

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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AVI MIEROV  
on behalf of himself and  
all other similarly situated consumers

Plaintiff,

-against-

FORSTER & GARBUS LLP

Defendant.

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**CLASS ACTION COMPLAINT**

***Introduction***

1. Plaintiff Avi Mierov seeks redress for the illegal practices of Forster & Garbus LLP 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 is a consumer debt.
4. Upon information and belief, Defendant's principal place of business is located in Commack, 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 Avi Mierov***

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 June 23, 2016, Defendant Forster & Garbus sent the Plaintiff a collection letter seeking to collect on a defaulted *County Bank, N.A.* account ending in: 2859.
11. Subsequently, on September 22, 2016, the Defendant sent the Plaintiff a copy of a formal complaint that had been filed against him in the Supreme Court of the State of New York, County of Kings.
12. The complaint against Avi Mierov stated that he was in default on his *County Bank, N.A.* account, and that a demand for payment was being made from him.
13. The complaint dated September 22, 2016 further stated: “PLAINTIFF DEMANDS JUDGMENT AGAINST DEFENDANT(S) FOR THE SUM OF [\$] 28,398.19 WITH INTEREST THEREON FROM THE 19 DAY OF NOVEMBER, 2015 TOGETHER WITH THE DISBURSEMENTS OF THIS ACTION.”
14. The balance on the said account was not static, and interest was accruing.
15. Plaintiff was seeking interest from the 19<sup>th</sup> day of November, 2015.
16. The said June 23, 2016 letter was therefore deceptive and misleading as it failed to disclose that the “BALANCE DUE” may increase due to interest and fees.

17. The Plaintiff was left uncertain as to whether the balance due was accruing interest as there was no disclosure in the June 23, 2016 letter that indicated otherwise.
18. A reasonable consumer could read the said June 23, 2016 letter and be misled into believing that he could pay his debt in full by paying the amount listed.
19. Plaintiff believed from reading the June 23, 2016 letter that the “current balance” was “static” and that payment of that amount would satisfy the debt irrespective of when the payment was made.
20. In fact, however, since interest was accruing daily, and since there were undisclosed fees, costs and disbursements a consumer who pays the balance stated in the June 23, 2016 letter will not know whether the debt has been paid in full. In fact, in this case, the debt collector did seek the interest and fees that accumulated after the June 23, 2016 letter was sent but before the balance was paid. Defendant, by sending such a collection letter, without notifying the consumer that the amount is already increasing due to accruing interest or other charges, would mislead an unsophisticated consumer into believing that payment of the amount stated will clear his account.
21. The FDCPA requires debt collectors, when notifying consumers of their account balance, to disclose that the balance may increase due to interest and fees; failure to include such disclosures would harm consumers such as the Plaintiff who may hold the reasonable but mistaken belief, that timely payment will satisfy their debts and it would abrogate the Congressional purpose of full and fair disclosure to consumers that is embodied in Section 1692e.
22. Collection letters that state only the balance due but do not disclose that the balance might increase due to interest and fees, are “misleading” within the meaning of Section

1692e.

23. The Plaintiff and the least sophisticated consumer would be led to believe that the balance due in the June 23, 2016 letter is static and that his payment of the amount due would satisfy the debt irrespective of when payment was remitted.
24. In fact, however, interest was accruing daily and the Defendant has tried to collect this interest from the Plaintiff.
25. A consumer who pays the balance due stated in the June 23, 2016 letter, will be left unsure as to whether or not the debt has been paid in full, as the Defendant could still attempt to collect on any interest and fees that accumulated after the letter was sent but before the balance was paid.
26. The Defendant violated 15 U.S.C. § 1692e(2)(A) for misrepresenting the amount of the debt owed by the Plaintiff.
27. A debt collector, when notifying a consumer of his account balance, must disclose that the balance may increase due to interest and fees.
28. 15 U.S.C. § 1692e provides:

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.
29. Defendant is in violation of 15 U.S.C. §§ 1692e, 1692e(2)(A) and 1692e(10) of the FDCPA for the use of any false representation or deceptive means to collect or attempt

to collect any debt and for misrepresenting the amount of the debt owed by the Plaintiff.

30. Plaintiff disputed the alleged *County Bank, N.A.* account ending in: 2859, directly with the Defendant with a dispute letter on July 5, 2016.
31. The Plaintiff further requested verification of the said debt.
32. The Defendant nevertheless failed to validate the Plaintiff's dispute, continued to collect on the said debt and even went as far as to file a lawsuit against the Plaintiff, as mentioned above.
33. Section 1692g(b) of the FDCPA states that if the consumer notifies the debt collection in writing within thirty (30) days after receipt of an initial communication from a debt collection that the debt is disputed, the debt collector must cease collection of the debt until the debt collector obtains varication and provides a copy of such verification to the consumer.
34. The Plaintiff did in fact dispute the validity of the debt, but the Defendant continued to attempt collection without ever obtaining and providing verification of the debt.
35. The Defendant failed to cease communications to the Plaintiff regarding the alleged debt in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692c(c).
36. The Second Circuit has stated that once a debt has been disputed, a debt collector cannot communicate with anyone about that debt without disclosing the disputed nature of the debt. 15 U.S.C. § 1692e(8).
37. Since it was communicating with others about the debt, when communicating with the court about plaintiffs alleged debt defendant was required in accordance with § 1692e(8) to include the fact that the debt was disputed.
38. When filing the above mentioned complaint against Avi Mierov in Kings County court,

the Defendant further failed to communicate in the complaint that the debt was disputed, in violation of 15 U.S.C. § 1692e(8). See. Hooks v. Forman, Holt, Eliades & Ravin, LLC, 717 F.3d 282, 285-86 (2d Cir. 2013). ("[O]nce a debt has been disputed, a debt collector cannot communicate the debtor[s] information to others without disclosing the dispute. 15 U.S.C. § 1692e(8)... Such debtor consumers would also undoubtedly benefit from having the fact of the dispute reported **whenever the debt collector communicates with others about the debt, in accordance with § 1692e(8)**")

39. As a result of Defendant's deceptive, misleading and unfair debt collection practices, the Plaintiff has suffered actual damages.
40. Defendant's debt collection efforts attempted and/or directed towards Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692c(c), 1692d, 1692e(2), 1692e(5), 1692e(8), 1692f, and 1692g(b).
41. Plaintiff suffered injury in fact by being subjected to unfair and abusive practices of the Defendant.
42. Plaintiff suffered actual harm by being the target of the Defendant's misleading debt collection communications.
43. Defendant violated the Plaintiff's right not to be the target of misleading debt collection communications.
44. Defendant violated the Plaintiff's right to a truthful and fair debt collection process.
45. Defendant used materially false, deceptive, misleading representations and means in its attempted collection of Plaintiff's alleged debt.
46. Defendant's communications were designed to cause the debtor to suffer a harmful disadvantage in charting a course of action in response to the Defendant's collection

efforts.

47. The FDCPA ensures that consumers are fully and truthfully apprised of the facts and of their rights, the act enables them to understand, make informed decisions about, and participate fully and meaningfully in the debt collection process. The purpose of the FDCPA is to provide information that helps consumers to choose intelligently. The Defendant's false representations misled the Plaintiff in a manner that deprived him of his right to enjoy these benefits, these materially misleading statements trigger liability under section 1692e of the Act.
48. These deceptive communications additionally violated the FDCPA since they frustrate the consumer's ability to intelligently choose his or her response.
49. As an actual and proximate result of the acts and omissions of Forster & Garbus LLP, Plaintiff has suffered including but not limited to, fear, stress, mental anguish, emotional stress and acute embarrassment for which he should be compensated in an amount to be established by a jury at trial.

**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.***

50. Plaintiff re-states, re-alleges, and incorporates herein by reference, paragraphs one (1) through forty nine (49) as if set forth fully in this cause of action.
51. This cause of action is brought on behalf of Plaintiff and the members of two classes.
52. Class A consists of all persons whom Defendant's records reflect resided in the State of New York and (a) who were sent a collection letter in substantially the same form as the one sent to the Plaintiff on or about June 23, 2016; and (b) the Plaintiff asserts that the Defendant's collection letter violated 15 U.S.C. §§ 1692e, 1692e(2)(A) and 1692e(10)

of the FDCPA for the use of any false representation or deceptive means to collect or attempt to collect any debt and for misrepresenting the amount of the debt owed by the Plaintiff.

53. Class B consists of all persons whom Defendant's records reflect resided in the State of New York and (a) who sent a letter to the Defendant disputing the debt and seeking verification thereof, within one year prior to the date of the within complaint up to the date of the filing of the complaint; (b) the Defendant ignored the dispute letter and continued to collect on the debt; and (c) when filing a lawsuit against the debtor in court, the Defendant failed to mark the disputed debt as disputed; and (d) the Defendant was in violation of 15 U.S.C. §§ 1692c(c), 1692d, 1692e(2), 1692e(5), 1692e(8), 1692f, and 1692g(b).
54. 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 a form collection letter is 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 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.

55. 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.

56. 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.

57. 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***

58. The Defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.

59. 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 preliminary and permanent 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  
January 16, 2017

/s/ Adam J. Fishbein  
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  
Email: fishbeinadamj@gmail.com

Plaintiff requests trial by jury on all issues so triable.

/s/ Adam J. Fishbein  
Adam J. Fishbein (AF-9508)

60 Motor Parkway  
Commack, NY 11725-0193

**PERSONAL & CONFIDENTIAL**



June 23, 2016

AVI MIEROV  
10920 71ST RD  
APT 5B  
FOREST HILLS NY 11375-4801

**FORSTER & GARBUS LLP**  
**A NEW YORK LAW FIRM**  
RONALD FORSTER - Adm. in NY Only  
MARK A. GARBUS - Adm. in NY Only  
EDWARD J. DAMSKY - Adm. in NY Only  
JOEL D. LEIDERMAN - Adm. in NY Only  
ANNETTE T. ALTMAN - Adm. in NY Only  
MICHAEL C. DIGIARO - Adm. in NY & NJ  
MICHAEL J. FLORIO - Adm. in NY Only  
AMY GAVLIK - Adm. in NY Only  
TESS E. GUNTHER - Adm. in NY & CT  
KEVIN M. KNAB - Adm. in NY Only  
VALERIE E. WATTS - Adm. in NY Only

BALANCE DUE as of June 23, 2016 ▶ \$28,398.19  
Reference Number ▶ 127  
Account Number ▶ 9  
Re ▶ Creditor to Whom Debt is Owed: LVNV FUNDING LLC  
ORIGINAL CREDITOR: COUNTY BANK, N.A.

1-631-393-9400  
1-800-245-9943  
Representative Name: NY NEW WORK HOLDING  
Monday thru Thursday 8:00AM - 9:00PM EST  
Friday 8:00AM - 5:00PM EST  
Our Client's NYC DCA License# 1326179  
Default date: 11/19/2015

Your above mentioned account has been placed with our office for collection. This bill has been outstanding for quite some time. If your economic condition is preventing you from paying this debt in full, we can help by offering you a substantial savings to settle this account forever. You can choose from the following plans;

One payment of \$17,038.91, a savings of 40% which we shall expect by July 26, 2016.  
Two monthly payments of \$9,229.41, a savings of 35% which we shall expect by July 26, 2016 and August 26, 2016.  
Three monthly payments of \$6,626.24, a savings of 30% which we shall expect by July 26, 2016, August 26, 2016, and September 26, 2016.

Please note that we are not obligated to repeat this offer.

If you are unable to take advantage of the above settlement opportunities, please contact this office so we may arrange a payment plan on the account. If you do not wish to take advantage of this offer, we will consider that to be a rejection of this savings opportunity. At this time, no attorney with this firm has personally reviewed the particular circumstances of your account. At this time, no determination has been made as to whether a lawsuit will be commenced.

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 from receiving this notice that you dispute the validity of this debt or any portion thereof, 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.

Please note that we are required, under federal law, to advise you that we are debt collectors and any information we obtain will be used in attempting to collect this debt.

Please mail all correspondence and payments to the address listed below.

Total Amount of the debt due as of charge-off.	\$28,398.19
Total amount of interest accrued since charge-off.	\$0.00
Total amount of non-interest charges or fees accrued since charge-off.	\$0.00
Total amount of payments made on the debt since the charge-off.	\$0.00

**SEE IMPORTANT NOTICE ENCLOSED**

Office Location: 60 Motor Parkway • Commack, NY 11725-5710

▲ DETACH HERE ▲

MAKE CHECK PAYABLE TO: **FORSTER & GARBUS LLP as attorneys** AND RETURN COUPON WITH PAYMENT TO PO BOX 9030, Commack, NY 11725-9030 IN ENCLOSED ENVELOPE

AVI MIEROV  
10920 71ST RD  
APT 5B  
FOREST HILLS NY 11375-4801

BALANCE DUE as of June 23, 2016 ▶ \$28,398.19  
Reference Number ▶ 127  
Re ▶ LVNV FUNDING LLC  
ORIGINAL CREDITOR: COUNTY BANK, N.A.  
Rep. Code ▶ ☐  
Date ▶ June 23, 2016

➔ Please Note Current BEST TIME TO CALL

Home Phone # \_\_\_\_\_

Work Phone # \_\_\_\_\_

Cell Phone # \_\_\_\_\_

127



Forster & Garbus LLP  
PO Box 9030  
Commack, NY 11725-9030





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LVNV FUNDING LLC

PLAINTIFF,

- AGAINST -

AVI MIEROV

DEFENDANT(S).

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PLAINTIFF, BY ITS ATTORNEY(S), COMPLAINING OF THE DEFENDANT(S), UPON INFORMATION AND BELIEF, ALLEGES:

1. THAT THE DEFENDANT(S) RESIDES IN THE COUNTY IN WHICH THIS ACTION IS BROUGHT; OR THAT THE DEFENDANT(S) TRANSACTED BUSINESS WITHIN THE COUNTY IN WHICH THIS ACTION IS BROUGHT IN PERSON OR THROUGH HIS AGENT AND THAT THE INSTANT CAUSE OF ACTION AROSE OUT OF SAID TRANSACTION  
2. ON INFORMATION AND BELIEF THE DEFENDANT IN PERSON OR THROUGH AN AGENT TOOK MONEY ADVANCES UNDER A LINE OF CREDIT ACCOUNT OR PROMISSORY NOTE OR LOAN. PLAINTIFF PURCHASED THIS ACCOUNT FOR VALUE; NOTIFIED THE DEFENDANT; AND IS AUTHORIZED TO PROCEED WITH THIS ACTION.

3. THERE REMAINS AN AGREED BALANCE ON SAID ACCOUNT OF \$ 28,398.19 , DUE AND OWING, NO PART OF SAID SUM HAS BEEN PAID ALTHOUGH DULY DEMANDED.

4. DEFENDANT(S) IS IN DEFAULT AND DEMAND FOR PAYMENT HAS BEEN MADE.

5. PLAINTIFF, AS OWNER, IS AUTHORIZED TO PROCEED WITH THIS ACTION.

CHAIN OF TITLE:

LVNV Funding LLC who purchased this account from Sherman Originator LLC on 03/29/2016 who purchased this account from Sherman Originator III LLC on 03/29/2016 who purchased this account from Marketplace Loan Grantor Trust, Series 2015-CB1 on 03/29/2016 who purchased this account from COUNTY BANK, N.A. on 03/29/2016.

PLAINTIFF IS LICENSED BY THE NYC DEPARTMENT OF CONSUMER AFFAIRS  
LICENSE NUMBER 1326179

DEFAULT DATE 11/19/2015. ORIGINAL CREDITOR: COUNTY BANK, N.A.

ORIGINAL ACCOUNT NUMBER ENDING IN: 2859

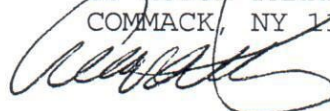
ON INFORMATION AND BELIEF THE CAUSES OF ACTION ASSERTED THEREIN ARE NOT OUTSIDE OF THE APPLICABLE STATUTE OF LIMITATIONS FOR ENFORCING THE DEBT.

THERE IS NOW DUE PLAINTIFF FROM DEFENDANT(S) THE AMOUNT SET FORTH IN THE COMPLAINT, NO PART OF WHICH HAS BEEN PAID, ALTHOUGH DULY DEMANDED.

WHEREFORE, PLAINTIFF DEMANDS JUDGMENT AGAINST DEFENDANT(S) FOR THE SUM OF 28,398.19 WITH INTEREST THEREON FROM THE 19 DAY OF NOVEMBER , 2015, TOGETHER WITH THE DISBURSEMENTS OF THIS ACTION

WE ARE DEBT COLLECTORS; ANY INFORMATION OBTAINED WILL BE USED IN ATTEMPTING TO COLLECT THIS DEBT.

FORSTER & GARBUS LLP  
ATTORNEY(S) FOR PLAINTIFF  
60 MOTOR PARKWAY  
COMMACK, NY 11725



DATED: THE 22 DAY OF SEPTEMBER, 2016

\_\_\_\_\_  
VALERIE E. WATTS JOEL D. LEIDERMAN KEVIN M. KNAB

PURSUANT TO PART 130-1.1-a OF THE RULES OF THE  
CHIEF ADMINISTRATOR THIS SIGNATURE APPLIES  
TO THE ATTACHED SUMMONS AND COMPLAINT



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**

## 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**

AVI MIEROV

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

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

Adam J. Fishbein  
735 Central Avenue  
Woodmere NY 11598 516 668 6945 fishbeinadamj@gmail.com

**DEFENDANTS**

FORSTER &amp; GARBUS LLP

County of Residence of First Listed Defendant Suffolk  
(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
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 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)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

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

**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 Fair Debt Collection Practices Act

Brief description of cause:  
Failure to disclose accurate amount of 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

02/09/2017

SIGNATURE OF ATTORNEY OF RECORD

/s/ Adam J. Fishbein

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.

I, Adam J. Fishbein, counsel for Plaintiff, 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:

None

**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? 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? No
- b) Did the events of omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

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? \_\_\_\_\_

(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/ Adam J. Fishbein



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Forster & Garbus LLP Sent Deceptive Debt Collection Notice](#)

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