

**BARSHAY SANDERS, PLLC**  
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Our File No.: 114962

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

Juhyoun Moon, individually and on behalf of all those  
similarly situated,

Plaintiff,

vs.

Emergent Business Group, Inc. d/b/a Emergent  
Servicing and New Century Financial Services,

Defendants.

Docket No:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

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

Juhyoun Moon, individually and on behalf of all those similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Emergent Business Group, Inc. d/b/a Emergent Servicing and New Century Financial Services (hereinafter referred to collectively as “*Defendants*”), 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, Defendants conducted business within the State of New Jersey.

### **PARTIES**

5. Plaintiff Juhyoun Moon is an individual who is a citizen of the State of New Jersey residing in Bergen County, New Jersey.

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

7. On information and belief, Defendant Emergent Business Group, Inc. d/b/a Emergent Servicing, is a Pennsylvania Corporation with a principal place of business in Montgomery County, Pennsylvania.

8. On information and belief, Defendant New Century Financial Services, is a New Jersey Corporation with a principal place of business in Morris County, New Jersey.

9. Defendants are regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

10. Defendants are “debt collectors” as defined by 15 U.S.C. § 1692a(6).

### **ALLEGATIONS**

11. Defendants allege Plaintiff owes a debt (“the Debt”).

12. The Debt was primarily for personal, family or household purposes and is therefore a “debt” as defined by 15 U.S.C. § 1692a(5).

13. Sometime after the incurrence of the Debt Plaintiff fell behind on payments owed.

14. Thereafter, at an exact time known only to Defendants, the debt was assigned or otherwise transferred to Defendants for collection.

15. In their efforts to collect the debt, Defendants contacted Plaintiff by letter (“the Letter”) dated January 31, 2018. (“**Exhibit 1.**”)

16. The letter was the initial communication Plaintiff received from Defendants.

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

18. The Letter provided a toll free telephone number to call.

19. The Letter provided a mailing address of PO Box 190, Horsham, PA, 19044.

20. 15 U.S.C. §1692g(a)(3) requires to debt collector to: “Within five days after the initial communication with a consumer in connection with the collection of any 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.”

21. In this Circuit, a dispute of a debt, to be effective, must be in writing. *See Caprio v. Healthcare Revenue Recovery Grp., LLC*, 709 F.3d 142 (3d Cir. 2013).

22. The Letter stated in part: “Unless you, within thirty days after receipt of this notice, dispute the validity of this debt, or any portion thereof, we will assume this debt is valid.”

23. The failure to provide a proper 15 U.S.C. §1692g(a)(3) notice is a violation of the FDCPA.

24. A debt collector has the obligation not just to convey the 15 U.S.C. §1692g(a)(3) notice, but also to convey such clearly.

25. Even if a debt collector conveys the required information, the debt collector nonetheless violates the FDCPA if it conveys that information in a confusing or contradictory fashion so as to cloud the required message with uncertainty.

26. The Letter fails to properly inform the least sophisticated consumer that to effectively dispute the alleged debt, such dispute must be in writing.

27. The least sophisticated consumer upon reading the Letter would likely be confused as to what she must do to effectively dispute the alleged debt.

28. The least sophisticated consumer upon reading the Letter would likely be unsure as to what she must do to effectively dispute the alleged debt.

29. The Letter did not convey the 15 U.S.C. §1692g(a)(3) notice clearly from the perspective of the least sophisticated consumer.

30. The Letter did not adequately set forth the 15 U.S.C. §1692g(a)(3) notice.

31. The Letter, because of the aforementioned failures, violates 15 U.S.C. §1692g(a)(3). *See Cadillo v. Stoneleigh Recovery Assocs., LLC*, No. CV 17-7472-SDW-SCM, 2017 WL 6550486 (D.N.J. Dec. 21, 2017), *motion to certify appeal denied*, No. CV177472SDWSCM, 2018 WL 702890 (D.N.J. Feb. 2, 2018).

32. 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.

33. While Section 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.

34. A collection letter violates 15 U.S.C. § 1692e if it can reasonably be read by the least sophisticated consumer to have two or more meanings, one of which is inaccurate.

35. A collection letter is also deceptive under 15 U.S.C. § 1692e if it is reasonably susceptible to an inaccurate reading by the least sophisticated consumer.

36. 15 U.S.C. § 1692e(10) specifically prohibits the “use of any false representation or deceptive means to collect or attempt to collect any debt.”

37. The question of whether a collection letter is deceptive is determined from the perspective of the “least sophisticated consumer.”

38. The least sophisticated consumer upon reading the Letter would likely be misled into believing that if she wished to effectively dispute the Debt she may notify Defendant by calling the telephone numbers listed, or write to Defendant at the address listed.

39. The least sophisticated consumer would likely be confused concerning whether, to dispute the debt, she may notify Defendant by calling the telephone numbers listed, or write to Defendant at the address listed.

40. The least sophisticated consumer would likely be uncertain concerning whether, to dispute the debt, she may notify Defendant by calling the telephone numbers listed, or write to Defendant at the address listed.

41. The least sophisticated consumer would likely be uncertain as to her rights.

42. The least sophisticated consumer would likely be confused as to her rights.

43. Because the Letter can reasonably be read by the least sophisticated consumer to have two or more meanings, one of which is inaccurate, as described, it is deceptive within the meaning of 15 U.S.C. § 1692e.

44. Because the Letter is reasonably susceptible to an inaccurate reading by the least sophisticated consumer, as described, it is deceptive within the meaning of 15 U.S.C. § 1692e.

45. The least sophisticated consumer would likely be deceived by the Letter.

46. The least sophisticated consumer would likely be deceived in a material way by the Letter.

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

48. The Letter, because of the aforementioned failures, violates 15 U.S.C. § 1692e. *See Cadillo v. Stoneleigh Recovery Assocs., LLC*, No. CV 17-7472-SDW-SCM, 2017 WL

6550486 (D.N.J. Dec. 21, 2017), *motion to certify appeal denied*, No. CV177472SDWSCM, 2018 WL 702890 (D.N.J. Feb. 2, 2018).

### **CLASS ALLEGATIONS**

49. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of New Jersey from whom Defendant attempted to collect a consumer debt using a collection letter containing the same deficient 15 U.S.C. §1692g(a)(3) notice used in the Letter, from one year before the date of this Complaint to the present.

50. 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.

51. Defendant regularly engages in debt collection.

52. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using a collection letter containing the same deficient 15 U.S.C. §1692g(a)(3) notice used in the Letter.

53. 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.

54. 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.

55. 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**

56. 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 Defendants' actions violate the FDCPA; and
- d. Grant damages against Defendants 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: May 1, 2018

**BARSHAY SANDERS, PLLC**

By: /s/ Todd D. Muhlstock  
Todd D. Muhlstock, Esq.  
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*Attorneys for Plaintiff*



Office Hours: M-TH 8:00AM - 9:00PM EST  
Fri. 8:00AM - 5:00PM EST  
Sat. 8:00AM - 1:00PM EST  
Office Phone: 800.553.8647

Current Creditor: New Century Financial Services  
Account #: 5207  
Original Creditor: CHASE BANK  
Original Acct #: 5084  
Current Balance: \$6,662.14

uid2305318—job867973  
seq149—1of1

JUHYOUN MOON  
540 8TH ST APT 2ND  
PALISADES PARK NJ 07650-2310



January 31, 2018

Dear JUHYOUN MOON,

Your account has been assigned to Emergent Servicing. This office will be attempting to collect the above balance that you owe on this unpaid debt. This is a demand for payment of your outstanding obligation.

In making this demand, we are relying entirely on information provided by New Century Financial Services. At this time, this firm is acting in its capacity as a debt collector.

Unless you, within thirty days after receipt of this notice, dispute the validity of the debt, or any portion thereof, we will assume this debt is valid. If you notify this office in writing within the thirty day period that the debt, or any portion thereof, is disputed, this office will obtain verification of the debt or a copy of any judgment against you and a copy of such verification or judgment will be mailed to you. Upon your written request within the thirty day period, this office will provide you with the name and address of the original creditor, if different from the current creditor.

You may request records showing the following: (1) that Emergent Servicing has the right to seek collection of the debt; (2) the debt balance, including an explanation of any interest charges and additional fees; (3) the date of default or the date of the last payment; (4) the name of the charge-off creditor and the account number associated with the debt; (5) the name and last known address of the debtor as it appeared in the charge-off creditor's record as agreement to the debt.

A request for these records may be addressed to: Emergent Servicing, PO Box 1655, Horsham, PA 19044. If you have any questions or would like to make arrangements to pay the debt, please call us toll-free at 800.553.8647.

Sincerely,  
Emergent Servicing

IDN-ES-EN | IDN1E

IMPORTANT INFORMATION CONTINUED ON THE REVERSE SIDE

**THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**



100 Lakeside Drive • Suite 150 • Horsham, PA 19044

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: JUHYOUN MOON; (b) County of Residence of First Listed Plaintiff: BERGEN; (c) Attorneys: BARSHAY SANDERS, PLLC, 100 Garden City Plaza, Ste 500, Garden City, NY 11530, (516) 203-7600. DEFENDANTS: EMERGENT BUSINESS GROUP, INC. D/B/A EMERGENT SERVICING; County of Residence of First Listed Defendant: MONTGOMERY; 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): 01 U.S. Government Plaintiff, 03 Federal Question (U.S. Government Not a Party), 02 U.S. Government Defendant, 04 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 (PTF 01, DEF 01), Citizen of Another State (PTF 02, DEF 02), Citizen or Subject of a Foreign Country (PTF 03, DEF 03); Incorporated or Principal Place of Business In This State (PIF 04, DEF 04), Incorporated and Principal Place of Business In Another State (PIF 05, DEF 05), Foreign Nation (PIF 06, DEF 06).

IV. NATURE OF SUIT (Place an "X" in One Box Only): CONTRACT (0110-0196), REAL PROPERTY (0210-0290), TORTS (0310-0362), CIVIL RIGHTS (0440-0448), PRISONER PETITIONS (0463-0560), FORFEITURE/PENALTY (0625-0690), LABOR (0710-0791), IMMIGRATION (0462-0465), BANKRUPTCY (0422-0423, 0820-0840), SOCIAL SECURITY (0861-0865), FEDERAL TAX SUITS (0870-0871), OTHER STATUTES (0375-0950).

V. ORIGIN (Place an "X" in One Box Only): 01 Original Proceeding, 02 Removed from State Court, 03 Remanded from Appellate Court, 04 Reinstated or Reopened, 05 Transferred from Another District (specify), 06 Multidistrict Litigation - Transfer, 08 Multidistrict Litigation - Direct File.

VI. CAUSE OF ACTION: (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.) 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

**DISTRICT OF NEW JERSEY**

Juhyoun Moon, individually and on behalf of all )  
those similarly situated )  
\_\_\_\_\_)  
*Plaintiff(s)* )

v. )

Civil Action No. )

Emergent Business Group, Inc. d/b/a Emergent )  
Servicing and New Century Financial Services )  
\_\_\_\_\_)  
*Defendant(s)*

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

Emergent Business Group, Inc. d/b/a Emergent Servicing  
100 Lakeside Drive , Sutie 150  
Horsham, Pennsylvania 19044

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*

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

**UNITED STATES DISTRICT COURT**

for the

DISTRICT OF NEW JERSEY

Juhyoun Moon, individually and on behalf of all  
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\_\_\_\_\_ )

*Plaintiff(s)* )

v. )

Emergent Business Group, Inc. d/b/a Emergent  
Servicing and New Century Financial Services )  
\_\_\_\_\_ )

*Defendant(s)* )

Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

New Century Financial Services  
C/O CORPORATION SERVICE COMPANY  
80 STATE STREET  
ALBANY, NEW YORK, 12207-2543

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: [Emergent Servicing Hit with Class Action Over Alleged Failure to Communicate Debt Dispute Rights](#)

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