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Our File No.: 111667

8:17 cv 1145T 33 AEP

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

Joe Lopez, individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

Credit Control, LLC,

Defendant.

Docket No:

COMPLAINT-CLASS ACTION

JURY TRIAL DEMANDED

2017 MAY 15 PM 12:42
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

FILED

BARSHAY | SANDERS PLLC
100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NEW YORK 11530

Joe Lopez, individually and on behalf of all others similarly situated, (hereinafter referred to as "*Plaintiff*"), by and through the undersigned counsel, complains, states and alleges against Credit Control, 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. This Court has personal jurisdiction over Defendant because Defendant maintains its principal place of business in Florida.

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\$400

4. 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.

PARTIES

5. Plaintiff Joe Lopez is an individual who is a citizen of the State of New Mexico, in the County of Union.

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

7. On information and belief, Defendant Credit Control, LLC, is a Florida Limited Liability Company with a principal place of business in Hillsborough County, Florida.

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”) to Citibank, N.A.

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 via email (“the letter”) dated July 14, 2016. (“**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. 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.

18. The written notice must contain the amount of the debt.

19. The written notice must contain the name of the creditor to whom the debt is owed.

20. The written notice must contain a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector.

21. The written notice must contain a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector.

22. The written notice must contain a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

23. A debt collector has the obligation, not just to convey the required information, but also to convey such clearly.

24. Even if a debt collector conveys the required information accurately, the debt collector nonetheless violates the FDCPA if that information is overshadowed or contradicted by other language in the communication.

25. Even if a debt collector conveys the required information accurately, the debt collector nonetheless violates the FDCPA if that information is overshadowed by other collection activities during the 30-day validation period following the communication.

26. 15 U.S.C. § 1692g(b) provides, in relevant part, "If the consumer notifies the debt collector in writing within the thirty-day period . . . that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains . . . the name and address of the original creditor, and [the] name and address of the original creditor, is mailed to the consumer by the debt collector."

27. 15 U.S.C. § 1692g(b) provides, in relevant part, "Collection activities and communications that do not otherwise violate this subchapter may continue during the 30-day period referred to in subsection (a) unless the consumer . . . requests the name and address of the original creditor."

28. 15 U.S.C. § 1692g(b) provides, in relevant part, "Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the

disclosure of the consumer's right to . . . request the name and address of the original creditor.”

29. A collection activity or communication overshadows or contradicts the validation notice if it would make the “least sophisticated consumer” uncertain or confused as to her rights.

30. The letter was received by Plaintiff on or about July 14, 2016.

31. Plaintiff's validation period under 15 U.S.C. § 1692g ran until August 13, 2016.

32. The letter offered Plaintiff a settlement that had to be accepted “no later than **JULY 22, 2016.**” (Emphasis in original).

33. The settlement had to be accepted during Plaintiff's validation period.

34. The letter fails to explain that the settlement offer does not override the Plaintiff's right to dispute the debt.

35. The letter fails to explain that the settlement offer does not override the Plaintiff's right to demand validation of the debt.

36. The letter fails to contain any transitional language explaining the settlement does not override the Plaintiff's right to dispute the debt.

37. The letter fails to contain any transitional language explaining the settlement does not override the Plaintiff's right to demand validation of the debt.

38. The settlement offer is written in font larger and darker than Plaintiff's validation rights.

39. The settlement offer is written in such a way as to draw attention to it, and away from the other language in the letter.

40. The settlement offer is written in such a way as to draw attention to it, and away from Plaintiff's validation rights.

41. While the letter contains the validation language required by 15 U.S.C. § 1692g, such is written in a font so small that it is difficult to read, and easy to overlook.

42. While the letter contains the validation language required by 15 U.S.C. § 1692g, such is written in a font so small that it encourages the least sophisticated consumer to believe that the language is unimportant.

43. While the letter contains the validation language required by 15 U.S.C. § 1692g, such is written in a font so small that it discourages the least sophisticated consumer from reading it.

44. Defendant's demand for payment would likely make the least sophisticated

consumer uncertain as to her rights.

45. The format of the letter would likely make the least sophisticated consumer overlook her validation rights.

46. The format of the letter would likely make the least sophisticated consumer forego her validation rights.

47. The format of the letter would likely make the least sophisticated consumer uncertain as to her rights.

48. The format of the letter would likely make the least sophisticated consumer confused as to her rights.

49. The format of the letter made Plaintiff uncertain as to his rights.

50. The format of the letter made Plaintiff confused as to his rights.

51. Defendant failed to clearly set forth the language required by 15 U.S.C. § 1692g.

52. Defendant overshadowed Plaintiff's validation rights in violation of 15 U.S.C. § 1692g(b).

CLASS ALLEGATIONS

53. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the United States from whom Defendant attempted to collect a consumer debt using a letter similar in format and content as the letter sent to Plaintiff, from one year before the date of this Complaint to the present.

54. This action seeks a finding that Defendant's conduct violates the FDCPA, and asks that the Court award damages as authorized by § 1692k(a)(2) of the FDCPA.

55. Defendant regularly engages in debt collection, using the same unlawful conduct described herein, in its attempts to collect delinquent consumer debts from other persons.

56. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using the same unlawful conduct described herein.

57. 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.

58. 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.

59. 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 the FDCPA.

JURY DEMAND

60. Plaintiff hereby demands a trial of this action by jury.

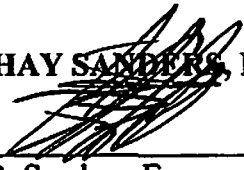
PRAYER FOR RELIEF

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 his 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: April 5, 2017

BARSHAY SANDERS, PLLC

By: 
Craig B. Sanders, Esq.
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Attorneys for Plaintiff
Our File No.: 111667

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100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NEW YORK 11530

EXHIBIT 1

Aug. 6. 2016 10:49AM

No. 0717 P. 3

CREDITCONTROLSM

Date: JULY 14, 2016

Name: JOE I LOPEZ

Re: SEARS GOLD MASTERCARD

Account: [REDACTED] 6004 / ACCOUNT NUMBER ENDING WITH - 3901

Balance: \$1,609.02

Settlement Offer: \$843.61

1 Payment of \$5.00 Dated 7/22/2016
2 Payments of \$214.64 Dated 8/08/2016, 9/06/2016
1 Payment of \$209.63 Dated 10/03/2016

This is to advise that Credit Control, LLC, an authorized agent for CITIBANK, N.A. has agreed to accept the settlement amount noted above providing we are in receipt of the postdated payments no later than JULY 22, 2016.

Please call our office to pay by check or debit card which is free of charge. Checks are made payable to CITIBANK, N.A. If your payment is returned for any reason this offer is null and void.

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 after receiving this notice, 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 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.

If you have any questions regarding this matter, please do not hesitate to contact this office at 1-888-401-9026. PO BOX 31179 TAMPA FL 33631. This information is from a debt collector.

CITIBANK, N.A. will report any discharge of indebtedness as required by the Internal Revenue Code and corresponding IRS regulations. Please contact your tax advisor if you have any questions.

THIS IS AN ATTEMPT TO COLLECT A DEBT BY A DEBT COLLECTOR; ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

We are not obligated to renew this offer.

You may opt out/unsubscribe to receive future email communication by replying to this email with the word unsubscribe.

Your check should be made payable to CITIBANK, N.A. The mailing address is:
PO BOX 31179 Tampa, FL 33631

Regards,
Hays Roden
Manager

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

JOE LOPEZ

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

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

BARSHAY SANDERS, PLLC
100 Garden City Plaza, Ste 500, Garden City, NY 11530
(516) 203-7600

DEFENDANTS

CREDIT CONTROL, LLC

County of Residence of First Listed Defendant HILLSBOROUGH

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

2017 MAY 15 PM 12:42
 CLERK OF COURT
 HILLSBOROUGH COUNTY
 JUDICIAL CENTER
 1000 W. PALM BEACH BLVD.
 WEST PALM BEACH, FL 33411

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

- 01 U.S. Government Plaintiff
- 02 U.S. Government Defendant
- 03 Federal Question (U.S. Government Not a Party)
- 04 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="radio"/> 01	<input type="radio"/> 01	Incorporated or Principal Place of Business in This State	<input type="radio"/> 04	<input type="radio"/> 04
Citizen of Another State	<input type="radio"/> 02	<input type="radio"/> 02	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 05	<input type="radio"/> 05
Citizen or Subject of a Foreign Country	<input type="radio"/> 03	<input type="radio"/> 03	Foreign Nation	<input type="radio"/> 06	<input type="radio"/> 06

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="radio"/> 110 Insurance <input type="radio"/> 120 Marine <input type="radio"/> 130 Miller Act <input type="radio"/> 140 Negotiable Instrument <input type="radio"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="radio"/> 151 Medicare Act <input type="radio"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="radio"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="radio"/> 160 Stockholders' Suits <input type="radio"/> 190 Other Contract <input type="radio"/> 195 Contract Product Liability <input type="radio"/> 196 Franchise	PERSONAL INJURY <input type="radio"/> 310 Airplane <input type="radio"/> 315 Airplane Product Liability <input type="radio"/> 320 Assault, Libel & Slander <input type="radio"/> 330 Federal Employers' Liability <input type="radio"/> 340 Marine <input type="radio"/> 345 Marine Product Liability <input type="radio"/> 350 Motor Vehicle <input type="radio"/> 355 Motor Vehicle Product Liability <input type="radio"/> 360 Other Personal Injury <input type="radio"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="radio"/> 365 Personal Injury - Product Liability <input type="radio"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="radio"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="radio"/> 370 Other Fraud <input type="radio"/> 371 Truth in Lending <input type="radio"/> 380 Other Personal Property Damage <input type="radio"/> 385 Property Damage Product Liability	<input type="radio"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="radio"/> 690 Other <input type="radio"/> 710 Fair Labor Standards Act <input type="radio"/> 720 Labor/Management Relations <input type="radio"/> 740 Railway Labor Act <input type="radio"/> 751 Family and Medical Leave Act <input type="radio"/> 790 Other Labor Litigation <input type="radio"/> 791 Employee Retirement Income Security Act <input type="radio"/> 462 Naturalization Application <input type="radio"/> 465 Other Immigration Actions	<input type="radio"/> 422 Appeal 28 USC 158 <input type="radio"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="radio"/> 820 Copyrights <input type="radio"/> 830 Patent <input type="radio"/> 840 Trademark <input type="radio"/> 861 HIA (1395ff) <input type="radio"/> 862 Black Lung (923) <input type="radio"/> 863 DIWC/DIWW (405(g)) <input type="radio"/> 864 SSID Title XVI <input type="radio"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="radio"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="radio"/> 871 IRS—Third Party 26 USC 7609	<input type="radio"/> 375 False Claims Act <input type="radio"/> 400 State Reapportionment <input type="radio"/> 410 Antitrust <input type="radio"/> 430 Banks and Banking <input type="radio"/> 450 Commerce <input type="radio"/> 460 Deportation <input type="radio"/> 470 Racketeer Influenced and Corrupt Organizations <input type="radio"/> 480 Consumer Credit <input type="radio"/> 490 Cable/Sat TV <input type="radio"/> 850 Securities/Commodities/Exchange <input type="radio"/> 890 Other Statutory Actions <input type="radio"/> 891 Agricultural Acts <input type="radio"/> 893 Environmental Matters <input type="radio"/> 895 Freedom of Information Act <input type="radio"/> 896 Arbitration <input type="radio"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="radio"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="radio"/> 210 Land Condemnation <input type="radio"/> 220 Foreclosure <input type="radio"/> 230 Rent Lease & Ejectment <input type="radio"/> 240 Torts to Land <input type="radio"/> 245 Tort Product Liability <input type="radio"/> 290 All Other Real Property	CIVIL RIGHTS <input type="radio"/> 440 Other Civil Rights <input type="radio"/> 441 Voting <input type="radio"/> 442 Employment <input type="radio"/> 443 Housing/Accommodations <input type="radio"/> 445 Amer. w/Disabilities - Employment <input type="radio"/> 446 Amer. w/Disabilities - Other <input type="radio"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="radio"/> 463 Alien Detainee <input type="radio"/> 510 Motions to Vacate Sentence <input type="radio"/> 530 General <input type="radio"/> 535 Death Penalty Other: <input type="radio"/> 540 Mandamus & Other <input type="radio"/> 550 Civil Rights <input type="radio"/> 555 Prison Condition <input type="radio"/> 560 Civil Detainee Conditions of Confinement			

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: (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)
15 USC §1692 – Fair Debt Collection Practices

VII. Previous Bankruptcy Matters: ((For nature of suite 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. 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

IX. RELATED CASE(S) IF ANY

(See Instructions)

JUDGE _____

DOCKET NUMBER _____

X. This Case (check one box) Is not a refiling of a previously dismissed action

is a refiling of case number _____ previously dismissed by Judge _____

DATE May 8, 2017

SIGNATURE OF ATTORNEY OF RECORD

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Credit Control's Letter Overshadows Consumers' Rights](#)
