

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NICOLA LIANTONIO
on behalf of himself and
all other similarly situated consumers

Plaintiff,

-against-

STERN & STERN, P.C.

Defendant.

CLASS ACTION COMPLAINT

Introduction

1. Plaintiff Nicola Liantonio seeks redress for the illegal practices of Stern & Stern, P.C., concerning the collection of debts, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA").

Parties

2. Plaintiff is a citizen of the State of New York who resides within this District.
3. Plaintiff is a consumer as that term is defined by Section 1692(a)(3) of the FDCPA, in that the alleged debt that Defendant sought to collect from Plaintiff a consumer debt.
4. Upon information and belief, Defendant's principal place of business located in Bellmore, New York.
5. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

6. Defendant is a “debt collector” as that term is defined by the FDCPA, 15 U.S.C. § 1692(a)(6).

Jurisdiction and Venue

7. This Court has federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.
8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as the acts and transactions that give rise to this action occurred, in substantial part, in this district.

Allegations Particular to Nicola Liantonio

9. Upon information and belief, on a date better known by Defendant, Defendant began to attempt to collect an alleged consumer debt from the Plaintiff.
10. On or about December 1, 2017, Defendant sent the Plaintiff an initial collection letter.
11. The said letter states in part: “Please note that the balances stated above may increase over time due to interest, costs or fees.”
12. Upon information and belief, the defendant does not add interest, costs or fees.
13. Upon information and belief, there has been no action taken to warrant the further imposition of interest, costs or fees.
14. Upon information and belief, the underlying contract between the plaintiff and creditor does not allow for interest, costs or fees.
15. Due to the representations made in the letter above interest and costs the letter can be reasonably read to have two or more different meanings, one of which is false.
16. The letter does not provide disclosures to determine what is the amount of the debt.
17. If additional amounts are imposed, it would not be interest, or costs or fees.
18. Defendant’s December 1, 2017 letter violated 15 U.S.C. §§ 1692e, 1692e(5), 1692e(10),

and 1692(g) for engaging in deceptive and misleading threats and unfair practices and for not accurately setting forth the amount of the debt owed.

19. The defendant sent the plaintiff a letter dated November 5, 2018 concerning a different debt for the same creditor.
20. The letter does not qualify that the account was not reviewed by an attorney.
21. Said letter would cause the consumer to believe he or she is receiving a letter from an attorney in the meaningful sense of the word.
22. The defendant left various messages for the plaintiff.
23. The messages do not qualify that the account was not reviewed by an attorney.
24. The messages do not qualify that the person leaving the message is a non-attorney debt collector.
25. Defendant's November 5, 2018 letter violated 15 U.S.C. §§ 1692e and 1692e(10) for engaging in deceptive and unfair practices.

AS AND FOR A FIRST CAUSE OF ACTION

Violations of the Fair Debt Collection Practices Act brought by Plaintiff on behalf of himself and the members of a class, as against the Defendant.

26. Plaintiff re-states, re-alleges, and incorporates herein by reference, paragraphs one (1) through twenty-five (25) as if set forth fully in this cause of action.
27. This cause of action is brought on behalf of Plaintiff and the members of a class and two subclasses.
28. The class consists of all persons whom Defendant's records reflect resided in the State of New York and who were sent a collection letter; (a) bearing the Defendant's letterhead in substantially the same form as the letter sent to the Plaintiff on or about December 1, 2017; (b) the collection letter was sent to a consumer seeking payment of a personal debt

purportedly owed to Tax Correction Agency, Inc.; and (c) the collection letter was not returned by the postal service as undelivered; and (d) Plaintiff claims that Defendant's letter violated 15 U.S.C. §§ 1692e, 1692e(5), 1692e(10) and 1692g.

29. Subclass A consists of all persons whom Defendant's records reflect resided in the State of New York and who were sent a collection letter; (a) bearing the Defendant's letterhead in substantially the same form as the letter sent to the Plaintiff on or about November 5, 2018; (b) the collection letter was sent to a consumer seeking payment of a personal debt purportedly owed to Tax Correction Agency, Inc.; and (c) the collection letter was not returned by the postal service as undelivered; and (d) the Defendant's November 5, 2018 letter violated 15 U.S.C. §§ 1692e and 1692e(10).

30. Subclass B is for those consumers who received telephone messages in violation of 1692e and 1692e(10).

31. 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 form collection letters are at the heart of this litigation, the class is so numerous that joinder of all members is impracticable.

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 the Defendant violated the FDCPA.

C. The only individual issue is the identification of the consumers who received such collection letters, (*i.e.* the class members), a matter capable of ministerial determination from the records of the Defendant.

D. The claims of the Plaintiff are typical of those of the class members. All are based on the same facts and legal theories.

E. The Plaintiff will fairly and adequately represent the class members' interests. The Plaintiff has retained counsel experienced in bringing class actions and collection-abuse claims. The Plaintiff's interests are consistent with those of the members of the class.

32. 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. 15 U.S.C. § 1692(k). 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 classes 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.
33. If the facts are discovered to be appropriate, the Plaintiff will seek to certify a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.
34. Collection attempts, such as those made by the Defendant are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer."

Violations of the Fair Debt Collection Practices Act

35. The Defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.
36. Because the Defendant violated the Fair Debt Collection Practices Act, the Plaintiff and the members of the class are entitled to damages in accordance with the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiff, respectfully requests injunctive relief, and that this Court enter judgment in his favor and against the Defendant and award damages as follows:

- (a) Statutory damages provided under the FDCPA, 15 U.S.C. § 1692(k);
- (b) Attorney fees, litigation expenses and costs incurred in bringing this action; and
- (c) Any other relief that this Court deems appropriate and just under the circumstances.

Dated: Woodmere, New York
December 3, 2018



Adam J. Fishbein, P.C. (AF-9508)

Attorney At Law

Attorney for the Plaintiff

735 Central Avenue

Woodmere, New York 11598

Telephone (516) 668-6945

fishbeinadamj@gmail.com

Plaintiff requests trial by jury on all issues so triable.



Adam J. Fishbein (AF-9508)

**LAW OFFICES OF
STERN & STERN, P.C.
3002 MERRICK ROAD
BELLMORE, NEW YORK 11710**

PHONE (516) 771-0710
This office does not accept service by fax
FACSIMILE (516) 771-0723

NYC CONSUMER AFFAIRS LICENSE
#2046319-DCA

KENNETH D. STERN*
ELAINE S. TAMSEN

OF COUNSEL
ERIC J. STERN
PETER TAMSEN

*members of the New York and New Jersey Bar

December 1, 2017

Nicola Liantonio

[REDACTED]
Es [REDACTED] 60

ORIGINAL CREDITOR: TAX CORRECTION AGENCY INC.
ACCOUNT #: 71200220
BALANCE AT CHARGE OFF: \$429.00**
INTEREST DUE SINCE CHARGE OFF: -0-
NON INTEREST CHARGES SINCE CHARGE OFF: -0-
TOTAL PAYMENTS SINCE CHARGE OFF: -0-
S&S FILE #: CC120013

Dear Nicola Liantonio:

This office has been retained by Tax Correction Agency, Inc., and this is a formal demand for payment in the amount specified above. At your request our client filed a grievance that successfully reduced the assessed value of your property. I have found that many times there is simply a communication failure. In this light I am attaching the relevant backup for your review. The documents attached are:

- 1). A copy of the agreement that contains your signature.
- 2). A copy of the determination of the County Assessment Review Commission indicating that my client was successful in providing you the service requested.
- 3). A copy of the invoice sent to you breaking down your first year tax savings, the fee that is due my client as well as an explanation as to how the amount was calculated.

I have been working on property tax reduction matters for over fifteen years and I have found the three questions most homeowners have are as follows:

1). Why didn't I get a check?

A). Because the county has processed the reduction in assessed property value prior to you paying your taxes. If you look at the bill for the years in question you will see that the calculation is based upon the new reduced value obtained by my client. Because your taxes were based upon the reduced assessment obtained by my client, there was no overpayment made to the county and therefore no refund. The fact that you paid at the lower rate obtained by my client means that you saved money, the services requested were rendered as agreed; and the fee that is indicated above is properly due.

2). I sold my home so why should I pay?

A). Your decision to sell your home is independent of the contract which you executed with my client. In Nassau County, March 1st is the strict deadline each year to submit the grievance. Based upon the schedule set by the County, the savings generated is well over a year after you executed the contract. My client had nothing to do with your decision to sell your property during this period. They promptly submitted the grievance and successfully obtained the reduction as per the contract. Since my client rendered the services you requested, this office respectfully requests that you submit payment for the work completed.

3) My taxes went up so why should I pay?

A). The simple answer is because you would have paid more without my client's work. My client has no control over school taxes and general levy taxes which go up virtually every year and may increase so much that taxes

increase despite my client's success in reducing the assessed value of your property. Your taxes are based upon the following formula:

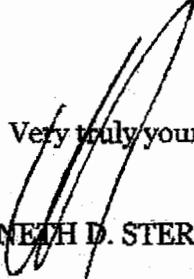
$$\text{School Rate} + \text{General Levy Rate} \times (\text{Assessment} / 100) = \text{Property Tax}$$

By reducing the assessment you save money because the combined school rate and general rate **is multiplied by a smaller amount**. It is that simple.

Should you wish to verify that the above is accurate, you can confirm all information by contacting the Nassau County Assessment Board at 516-571-1500.

I wish to personally thank you for your time and I sincerely hope you contact us or simply make the payment requested. If you would like to discuss this matter please feel free to contact our office.

Very truly yours,


KENNETH D. STERN, ESQ.

*All statements above are specifically superceded by the following legally required verification notices.

**Please note that the balances stated above may increase over time due to interest, costs or fees.

***As of this date there has been no attorney review of the account.

UNLESS YOU NOTIFY THIS OFFICE WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL ASSUME THAT THE DEBT IS VALID. IF YOU NOTIFY THIS OFFICE IN WRITING WITHIN 30 DAYS FROM RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL: OBTAIN VERIFICATION OF THE DEBT OR OBTAIN A COPY OF THE JUDGMENT AND MAIL YOU A COPY OF SUCH JUDGMENT OR VERIFICATION. IF YOU NOTIFY THIS OFFICE IN WRITING WITHIN 30 DAYS FROM RECEIVING THIS NOTICE, THIS OFFICE WILL PROVIDE YOU WITH NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR. THIS IS AN ATTEMPT TO COLLECT A DEBT BY A DEBT COLLECTOR AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

**LAW OFFICES OF
STERN & STERN, P.C.
3002 MERRICK ROAD
BELLMORE, NEW YORK 11710**

PHONE (516) 771-0710
this office does not accept service by fax
FACSIMILE (516) 771-0723

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NYC CONSUMER AFFAIRS LICENSE
#2046319-DCA

OF COUNSEL

ERIC J. STERN*
PETER TAMSEN

*members of the New York and New Jersey Bar

November 5, 2018

Nicola Liantonio

[REDACTED]

ORIGINAL CREDITOR: Tax Correction Agency, Inc.
BALANCE: \$462.00
ACCOUNT #: 71308579
S&S FILE #: CC130872

Dear Nicola Liantonio:

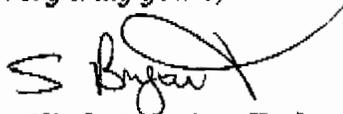
This office has already sent you one letter notifying you of your outstanding obligation and attempting to clearly explain why the amount is due. All documentation verifying the obligation was included so that you could review the matter for yourself. It is my client's position that the amount stated above was properly earned as per the agreement and that it should be paid. Once again our office requests payment in the amount stated above. Payment of this amount will be full satisfaction of this obligation and there is no additional interest, costs or fees due.

If there is a money issue I wish to make clear that this office is aware of the state of the economy and an interest free payment plan is available as a courtesy.

If you still have doubts that the amount requested is due your can obtain independent verification of the services rendered by contacting the Nassau County Assessment Board at 516-571-2090.

If you have already made arrangements with this office, thank you and please disregard this letter. If you have not addressed this situation I respectfully request that you do so.

Very truly yours,



Olinda Palacios, Clerk
Sylvester Bryant, Clerk
Stern & Stern, P.C.

All statements above are specifically superceded by the following legally required verification notice.

LEGAL NOTICE: THIS IS AN ATTEMPT TO COLLECT UPON A DEBT BY A DEBT COLLECTOR AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

Civil Action No. _____

PROOF OF SERVICE

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

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

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

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

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

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

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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

NICOLA LIANTONIO

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

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

DEFENDANTS

STERN & STERN, P.C.

County of Residence of First Listed Defendant NASSAU (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

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

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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) Nature of Suit Code Descriptions

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal codes and descriptions.

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):

Brief description of cause: deception and failure to properly set forth the debt

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 SIGNATURE OF ATTORNEY OF RECORD

12/03/2018

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

None

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, _____, counsel for _____, 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:

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? Yes 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 No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: Nassau

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? Yes No
(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: _____

Print

Save As...

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Says Stern & Stern Misled Consumer Regarding Debt Amount, Possible Attorney Involvement](#)
