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Attorneys for Plaintiff
Our File No.: 113354

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

Rhonda Mingo, individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

EOS CCA, Inc.,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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

Rhonda Mingo, 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 EOS CCA, Inc. (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.

PARTIES

5. Plaintiff Rhonda Mingo is an individual who is a citizen of the State of New York residing in Erie County, New York.

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

7. On information and belief, Defendant EOS CCA, Inc., is a Massachusetts Corporation with a principal place of business in Plymouth County, Massachusetts.

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, at an exact time known only to Defendant, the Debt was assigned or otherwise transferred to Defendant for collection.

13. In its efforts to collect the debt, Defendant contacted Plaintiff by letter (“the Letter”) dated September 10, 2016. (“**Exhibit 1.**”)

14. The Letter was the initial communication Plaintiff received from Defendant.

15. The Letter is a “communication” as defined by 15 U.S.C. § 1692a(2).

FIRST COUNT
Violation of 15 U.S.C. § 1692e

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

17. 15 U.S.C. § 1692e prohibits a debt collector from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

18. While § 1692e specifically prohibits certain practices, the list is non-exhaustive, and does not preclude a claim of falsity or deception based on any non-enumerated practice.

19. 15 U.S.C. § 1692e(5) prohibits the threat to take any action that cannot legally be

taken or that is not intended to be taken.

20. 15 U.S.C. § 1692e(10) prohibits the use of any false representation or deceptive means to collect or attempt to collect any debt.

21. The City of Buffalo, pursuant to Ordinance Chapter 140, requires anyone doing collecting in the city to have a Collection Agency License.

22. The possession of a license is required even if the debt collector's principal place of business is outside the City limits.

23. Plaintiff is a resident of the City of Buffalo, New York.

24. Defendant sent the Letter to Plaintiff's Buffalo residence.

25. Upon information and belief, Defendant does not possess a Buffalo Collection Agency License.

26. As such, Defendant violated § 1692e by using a false, deceptive and misleading representation in its attempt to collect a debt.

SECOND COUNT
Violation of 15 U.S.C. § 1692e

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

28. Plaintiff's debt was incurred pursuant to a contract between Plaintiff and the creditor.

29. N.Y.C.P.L.R. § 5001(a) provides that interest shall be recovered upon a sum awarded because of a breach a contract.

30. An award of interest under § 5001 is mandatory.

31. N.Y.C.P.L.R. § 5001(b) provides that interest shall be computed from the earliest ascertainable date the cause of action existed.

32. The creditor, and any assignee or successor-in-interest, possessed a guaranteed right to interest on the Debt from, at the latest, September 10, 2016.

33. As such, the amount stated in the Letter was subject to the accrual of interest.

34. The Letter failed to disclose that the amount stated may increase due to interest.

35. The Letter, because of the aforementioned failure, violates 15 U.S.C. § 1692e.

CLASS ALLEGATIONS

36. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the City of Buffalo from whom Defendant attempted to collect a consumer debt without a required Buffalo Collection Agency License, from one year before the date of this Complaint to the present.

37. 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.

38. Defendant regularly engages in debt collection.

39. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts without a required Buffalo Collection Agency License.

40. 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.

41. 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.

42. 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

43. 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: June 14, 2017

BARSHAY SANDERS, PLLC

By: /s/ David M. Barshay
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Our File No.: 113354

DATE: 09/10/16

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ID. NO: [REDACTED] 2938

0138 1 AT *A-01-2WC-AM-01593-7



RHONDA MINGO
435 ELLICOTT ST
BUFFALO NY 14203-1519



EOS CCA
PO BOX 31131
ROCHESTER NY 14603-1131

PLEASE DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT

AS A RESULT OF NON-PAYMENT, THE ABOVE MENTIONED ACCOUNT HAS BEEN REFERRED TO OUR OFFICE FOR RESOLUTION.

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 OF 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.

COLLECTOR:
ROUTE ASSIGNED

CREDITOR	REFERENCE	ACCT#	AMOUNT OWED
SRA MEDICAL IMAGING LLC	[REDACTED]	7052 [REDACTED] 2938	16.00
SRA MEDICAL IMAGING LLC	[REDACTED]	0202 [REDACTED] 2939	105.00
TOTAL:			121.00

**** ANY CHECK RETURNED FOR INSUFFICIENT FUNDS OR ACCOUNT CLOSED WILL BE ASSESSED A \$20.00 PROCESSING FEE.

OFFICE HOURS (EST): MONDAY - THURSDAY 8:00 AM - 9:00 PM
FRIDAY 8:00 AM - 5:00 PM
SATURDAY 8:00 AM - 12:00 PM

New York City Dept of Consumer Affairs License #0960830, You may contact our office at the toll free number above during the hours noted and speak to David Weydt or any available representative.

**THIS IS AN ATTEMPT TO COLLECT A DEBT BY A DEBT COLLECTOR AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE
This fax was received by GFI FAXmaker fax server. For more information, visit: <http://www.gfi.com>

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: RHONDA MINGO; (b) County of Residence of First Listed Plaintiff: ERIE; (c) Attorneys: BARSHAY SANDERS, PLLC, 100 Garden City Plaza, Ste 500, Garden City, NY 11530, (516) 203-7600. DEFENDANTS: EOS CCA, INC.; County of Residence of First Listed Defendant: PLYMOUTH; NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

II. BASIS OF JURISDICTION: U.S. Government Plaintiff; Federal Question; Diversity. III. CITIZENSHIP OF PRINCIPAL PARTIES: Citizen of This State; Citizen of Another State; Citizen or Subject of a Foreign Country.

IV. NATURE OF SUIT: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN: 1 Original Proceeding; 2 Removed from State Court; 3 Remanded from Appellate Court; 4 Reinstated or Reopened; 5 Transferred from Another District; 6 Multidistrict Litigation - Transfer; 8 Multidistrict Litigation - Direct File.

VI. CAUSE OF ACTION: 15 USC §1692 - Fair Debt Collection Practices. VII. Previous Bankruptcy Matters: (For nature of suite 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$: CHECK YES only if demanded in complaint. JURY DEMAND: Yes No

IX. RELATED CASE(S) IF ANY: (See Instructions) JUDGE: DOCKET NUMBER:

X. This Case (check one box) [] Is not a refiling of a previously dismissed action [] is a refiling of case number previously dismissed by Judge

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

UNITED STATES DISTRICT COURT

for the

WESTERN DISTRICT OF NEW YORK

Rhonda Mingo, individually and on behalf of all others similarly situated)	
_____)	
<i>Plaintiff(s)</i>)	
)	Civil Action No.
v.)	
)	
EOS CCA, Inc.)	
_____)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
EOS CCA, Inc.
700 Longwater Drive
Norwell, Massachusetts 02061

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: [EOS CCA Sued Over Allegedly Illegal Collection Practices](#)
