

BARSHAY SANDERS, PLLC
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Attorneys for Plaintiff
Our File No.: 115387

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

Samuel Melendez, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

Asset Recovery Solutions, LLC,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Samuel Melendez, 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 Asset Recovery Solutions, 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. 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.

4. At all relevant times, Defendant conducted business within the State of New York.

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

PARTIES

5. Plaintiff Samuel Melendez is an individual who is a citizen of the State of New York residing in Nassau County, New York.

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

7. On information and belief, Defendant Asset Recovery Solutions, LLC, is an Illinois Limited Liability Company with a principal place of business in Cook County, Illinois.

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”).

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 (“the Letter”) dated April 13, 2018. (“**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).

FIRST COUNT

Violation of 15 U.S.C. § 1692g(a)(3)

17. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

18. 15 U.S.C. § 1692g(a)(3) requires 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 following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing 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.”

19. The Letter fails to contain the required 15 U.S.C. § 1692g(a)(3) disclosure.

20. Defendant violated 15 U.S.C. § 1692g(a)(3) by its failure to provide the information required by that Section.

SECOND COUNT
Violation of 15 U.S.C. § 1692g(a)(4)

21. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

22. 15 U.S.C. § 1692g(a)(4) requires 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 following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing 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.

23. The Letter fails to contain the required 15 U.S.C. § 1692g(a)(4) disclosure.

24. Defendant violated 15 U.S.C. § 1692g(a)(4) by its failure to provide the information required by that Section.

THIRD COUNT
Violation of 15 U.S.C. § 1692g(a)(5)

25. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

26. 15 U.S.C. § 1692g(a)(5) requires 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 following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing 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.

27. The Letter fails to contain the required 15 U.S.C. § 1692g(a)(5) disclosure.

28. Defendant violated 15 U.S.C. § 1692g(a)(5) by its failure to provide the information required by that Section.

CLASS ALLEGATIONS

29. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of New York from whom Defendant attempted to collect a consumer debt without sending the consumer a letter including the required 15 U.S.C. § 1692g disclosures, from one year before the date of this Complaint to the present.

30. This action seeks a finding that Defendant's conduct violates the FDCPA, and asks that the Court award damages as authorized by 15 U.S.C. § 1692k.

31. Defendant regularly engages in debt collection.

32. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts without sending the consumer a letter including the required 15 U.S.C. § 1692g disclosures.

33. 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.

34. 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.

35. 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 consumer protection laws.

JURY DEMAND

36. 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 Plaintiff's 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: August 20, 2018

BARSHAY SANDERS, PLLC

By: /s/ Craig B. Sanders

Craig B. Sanders, Esq.
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Attorneys for Plaintiff
Our File No.: 115387

Statement Date:	Case 3:18-cv-05010 Document 1-1 Filed 09/05/18 Page 1 of 1 PageID #: 6
ID Number:	9629
Original Creditor:	PROSPER FUNDING LLC
Current Creditor:	VELOCITY INVESTMENTS LLC
Account Number:	XXXXXXXXXXXX0826
Total Current Balance:	\$14,817.24



888-544-6374

Samuel Melendez
117 Woodside Ave
Freeport, NY 11520

Our client would like to settle your debt for only **65%** of your Total Current Balance listed above.

Settlement amount \$9,631.21

To accept this offer, simply make sure that we receive the entire Settlement Amount on or before May 13 2018. If we receive the Settlement Amount on or before May 13 2018, and if your funds clear, we will consider your account to be settled in full and will stop all further collection efforts. **This offer expires on May 13 2018.**

We are not obligated to renew this offer. Failure to comply with the above mentioned terms will nullify the settlement arrangement.

We encourage you to call prior to making a payment intended to pay your account in full. Please contact us at 888-544-6374.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This communication is from a debt collector.

Sincerely,
Asset Recovery Solutions
888-544-6374, Ext. 460

Licensed by the New York City Department of Consumer Affairs, license # 1309086

In accordance with the Fair Debt Collection Practices Act, 15 U.S.C.

§ 1692 et seq., Asset Recovery Solutions, LLC. is prohibited from engaging in abusive, deceptive, and unfair debt collection efforts, including but not limited to: (i) the use or threat of violence; (ii) the use of obscene or profane language; and (iii) repeated phone calls made with the intent to annoy, abuse, or harass.

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.

Asset Recovery Solutions, LLC Contacts



Hours of Operation:
Monday- Thursday 8 AM- 9 PM CT
Friday: 8 am – 5 pm CT
Saturday: 8 AM-12 CT



YOU CAN MAKE YOUR PAYMENT ONLINE AT:

<http://payments.arsllc.com/>

Detach and Return with Payment

2200 E. Devon Ave Ste 200
Des Plaines, IL 60018-4501

IF PAYING BY CREDIT CARD, FILL OUT BELOW.

<input type="checkbox"/> VISA <small>VISA</small>		<input type="checkbox"/> MasterCard <small>MasterCard</small>	
CARD NUMBER			
SIGNATURE			EXP DATE
ID NUMBER 9629	PAY THIS AMOUNT \$9,631.21	AMOUNT PAID \$	
ACCOUNT NUMBER XXXXXXXXXXXX0826		CURRENT CREDITOR VELOCITY INVESTMENTS LLC	



Samuel Melendez
117 Woodside Ave
Freeport, NY 11520-1236

Please send payments and correspondence to:



Asset Recovery Solutions, LLC
2200 E. Devon Ave Ste 200
Des Plaines, IL 60018-4501

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 SAMUEL MELENDEZ (b) County of Residence of First Listed Plaintiff NASSAU (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 ASSET RECOVERY SOLUTIONS, LLC County of Residence of First Listed Defendant COOK 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) O 1 U.S. Government Plaintiff O 2 U.S. Government Defendant O 3 Federal Question (U.S. Government Not a Party) O 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) Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country PTF DEF O 1 O 1 O 2 O 2 O 3 O 3 Incorporated or Principal Place of Business In This State Incorporated and Principal Place of Business In Another State Foreign Nation PIF DEF O 4 O 4 O 5 O 5 O 6 O 6

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

V. ORIGIN (Place an "X" in One Box Only) O 1 Original Proceeding O 2 Removed from State Court O 3 Remanded from Appellate Court O 4 Reinstated or Reopened O 5 Transferred from Another District (specify) O 6 Multidistrict Litigation - Transfer O 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 USC §1692 Brief description of cause: 15 USC §1692 Fair Debt Collection Practices Act Violation

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 O No

VIII. RELATED CASE(S) IF ANY JUDGE DOCKET NUMBER

DATE September 5, 2018 SIGNATURE OF ATTORNEY OF RECORD /s Craig Sanders

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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.

Case is Eligible for Arbitration

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

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, specific 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: /s Craig B. Sanders

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

UNITED STATES DISTRICT COURT

for the

EASTERN DISTRICT OF NEW YORK

Samuel Melendez, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

Asset Recovery Solutions, LLC,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Asset Recovery Solutions, LLC
C/O C T CORPORATION SYSTEM
111 EIGHTH AVENUE
NEW YORK, NEW YORK, 10011

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:

BARSHAY SANDERS PLLC
100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NY 11530

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

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Asset Recovery Solutions Failed to Disclose Consumer's Debt Validation Rights](#)
