your credit report if those loan(s) are currently being reported; however, the credit entry will be updated to reflect a paid-in-full status for the original defaulted loan(s).

Subject to your rights to validate on the first page of this letter, failure to pay the account in full, agree to and maintain a satisfactory repayment arrangement, or utilize another recovery option listed above may result in additional collection efforts by the Current Creditor. These efforts may include:

- * Assessment of collection costs 60 days after the default claim purchase.
- * Contacting your employer to seize a portion of your paycheck through administrative wage garnishment.
- * Intercepting future federal and/or state income tax refunds or other federal payments due you.
- * Assigning your loan(s) to the U.S. Department of Education for collection.
- * Pursuing other lawful collection procedures.

You also have the right to submit a written request to:

1. Inspect and copy our records pertaining to your loan obligation.
2. Request a review regarding the legal enforceability or past-due status of your loan obligation. You may request a review if you can prove your loan was not past-due with your lender, the loan balance is incorrect, or you did not incur this debt. You cannot request a review for any one of the following reasons:
 - * You failed to pay your lender.
 - * You failed to complete your education and/or were dissatisfied with the school you attended.
 - * You were unable to find employment in the field for which the school prepared you.

To request a review, your request must be submitted in writing to: Navient, PO Box 9460, MC E2142, Wilkes-Barre, PA 18773-9460.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Phoenix Financial Services Named in New York Man's Debt Collection Suit](#)
