

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

-----X Case No. 17-cv-06057

KEVIN HERNANDEZ, on behalf of himself
individually and all others similarly situated,

Plaintiff,

-against-

**CLASS ACTION
COMPLAINT**

MERCANTILE ADJUSTMENT BUREAU, LLC,

Defendant.

-----X

Plaintiff, by and through his attorneys, FAGENSON & PUGLISI, PLLC,
upon knowledge as to himself and his own acts, and as to all other matters upon
information and belief, brings this complaint against above-named defendant and in
support thereof alleges the following:

INTRODUCTION

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

2. This action is also brought pursuant to New York General
Business Law ("NYGBL") § 349 for an injunction and damages regarding defendant's
deceptive acts and practices.

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 15 U.S.C. § 1692k(d) (FDCPA) and 28 U.S.C. § 1331 and supplemental jurisdiction exists over the NYGBL § 349 claims pursuant to 28 U.S.C. § 1367.

4. This Court has venue pursuant to 28 U.S.C. § 1391(b) in that plaintiff resides in this District and a substantial portion of the events or omissions giving rise to this action occurred in this District.

PARTIES

5. Plaintiff is a natural person who resides in this District.

6. Plaintiff is a consumer within the meaning of 15 U.S.C. § 1692a(3) as he is a natural person who is alleged by defendant to owe a financial obligation.

7. The financial obligation which defendant sought to collect from plaintiff is a debt within the meaning of 15 U.S.C. § 1692a(5) in that the obligation which defendant sought to collect from plaintiff was originally incurred, if at all, for personal, family or household purposes and concerned an allegedly defaulted student loan.

8. Plaintiff is a reasonable consumer within the meaning of NYGBL § 349 who acted reasonably under the circumstances alleged herein.

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

10. The principal purpose of defendant's business is the collection of defaulted consumer debts.

11. Defendant uses the mails and the telephone in its business the principal purpose of which is the collection of defaulted consumer debts.

12. Defendant regularly collects or attempts to collect defaulted consumer debts owed or due or alleged to be owed or due to others.

13. Upon information and belief, defendant is a domestic limited liability company.

FACTUAL ALLEGATIONS

14. Plaintiff re-alleges paragraphs 1-13 as if fully re-stated herein.

15. Plaintiff is alleged to owe a student loan debt incurred for personal purposes to Suffolk County Community College.

16. At some subsequent point in time the debt is alleged to have fallen into default.

17. By letter dated December 6, 2016, defendant wrote to plaintiff in an attempt to collect said defaulted student loan debt.

18. In the caption of the letter, defendant stated that the debt balance was \$2,977.20.

19. The amount of \$2,977.20 is also stated by defendant to be the amount owed elsewhere in the letter.

20. Defendant's collection costs were included in the balance of the debt stated in defendant's said collection letter to plaintiff.

21. Defendant did not disclose that its collection costs were included in the balance of the debt stated in its collection letter dated December 6, 2016.

22. Plaintiff did not know that the balance of \$2,977.20 stated in defendant's said letter included collection costs.

23. Further, defendant did not disclose in its collection letter to plaintiff dated December 6, 2016 the amount of the debt balance which was attributable to its collection costs.

24. At the time defendant sent the letter to plaintiff, defendant claimed collection costs in excess of \$400 concerning plaintiff's account.

25. At the time defendant sent the letter to plaintiff, an amount in excess of \$400 had been added to plaintiff's debt balance for collection costs.

26. Plaintiff later discovered that, in December 2016, defendant claimed collection costs in excess of \$400 concerning his account.

27. Undisclosed to plaintiff by defendant in its letter to plaintiff dated December 6, 2016, defendant had added its collection costs to the balance of his debt.

28. Undisclosed to plaintiff by defendant in its letter to plaintiff dated December 6, 2016, defendant's collection costs had been added to the balance of his debt.

29. Undisclosed to plaintiff by defendant in its letter to plaintiff dated December 6, 2016, was the amount of the collection costs which had been added to the balance of his debt.

30. Plaintiff felt confusion, annoyance and surprise upon learning that defendant had failed to disclose that collection costs had been included in the amount defendant demanded that he pay in its letter to him dated December 6, 2016, and that defendant had also failed to disclose therein the amount of the collection costs.

AS AND FOR A FIRST CAUSE OF ACTION

FDCPA, §§ 1692e(2)(A), 1692e(10) and 1692f

31. Plaintiff re-alleges paragraphs 1-30 as if fully re-stated herein.

32. In its collection letter dated December 6, 2016 defendant demanded payment of the amount of \$2,977.20.

33. The amount of \$2,977.20 included defendant's collection costs.

34. The amount of \$2,977.20 included collection costs.

35. Defendant did not disclose to plaintiff in the said collection letter that the amount of \$2,977.20 included defendant's collection costs.

36. Defendant did not disclose to plaintiff in the said collection letter that the amount of \$2,977.20 included collection costs.

37. Defendant's addition of collection costs into the debt balance stated in said letter without disclosing to plaintiff that the balance included collection costs and, further, without disclosing the amount of such collection costs, is a violation of the FDCPA, §§ 1692e(2)(A) and 1692e(10), as a false representation of the amount of the debt and a false representation and deceptive means used by defendant in its attempt to collect the debt.

38. Defendant's addition of collection costs into the debt balance stated in said letter without disclosing to plaintiff that the balance included collection costs and, further, without disclosing the amount of such collection costs, is also a violation of the FDCPA, § 1692f as an unfair and unconscionable means used by defendant to attempt to collect the debt.

39. Defendant's failure to disclose in said letter that collection costs were included in the debt balance and the amount of said collection costs constitutes a violation of the FDCPA, §§ 1692e(2)(A) and 1692e(10), as a false representation of the amount of the debt and a false representation and deceptive means used by defendant in its attempt to collect the debt, and further constitutes a violation of the FDCPA, § 1692f as an unfair and unconscionable means used by defendant to attempt to collect the debt.

AS AND FOR A SECOND CAUSE OF ACTION

NYGBL § 349

40. Plaintiff re-alleges paragraphs 1-39 as if fully re-stated herein.

41. Each of the deceptive and misleading acts and practices above-mentioned was committed by defendant in the conduct of a business, trade or commerce or the furnishing of a service within the State of New York and constitutes a violation of NYGBL § 349.

42. Defendant's deceptive and misleading acts and practices were consumer-oriented, in that defendant is a collector of consumer debts incurred principally or wholly by natural persons.

43. Defendant contacts thousands of consumers within the State of New York each year by mail.

44. Defendant's collection letter dated December 6, 2016 is typical of the letters defendant mailed to consumers within the State of New York concerning defaulted Suffolk County Community College student loan accounts, at all times relevant herein.

45. Defendant's letter is derived from a letter form used by defendant.

46. Defendant's letter is derived from a letter template used by defendant.

47. At all times relevant herein, defendant had a pattern of mailing collection letters to hundreds of consumers within the State of New York each year which improperly included an undisclosed collection fee for defaulted Suffolk County Community College student loan accounts.

48. Plaintiff is a reasonable consumer within the meaning of the NYGBL.

49. Plaintiff felt confusion, annoyance and surprise upon learning that defendant had failed to disclose that collection costs had been included in the amount defendant demanded that he pay in its letter to him dated December 6, 2016, and that defendant had also failed to disclose therein the amount of the collection costs.

50. Defendant violated NYGBL § 349(a) and is liable to plaintiff under NYGBL § 349(h).

CLASS ALLEGATIONS

51. Plaintiff re-alleges paragraphs 1-50 as if fully re-stated herein.

52. This action is brought on behalf of plaintiff and the members of a class. The class consists of all persons who defendant's records reflect were sent debt collection letters within the State of New York within the period of time commencing one year before the filing of this complaint up to and including the date of the filing of the complaint and who were sent a collection letter (a) in substantially the same form as the letter dated December 6, 2016 which defendant sent to plaintiff, attached as Exhibit 1; (b) the collection letter was sent to a consumer seeking payment of a Suffolk County Community College student loan debt; (c) the collection letter was not returned by the postal service as undeliverable; and (d) the letter contained violations of 15 U.S.C. §§ 1692e(2)(A), 1692e(10) and 1692f. The class does not include defendant or persons who are officers, directors, employees or representatives of defendant.

53. The class shall be defined as follows:

All natural persons with addresses within the State of New York to whom defendant sent a collection letter concerning a consumer debt owed to Suffolk County Community College, which collection letter contains a demand for payment of an amount which includes collection costs but which letter does not disclose that collection costs are included in the amount demanded, from one year before the filing of this complaint to the date of the filing of this complaint inclusive, and which letter was not returned by the postal service as undeliverable.

54. Pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and preferable in this case because:

- (A) Based on the fact that the collection letter that is the gravamen of this litigation is a mass-mailed form letter, the class is so numerous that joinder of all members is impracticable. Upon information and belief, thousands of persons have received similar debt collection letters from defendant which violate the various provisions of the FDCPA.
- (B) There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members. The principal question presented by this claim is whether defendant violated the FDCPA by failing to disclose in its collection letters that collection costs had been added to the balance of the debt, in violation of the FDCPA, §§ 1692e(2)(A), 1692e(10) and 1692f.
- (C) The only individual issue is the identification of the consumers who received the letters (the class members), a matter capable of ministerial determination from the records of defendant.
- (D) The claims of plaintiff are typical of those of the class members. All are based on the same facts and legal theories.
- (E) Plaintiff will fairly and adequately represent the class members' interests. Plaintiff has retained experienced counsel. Plaintiff's interests are consistent with those of the members of the class.

55. A class action is superior for the fair and efficient adjudication of the class members' claims. Congress specifically envisions class actions as a principal means of enforcing the FDCPA in 15 U.S.C. § 1692k. The members of the class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the class would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy.

56. If the facts are discovered to be appropriate, plaintiff will seek to certify a class action pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

57. Communications from debt collectors, such as those sent by defendant, are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer".

58. As a result of the above violations, defendant is liable to plaintiff and the members of the class for an injunction and damages in an amount to be determined at the time of trial, plus costs and attorneys' fees.

WHEREFORE, plaintiff respectfully prays that judgment be entered against defendant as follows:

- (a) certifying a class action pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure;
- (b) awarding maximum statutory damages to the class pursuant to 15 U.S.C. § 1692k;
- (c) awarding maximum statutory damages to plaintiff pursuant to 15 U.S.C. § 1692k;

- (d) awarding actual damages to the class pursuant to 15 U.S.C. § 1692k in an amount to be determined at the time of trial;
- (e) awarding actual damages to plaintiff pursuant to 15 U.S.C. § 1692k in an amount to be determined at the time of trial;
- (f) awarding reasonable attorneys' fees, costs and disbursements pursuant to 15 U.S.C. § 1692k;
- (g) enjoining defendant from committing further deceptive acts and practices pursuant to NYGBL § 349;
- (h) awarding statutory damages pursuant to NYGBL § 349 in an amount to be determined at the time of trial;
- (i) in the alternative, awarding actual damages pursuant to NYGBL § 349 in an amount to be determined at the time of trial;
- (j) awarding reasonable attorneys' fees, costs and disbursements pursuant to NYGBL § 349; and
- (k) for such other and further relief as may be just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff requests trial by jury on all issues so triable.

Dated: New York, New York
October 17, 2017.

/s/ Novlette R. Kidd

NOVLETTE R. KIDD, ESQ. (NK 9339)

FAGENSON & PUGLISI, PLLC

Attorneys for Plaintiff

450 Seventh Avenue, Suite 704

New York, New York 10123

Telephone: (212) 268-2128

Nkidd@fagensonpuglisi.com

EXHIBIT 1



MERCANTILE
Innovative Solutions, Exceptional Results

Mercantile Adjustment Bureau, LLC
PO Box 9016
Williamsville, NY 14231

'NYSIFGI'
Office Hours: (Eastern Time):
8:00AM - 9:00PM Monday-Thursday
8:00AM - 5:00PM Friday
1 866 851 0083

12-06-16

KEVIN J. HERNANDEZ

HOLTSVILLE NY 11742

ACCOUNT NO: SU0112
REFERENCE NO:
CURRENT CREDITOR: SUFFOLK COUNTY COMM COLLEGE
BALANCE: \$2977.20

KEVIN J. HERNANDEZ,

Please be advised our client has authorized us to offer you substantial savings to resolve this account. We are authorized to resolve this account for a reduced amount of \$2755.00 which must be received on or before 12/19/16.

Failure to comply with these proposed conditions will make this offer null and void. We are not obligated to renew this offer. Upon clearance of your payment(s), the account will be resolved in full.

Please send payments or correspondence to: Mercantile Adjustment Bureau, LLC
PO Box 9016
Williamsville, NY 14231-9016

Calls to or from this company may be monitored or recorded for quality assurance purposes.

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,
Mercantile Adjustment Bureau, LLC
William Schmitt
Telephone Number: 1 866 851 0083

See Page 2 for additional information



MERCANTILE
Innovative Solutions, Exceptional Results

Mercantile Adjustment Bureau, LLC
165 Lawrence Bell Dr., Suite 100
Williamsville, NY 14221

Office Hours (Eastern Time)
8:00AM - 9:00PM Monday-Thursday
8:00AM - 5:00PM Friday
'NYSIFOI'
Page 2

12-06-16

KEVIN J. HERNANDEZ

HOLTSVILLE NY 11742

ACCOUNT NO: [REDACTED] SU0112
REFERENCE NO: [REDACTED]
CURRENT CREDITOR: SUFFOLK COUNTY COMM COLLEGE
BALANCE: \$2977.20

The account balance may periodically increase due to the addition of accrued interest as provided in your agreement with the original creditor or as otherwise provided by law.

If a creditor or debt collector receives a money judgment against you in court, state and federal laws may prevent the following types of income from being taken to pay the debt:

1. Supplemental security income, (SSI);
2. Social Security;
3. Public assistance (welfare);
4. Spousal support, maintenance (alimony) or child support;
5. Unemployment benefits;
6. Disability benefits;
7. Workers' compensation benefits;
8. Public or private pensions;
9. Veterans' benefits;
10. Federal student loans, federal student grants, and federal work study funds; and
11. Ninety percent of your wages or salary earned in the last sixty days.

New York City Department of Consumer Affairs License Number(s) 1310227 & 1310229

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
 KEVIN HERNANDEZ, on behalf of himself individually and all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
 FAGENSON & PUGLISI, PLLC, 450 Seventh Avenue, Suite 704, New York, New York 10123. (212) 268-2128.

DEFENDANTS
 MERCANTILE ADJUSTMENT BUREAU, LLC

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)

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 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 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)

Click here for: [Nature of Suit Code Descriptions.](#)

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	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<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 checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input 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	LABOR	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"/> 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	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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. section 1692 et seq.

Brief description of cause:
Violations of Fair Debt Collection Practices Act, deception

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: 10/17/2017 SIGNATURE OF ATTORNEY OF RECORD: /s/ Novlette R. Kidd

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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Save As...

Reset

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, Novlette R. Kidd, 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:

N/A - Plaintiff is a natural person.

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/ Novlette R. Kidd

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

KEVIN HERNANDEZ, on behalf of himself
individually and all others similarly situated,

Plaintiff(s)

v.

MERCANTILE ADJUSTMENT BUREAU, LLC,

Defendant(s)

Civil Action No. 17-cv-06057

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) MERCANTILE ADJUSTMENT BUREAU, LLC
165 Lawrence Bell Drive, Suite 100
Williamsville, New York 14221

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: FAGENSON & PUGLISI, PLLC
450 Seventh Avenue, Suite 704
New York, New York 10123

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.

DOUGLAS C. PALMER
CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 17-cv-06057

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: [Lawsuit Claims Mercantile Adjustment Bureau Did Not Disclose 'Collection Costs'](#)
