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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 LATRICE MASON, individually, and on
11 behalf of all other similarly situated
12 consumers,

13 Plaintiff,

14 vs.

15 MIDLAND CREDIT MANAGEMENT, INC

16 Defendant.

Case No.: '18CV1050 BEN NLS

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

17
18 Plaintiff, LATRICE MASON (hereinafter "Plaintiff"), on behalf of herself and all other
19 similarly situated consumers, by and through undersigned counsel, hereby alleges against
20 MIDLAND CREDIT MANAGEMENT (hereinafter "Midland"), as follows:

21
22 **PRELIMINARY STATEMENT**

23 1. This is an action for damages arising from Defendant's violations of the Fair Debt
24 Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, (hereinafter "FDCPA" or "the Act"), and the
25

1 Rosenthal Fair Debt Collection Practices Act, California Civil Code §§ 1788, *et seq.* (hereinafter
2 “the Rosenthal Act” or “RFDCPA”), both of which prohibit debt collectors from engaging in
3 abusive, deceptive, and unfair debt collection practices.

4 **JURISDICTION AND VENUE**

5 1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and 15 U.S.C.
6 §1692k (d).

7
8 2. Venue is proper in this district under 28 U.S.C §1391(b).

9 **PARTIES**

10
11 3. Plaintiff is a natural person, who at all relevant times has resided in Claymont, Delaware,
12 and is a “consumer” as the phrase is defined and applied under 15 U.S.C. §1692(a) of the FDCPA.

13 4. Defendant is a corporation doing business in the State of California, with its corporate
14 address as 2365 Northside Drive, Suite 300, San Diego, California 92108 and is a “debt collector”
15 as the phrase is defined and applied under 15 U.S.C. §1692(a) of the FDCPA in that they regularly
16 attempt to collect on debts primarily incurred for personal, family or household purposes.
17

18 **FACTUAL STATEMENT**

19
20 5. On a date better known by Defendant, Plaintiff incurred a debt through personal, family,
21 and household purposes.

22 6. On a date better known by Defendant, Defendant began attempting to collect on said debt
23 allegedly owed by the Plaintiff.
24
25

1 7. On or about May 31, 2017, Defendant sent Plaintiff the letter attached as Exhibit A,
2 presenting the “current balance” as \$115.16, for a personal debt originating with Verizon
3 Pennsylvania, Inc.

4 8. The Collection Letter offered three available payment options. Option one (1) was for a
5 payment due by June 30, 2017 for 40% off. Option two (2) was for 20% off with payments over
6 3 months. Option three (3) was for “monthly payments as low as \$50 per month.” *See* Exhibit A.
7 Therefore, Options 2 and 3 clearly offered payments over time.

8 9. In the last line of the Collection Letter, in much smaller print, Defendant states, “The law
9 limits how long a debt can appear on your credit report. Due to the age of this debt, we will not
10 report payment or non-payment of it to a credit bureau.”

11 10. The Collection Letter is misleading, confusing, deceptive, and unfair as it misrepresents
12 the nature, character, and/or legal status of the alleged debt. The Letter did not indicate or inform
13 Plaintiff that the statute of limitations had run on her debt and the resultant legal status of the debt.
14

15 11. Nor did the letter inform Plaintiff that a partial payment on the debt would restart the
16 running of the statute of limitations. In fact, had Plaintiff chosen a payment plan option, and
17 advised Defendant of this in writing, the partial payment would revive the statute of limitations
18 rendering the Plaintiff worse off than if she had rejected the offer.

19 12. It is the position of the Federal Trade Commission, the Consumer Financial Protection
20 Bureau, the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the Office of
21 the Comptroller of the Currency that when “collecting on a time barred debt a debt collector
22 [Defendant] must inform the consumer [Plaintiff] that (1) the collector cannot sue to collect the
23 debt and (2) providing a partial payment would revive the collector’s [Defendant’s] ability to sue
24
25

1 to collect the balance.” *McMahon v. LVNV Funding, LLC*, 774 F.3d 1010, 1015 (7th Cir. 2014);
2 *see White v. First Step Grp. LLC*, 2017 LEXIS 153569 (E.D. Cal. Sept. 19, 2017).

3 13. The Defendant engaged in misleading, deceptive, and unfair debt collection practices in
4 violation of the FDCPA by its Collection Letter to the Plaintiff.

5 **CLASS ACTION ALLEGATIONS**

6 **The Class**

7 14. Plaintiff brings this as a class action pursuant to Fed. R. Civ. P. 23.

8 15. Plaintiff seeks certification of the following classes, initially defined as follows:

9 **FDCPA Class: All consumers with a Delaware address that have received collection letters**
10 **similar to Exhibit A from Defendant concerning debts for Verizon Pennsylvania, Inc. used**
11 **primarily for personal, household, or family purposes within one year prior to the filing of**
12 **this complaint.**

13 **RFDCPA Class: All consumers with a Delaware address that have received collection letters**
14 **substantially similar to Exhibit A from Defendant concerning debts for Verizon**
15 **Pennsylvania, Inc. used primarily for personal, household, or family purposes within one**
16 **year prior to the filing of this complaint.**

17 16. Excluded from the Classes is Defendant herein, and any person, firm, trust, corporation, or
18 other entity related to or affiliated with the defendant, including, without limitation, persons who
19 are officers, directors, employees, associates or partners of Defendant.

20 **Numerosity**

21 17. Upon information and belief, Defendant has sent collections letters in attempt to collect a
22 debt to hundreds if not thousands of consumers in Delaware, each of which violates the FDCPA
23 and the RFDCPA. The members of the Classes, therefore, are believed to be so numerous that
24 joinder of all members is impracticable.

25 18. The letters sent by Defendant, and received by the Classes, are to be evaluated by the
objective standard of the hypothetical “least sophisticated consumer.”

1 19. The exact number and identities of the members of the Classes are unknown at this time
2 and can only be ascertained through discovery. Identification of the Class members is a matter
3 capable of ministerial determination from Defendant's records.

4 **Common Questions of Law and Fact**

5 20. There are questions of law and fact common to the class that predominates over any
6 questions affecting only individual Class members. These common questions of law and fact
7 include, without limitation: (i) whether Defendant violated various provisions of the FDCPA and
8 the RFDCPA; (ii) whether the Plaintiff and the Classes have been injured by the conduct of
9 Defendant; (iii) whether the Plaintiff and the Classes have sustained damages and are entitled to
10 restitution as a result of Defendant's wrongdoing and, if so, what is the proper measure and
11 appropriate statutory formula to be applied in determining such damages and restitution; and (iv)
12 whether the Plaintiff and the Classes are entitled to declaratory and/or injunctive relief.
13

14 **Typicality**

15 21. The Plaintiff's claims are typical of the claims of the class members. Plaintiff and all
16 members of the Plaintiff's Classes defined in this complaint have claims arising out of the
17 Defendant's common uniform course of conduct complained of herein. Plaintiff's claims are
18 typical of the claims of the Classes, and Plaintiff has no interests adverse or antagonistic to the
19 interests of other members of the Classes.

20 **Protecting the Interests of the Class Members**

21 22. Plaintiff will fairly and adequately represent the Class members' interests, in that the
22 Plaintiff's counsel is experienced and, further, anticipates no impediments in the pursuit and
23 maintenance of the class action as sought herein.
24
25

1 23. Neither the Plaintiff nor his counsel have any interests, which might cause them not to
2 vigorously pursue the instant class action lawsuit.

3 **Proceeding Via Class Action is Superior and Advisable**

4 24. A class action is superior to other methods for the fair and efficient adjudication of the
5 claims herein asserted, this being specifically envisioned by Congress as a principal means of
6 enforcing the FDCPA, as codified by 15 U.S.C. § 1692(k).

7 25. The members of the Classes are generally unsophisticated individuals, whose rights will
8 not be vindicated in the absence of a class action.

9 26. Prosecution of separate actions by individual members of the Classes would create the risk
10 of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying
11 standards for the parties.

12 27. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also
13 appropriate in that the questions of law and fact common to members of the Plaintiff's Classes
14 predominate over any questions affecting an individual member, and a class action is superior to
15 other available methods for the fair and efficient adjudication of the controversy.

16 28. Depending on the outcome of further investigation and discovery, Plaintiff may, at the time
17 of class certification motion, seek to certify one or more classes only as to particular issues
18 pursuant to Fed. R. Civ. P. 23(c)(4).

19 29. A class action will permit a large number of similarly situated persons to prosecute their
20 common claims in a single forum simultaneously, efficiently, and without the duplication of effort
21 and expense that numerous individual actions would engender. Class treatment also will permit
22 the adjudication of relatively small claims by many Class members who could not otherwise afford
23 to seek legal redress for the wrongs complained of herein.
24
25

1 30. Absent a class action, the members of the Classes will continue to suffer losses borne from
2 Defendant’s breaches of Class members’ statutorily protected rights as well as monetary damages,
3 thus allowing and enabling: (a) Defendant’s conduct to proceed and; (b) Defendant to further enjoy
4 the benefit of its ill-gotten gains.

5 31. Defendant has acted, and will act, on grounds generally applicable to both Classes, thereby
6 making appropriate a final injunctive relief or corresponding declaratory relief with respect to the
7 Classes as a whole.

8 **COUNT I**
9 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**
10 **15 U.S.C. §1692 et seq.**

11 32. Plaintiff repeats the allegations contained in the above paragraphs and incorporates them
12 as if specifically set forth at length herein.

13 33. Defendant’s Collection Letter is false, deceptive, and misleading, and violates the below
14 provisions of the FDCPA.

15 34. Section 1692e provides:

16 **§ 1692e. False or misleading representations**

17 **A debt collector may not use any false, deceptive, or misleading**
18 **representation or means in connection with the collection of any debt.**
19 **Without limiting the general application of the foregoing, the following**
20 **conduct is a violation of this section: . . .**

21 **(2) The false representation of—**

22 **(A) the character, amount, or legal status of any debt;**

23 **(10) The use of any false representation or deceptive means to collect**
24 **or attempt to collect any debt or to obtain information concerning a**
25 **consumer.**

COUNT II
VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT,
CALIFORNIA CIVIL CODE §§ 1788.17

1
2
3 42. Plaintiff repeats, re-alleges, and reincorporates the allegations contained in the paragraphs
4 above and incorporates them as if set forth specifically herein.

5 43. Defendant's Collection Letter was false, deceptive and misleading in connection with the
6 collection of a debt,

7 44. The Rosenthal Act, California Civil Code § 1788.17, requires every debt collector
8 (Defendant) attempting to collect a consumer debt to comply with the provisions of "Sections
9 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of Title 15 of
10 the United States Code."

11 45. Defendant's Collection Letter violates the FDCPA, 15 U.S.C. §1692e and §1692e(2), and
12 §1692e(10), and thereby also constitutes a violation of the Rosenthal Act, California Civil Code
13 §§ 1788.17, 1788.32, as well as any other applicable provisions.

14 46. Defendant's actions were knowing and willful.

15 47. As a result of Defendant's wrongful collection practices, Plaintiff has been damaged and is
16 entitled to relief.
17

18
19 WHEREFORE, Plaintiff, Latrice Mason, respectfully requests that this Court do the
20 following for the benefit of Plaintiff:

21 A. Certify the classes described herein and appoint Plaintiff as Lead
22 Plaintiff, and Plaintiff's Counsel as Lead Counsel;

23 B. Enter judgment against Defendant for statutory damages pursuant to the
24 FDCPA;
25

- C. Enter judgment for injunctive relief stopping Defendant from using letters similar to Exhibit A;
- D. Award costs and reasonable attorneys' fees;
- E. Grant such other and further relief as may be just and proper.

JURY TRIAL DEMAND

35. Plaintiff demands a jury trial on all issues so triable.

Dated this 24th day of May, 2018.

/s/ Christopher G. Beckom

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Attorney for Plaintiff

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

LATRICE MASON

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Law Offices of Christopher Glenn Beckom 1307 W. 6th Street, Suite 223 Corona, California 92882

DEFENDANTS

MIDLAND CREDIT MANAGEMENT, INC.

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)

'18CV1050 BEN NLS

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: 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)

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

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): Fair Debt Collection Practices Act, 15 U.S.C. Section 1692 et seq. Brief description of cause: unfair, false, and deceptive collection practices

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 05/24/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Christopher G. Beckom

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [MCM Facing Lawsuit Over Alleged Misrepresentations of Woman's Time-Barred Debt](#)
