

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

LATRICE MASON, on behalf of herself and all other similarly situated consumers,)	Case No.:
)	
Plaintiff,)	
)	
vs.)	CLASS ACTION COMPLAINT
)	
PORTFOLIO RECOVERY ASSOCIATES, LLC,)	
)	
Defendant.)	

CLASS ACTION COMPLAINT

Plaintiff, Latrice Mason (hereinafter “Plaintiff”), on behalf of herself and all others similarly situated consumers, by and through undersigned counsel, hereby alleges against Portfolio Recovery Associates, LLC (hereinafter “Defendant”), as follows:

PRELIMINARY STATEMENT

1. This is an action for damages arising from Defendant’s violations of the Fair Debt Collections Practices Act, 15 U.S.C. §1692 *et seq.* (hereinafter “FDCPA”).

JURISDICTION AND VENUE

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

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

PARTIES

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

5. Portfolio Recovery Associates, LLC (“Defendant”) regularly conducts business in the state of Delaware, while its corporate headquarters is located at 120 Corporate Boulevard, in Norfolk, Virginia 23502.

6. Defendant is a “debt collector” as the phrase is defined and applied under 15 U.S.C. §1692(a) of the FDCPA in that they regularly attempt to collect on debts primarily incurred for personal, family or household purposes.

FACTUAL STATEMENT

7. The FDCPA was enacted to prevent debt collectors from engaging in abusive tactics in order to collect debts from generally unsophisticated consumers.

8. On or about November 10, 2017, Defendant sent Plaintiff a dunning letter seeking to collect a debt. Exhibit A.

9. The debt was incurred through use of a personal credit card used for personal, family or household purposes.

10. The debt in question is beyond the statute of limitations.

11. Within Defendant’s collection letter, Defendant offers Plaintiff three different methods for settling the debt in question including a one-time payment, and two monthly payment plans.

12. Defendant’s letter advises Plaintiff that she can accept these payment plans by mail. Naturally, any person choosing the six or twelve month payment plan would confirm that in writing with his or her check.

13. Defendant's letter however, does not advise Plaintiff making partial payments, via the payment plans, will restart the statute of limitations.

14. Were Plaintiff to begin making monthly payments, and then were she to no longer be able to continue making payments, Defendant would have the right to sue her in court to collect the remaining the balance—something Plaintiff should be made aware of.

15. Accordingly, Defendant's collection letter is false, deceptive, and misleading.

CLASS ACTION ALLEGATIONS

The Class

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

Class: All consumers within the State of Delaware that have received collection letters from Defendant, for consumer debts incurred with Capital One Bank, N.A. that are beyond the statute of limitations, that have offered monthly payment plans, without disclosing that making payments may restart the statute of limitations, within one year of the filing of this complaint up until the date of filing.

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

Numerosity

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

19. The letters sent by Defendant, and received by the Class, are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer."

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

Common Questions of Law and Fact

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

Typicality

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

Protecting the Interests of the Class Members

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

24. Neither the Plaintiff nor her counsel have any interests, which might cause them not to vigorously pursue the instant class action lawsuit.

Proceeding Via Class Action is Superior and Advisable

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

26. The members of the Class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action.

27. 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.

28. Certification of a class is also appropriate in that the questions of law and fact common to members of the Plaintiff's Class predominate over any questions affecting an individual member, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

29. Depending on the outcome of further investigation and discovery, Plaintiff may, at the time of class certification motion, seek to certify one or more classes only as to particular issues.

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

31. Absent a class action, the Class members will continue to suffer losses borne from Defendants breaches of Class members' statutorily protected rights as well as monetary damages, thus allowing and enabling: (a) Defendants conduct to proceed and; (b) Defendants to further enjoy the benefit of its ill-gotten gains.

Defendants have acted, and will act, on grounds generally applicable to the entire Class, thereby making appropriate a final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

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

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

33. Defendant's false and deceptive representations to Plaintiff violate the below provisions of the FDCPA.

34. Section 1692e provides:

§ 1692e. False or misleading representations

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

(2) The false representation of--

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

or

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

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

- A. Certify the class described herein and appoint Plaintiff as Lead Plaintiff, and Plaintiff's Counsel as Lead Counsel;
- B. Enter judgment against Defendant for statutory damages, 15 U.S.C. § 1692k(a)(2)(A) and (B), in the amount of \$1,000.00 for Plaintiff and each member of the class;
- C. Award costs and reasonable attorneys' fees, pursuant to 15 U.S.C. § 1692k(a)3;
- D. 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 2nd of November, 2018

Respectfully Submitted,

/s/ Romy L. Radin
Romy L. Radin, Esquire
Radin Law, PLC
2200 Colonial Avenue, Suite 6
Norfolk, Virginia 23517
Telephone: (757) 623-1216
Facsimile: (757) 624-1718
E-Mail: radinlaw@hotmail.com
Virginia State Bar No. 44465

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 New Castle County, DE (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Radin Law, PLC 2200 Colonial Avenue, Suite 6 Norfolk, VA 23517 T: (757) 623-1216

DEFENDANTS

PORTFOLIO RECOVERY ASSOCIATES, LLC

County of Residence of First Listed Defendant City of Norfolk, VA (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 business location (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)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, 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 Collections Practices Act, 15 U.S.C. §1692 et seq. Brief description of cause: Unfair debt 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 11/06/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Romy Radin

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Print

Save As...

Reset

Portfolio Recovery Associates, LLC



November 10, 2017

Dear LATRICE M MASON,

We know life happens.
And, at times, customers may fall behind on financial commitments. We understand.

You may have debt, but you also have options. Please contact us. We are standing by and ready to help.

Sincerely,
PRA, LLC

Account Details

Name: LATRICE M MASON
Account Number: [REDACTED] 8086
Seller: CAPITAL ONE BANK (USA) N.A.
Original Creditor: CAPITAL ONE BANK (USA) N.A.
Creditor to Whom Debt is Owed: Portfolio Recovery Associates, LLC
Current Balance Due: \$960.46

Account Offers

Pay the Full Balance

OR

Choose a Savings Plan

- 1 Payment of \$960.46*
- 6 Monthly Payments of \$160.07*
- 12 Monthly Payments of \$80.03*

- 1 Payment(s) of \$576.28 and **SAVE \$384.10***
- Pay \$208.10 for 3 consecutive months and **SAVE \$336.16***
- Pay \$112.05 for 6 consecutive months and **SAVE \$288.16***

Your account will be considered "Paid in Full" after your final payment is successfully posted.

The savings will be applied to the balance and your account will be considered "Settled in Full" after your final payment is successfully posted.

Your first payment must be received by: 12/22/2017

***We are not obligated to renew this offer.**

Contact Us



Visit us online at:
www.prapay.com



Call Toll - Free 1-800-772-1413 to discuss your account with us.



Portfolio Recovery Associates, LLC
P.O. Box 12914
Norfolk, VA 23541

The law limits how long you can be sued on a debt. Because of the age of your debt, we will not sue you for it.

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.
NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

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

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Latrice Mason

Plaintiff(s)

v.

Portfolio Recovery Associates, LLC

Defendant(s)

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Portfolio Recovery Associates, LLC
120 Corporate Boulevard, Suite 100
Norfolk, Virginia 23502

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:

Romy Radin, Esq.
Radin Law, PLC
2200 Colonial Avenue, Suite 6
Norfolk, VA 23517
Radinlaw@hotmail.com
(757) 623-1216

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.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

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...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Portfolio Recovery Associates Sent Deceptive Letter Regarding Time-Barred Debt, Lawsuit Alleges](#)
