

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

Jeremy Hayes, individually,
and on behalf of a class of similarly situated
persons,

Plaintiffs,

v.

Financial Business and Consumer
Solutions, Inc. D/B/A FBCS, Inc.
330 S. Warminster Road, Suite 353
Hatboro, Pennsylvania 19040

SERVE:

Kentucky Secretary of State
700 Capital Ave., Ste. 152
Frankfort, Kentucky 40601

Defendant.

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Cause No. 3:19-cv-62-RGJ

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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The Plaintiff, Jeremy Hayes, by counsel, for his Complaint against Defendant, Financial Business and Consumer Solutions, Inc. d/b/a FBCS, Inc., states as follows:

INTRODUCTION

1. This is an action for actual and statutory damages brought by Plaintiff against the Defendant for violation of Chapter 41, the Consumer Credit Protection Credit Act, of Title 15 (Commerce and Trade) of the United States Code, specifically, 15 U.S.C. § 1692 *et seq.*, (known as the “Fair Debt Collection Practices Act,” hereafter the “*FDCPA*”), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices in the collection of consumer debt and in connection therewith.

JURISDICTION AND VENUE

2. Plaintiff a resident of Louisville, Jefferson County, Kentucky.

3. Plaintiff is a “*consumer*” as that term is defined in the FDCPA with respect to the matters referred to herein.

4. Defendant, Financial Business and Consumer Solutions, Inc. d/b/a FBCS, Inc. (“*FBCS*”) is a Pennsylvania corporation with a principal executive office at 330 S. Warminster Road, Suite 353, Hatboro Pennsylvania, 19040.

5. At all pertinent times herein, in this judicial district, Defendant, FBCS regularly used the mails to collect consumer debts owed or asserted to be owed or due another, and/or otherwise engaged in a business the primary purpose of which was the collection of consumer debt owed or due or asserted to be owed or due another.

6. Defendant, FBCS is a “*debt collector*” as said term is defined in the FDCPA and with respect to the matters cited herein.

FACTS

7. On or about January 23, 2018, Defendant, FBCS, sent a letter to Plaintiff via the mails wherein Defendant sought to collect an alleged debt in the amount of \$1,425.49, originally allegedly owed to Verizon Wireless.

8. The debt was time barred at the time the letter was mailed.

9. The Defendant made a false or misleading representation when it made a settlement offer on a time barred debt and stated that Plaintiff could make a “down – payment,” could have “an opportunity to split your settlement into 3 payments,” and offered a “50% discount off your \$1,425.49 outstanding balance” on a time barred debt without informing the

Plaintiff that acceptance of a settlement offer or agreement to pay would cause the Plaintiff to lose the protection of the statute of limitations.

10. In the January 23, 2018 letter, the Defendant made a false or misleading representation when they attempted to collect a time barred debt and included an improper and confusing time barred notice and placed the notice on the back of the letter so that the Plaintiff would be less likely to see said notice.

11. In the January 23, 2018 letter, the Defendant made a false or misleading statement when it included a deficient time-barred notice that stated “The law limits how long you can be sued on a debt. Because of the age of your debt, our client will not sue you for it.”

12. In the January 23, 2018 letter, the Defendant threatened to take action it could not lawfully take or that it did not intend to take and conveyed a false sense of urgency. To wit, in the letter, Defendant stated that, “FBCS, Inc. is not obligated to renew this offer.”

13. As a result of the Defendant’s conduct, as herein alleged, Plaintiff has been damaged, entitling him to pursue a private cause of action against Defendant for actual and statutory damages, plus attorney’s fees and costs.

COUNT I
VIOLATIONS OF 15 U.S.C. § 1692F

14. In connection with the collection of the subject debt, Defendant used unfair or unconscionable means to collect or attempt to collect the subject debt, by, *inter alia*, seeking to collect time-barred debts that were not authorized by agreement or permitted by law, in violation of 15 U.S.C. §§ 1692f and 1692f(1).

15. As a result of the violation, Plaintiff suffered actual damages, including confusion, inconvenience, emotional distress, embarrassment, humiliation, anxiety, and stress.

16. With respect to the additional damages that may be awarded pursuant to 15 U.S.C. § 1692k(a)(2)(A), Defendant's noncompliance with the FDCPA is intentional, frequent, widespread and affects a large number of persons perhaps numbering into the thousands, including but not limited to Plaintiff.

17. Defendant's conduct as herein alleged entitles Plaintiff to relief against the Defendant in the form of an award of actual damages, statutory damages, plus attorney's fees and costs.

COUNT II
VIOLATIONS OF 15 U.S.C. § 1692E

18. In connection with the collection of the subject debt, Defendant used false or misleading representations, in violation of 15 U.S.C. §1692e. To wit, in their letter, Defendant failed to adequately disclose that the debt was time-barred and conveyed a false sense of urgency.

19. As a result of the violation, Plaintiff suffered actual damages, including confusion, inconvenience, emotional distress, embarrassment, humiliation, anxiety, and stress.

20. With respect to the additional damages that may be awarded pursuant to 15 U.S.C. § 1692k(a)(2)(A), Defendant's noncompliance with the FDCPA is intentional, frequent, widespread and affects a large number of persons perhaps numbering into the thousands, including but not limited to Plaintiff.

21. Defendant's conduct as herein alleged entitles Plaintiff to relief against the Defendant in the form of an award of actual damages, statutory damages, plus attorney's fees and costs.

CLASS ALLEGATIONS

22. Plaintiff files this action as a class action on behalf of himself and all individuals who received a letter in the mails from FBCS seeking to collect a debt mailed during the period commencing one-year before the filing of this action to the filing of this action which included the following disclosure on the reverse side of the letter: “The law limits how long you can be sued on a debt. Because of the age of your debt, our client will not sue you for it.”

23. This action has been brought and may properly be maintained as a class action pursuant to Federal Rule of Civil Procedure 23 on behalf of Plaintiff and all others similarly situated with the Class defined as follows: All individuals who received a letter in the mails from FBCS seeking to collect a debt, mailed during the period commencing one-year before the filing of this action to the filing of this action which included the following disclosure on the reverse side of the letter: “The law limits how long you can be sued on a debt. Because of the age of your debt, our client will not sue you for it.”

24. Members of the Class are so numerous that their individual joinder is impracticable. The precise number of Class members is unknown to Plaintiff, but upon information and belief, the number of individuals within the Class may exceed 200. The true number of Class members is likely to be known to Defendant.

25. There is a well-defined community of interest among members of the Class. The claims of the representative Plaintiff are typical of the claims of the Class in that the representative Plaintiff and all Class members received from Defendant dunning letters that failed to comply with the requirements of the FDCPA. The factual basis of Defendant’s conduct is common to all Class members and resulted in injury to all Class members.

26. The questions of law and fact in this case are common to Plaintiff and Class members and include the following:

a. Did the Defendant make misleading statements in its letters to the Plaintiff and the Class Members?

b. Did the Defendant seek to collect amounts not authorized by agreement or permitted by law in its letters to Plaintiff and the Class Members?

c. Did the Defendant fail to comply with the requirements of the FDCPA?

27. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has retained counsel with experience in FDCPA claims and complex litigation. Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the Class they represent and have the financial resources to do so. Neither Plaintiff nor counsel has any interest adverse to those of the Class.

28. Plaintiff and members of the Class have suffered and will continue to suffer harm and damage as a result of Defendant's conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, the vast majority of the Class members would likely find the cost of litigating their claims prohibitive and would have no effective remedy at law. Class treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the courts and litigants and promote consistency and efficiency of adjudication.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, Jeremy Hayes and the putative Class, by counsel, request this Court to:

- a. Certify the Plaintiff's Class, appoint Plaintiff as Class Representative, and appoint undersigned counsel as counsel of record as Class counsel;
- b. Enter judgment against FBCS to compensate Plaintiff and the Class Members for their actual damages sustained as set forth in above Counts.
- c. Enter judgment against FBCS under the above Counts for statutory damages for the Plaintiff and for each member of the Class.
- d. Enter judgment against FBCS for punitive damages on the above Counts wherein an award of such damages is proper and appropriate.
- e. Conduct a trial by jury on all issues so triable.
- f. Enter an order temporarily and permanently enjoining FBCS from future similar violations of the FDCPA.
- g. Enter an order awarding attorneys' fees and costs herein incurred against and FBCS.
- h. Grant any and all other relief to which the Court deems appropriate.

Respectfully submitted,

TAYLOR COUCH PLLC

/s/ Nina B. Couch

Nina B. Couch

Zachary L. Taylor

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JS 44 (Rev. 06/17)

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

Jeremy Hayes, individually, and
on behalf of a class of similarly situated persons

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

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

Taylor Couch, PLLC, 130 Saint Matthews Avenue, Suite 301
Louisville, Kentucky 40207, 502-625-5000

DEFENDANTS

Financial Business and Consumer Solutions, Inc.
d/b/a FBSC, Inc.

County of Residence of First Listed Defendant Montgomery County, PA
(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 checked="" 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 checked="" 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)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<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	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<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))	<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 type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" 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 Constitutional of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<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	<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	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	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			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	

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.A 1692

Brief description of cause:
Federal Fair Debt Collection Practices Act

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

01/23/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Nina B. Couch ncouch@taylorcouchlaw.com

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Alleges FBCS Failed to Disclose Possible Renewal of Time-Barred Debt](#)
