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Our File No.: 112687

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

Frederico Murdolo, on behalf of himself and all others  
similarly situated,

Plaintiff,

vs.

Zwicker & Associates, P.C.,

Defendant.

Docket No:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

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

Frederico Murdolo, on behalf of himself and all others similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Zwicker & Associates, P.C. (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 Frederico Murdolo is an individual who is a citizen of the State of New York residing in Suffolk County, New York.

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

7. On information and belief, Defendant Zwicker & Associates, P.C., is a Connecticut Professional Corporation with a principal place of business in Hartford County, Connecticut.

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 December 7, 2016. (“**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. § 1692e**

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

18. The Debt was incurred on a PC Richards credit card, underwritten by Synchrony Bank.

19. The Letter sets forth a “Balance” of \$4,181.01.

20. The Letter states, “As of the date of this letter, you owe \$4,181.01.”

21. Pursuant to the terms and conditions of the credit card, Synchrony Bank charged Plaintiff interest on any balance carried on the account.

22. Pursuant to the terms and conditions of the credit card, Synchrony Bank charged Plaintiff late fees on any payments due but not timely made by Plaintiff.

23. Pursuant to the terms and conditions of the credit card, Synchrony Bank charged Plaintiff other fees on the account.

24. The right to collect from Plaintiff interest on any balance carried on the account was not waived by Synchrony Bank.

25. The right to collect from Plaintiff late fees on any payments due but not timely made by Plaintiff was not waived by Synchrony Bank.

26. The right to collect from Plaintiff other fees on the account was not waived by Synchrony Bank.

27. The right to collect from Plaintiff interest on any balance carried on the account was not waived by any assignee or successor-in-interest.

28. The right to collect from Plaintiff late fees on any payments due but not timely made by Plaintiff was not waived by any assignee or successor-in-interest.

29. The right to collect from Plaintiff other fees on the account was not waived by any assignee or successor-in-interest.

30. Plaintiff was never informed by anyone that the terms and conditions of the credit card were changed.

31. Pursuant to the terms and conditions of the credit card, interest continued to accrue on any balance unpaid.

32. Pursuant to the terms and conditions of the credit card, late fees continued to accrue on any payments due but not timely made by Plaintiff.

33. Pursuant to the terms and conditions of the credit card, other fees continued to accrue on the account.

34. Pursuant to the terms and conditions of the credit card, Synchrony Bank and any assignee or successor-in-interest had the legal right to collect from Plaintiff interest on any balance carried on the account.

35. Pursuant to the terms and conditions of the credit card, Synchrony Bank and any assignee or successor-in-interest had the legal right to collect from Plaintiff late fees on any

payments due but not timely made by Plaintiff.

36. Pursuant to the terms and conditions of the credit card, Synchrony Bank and any assignee or successor-in-interest had the legal right to collect from Plaintiff other fees on the account.

37. Pursuant to the terms and conditions of the credit card, the legal right of Synchrony Bank and any assignee or successor-in-interest to collect from Plaintiff interest on any balance carried on the account is not waived by Synchrony Bank or any assignee or successor-in-interest as a result of a failure by either Synchrony Bank or any assignee or successor-in-interest at any point in time to attempt to collect from Plaintiff the aforementioned interest.

38. Pursuant to the terms and conditions of the credit card, the legal right of Synchrony Bank and any assignee or successor-in-interest to collect from Plaintiff late fees on any payments due but not timely made by Plaintiff is not waived by Synchrony Bank or any assignee or successor-in-interest as a result of a failure by either Synchrony Bank or any assignee or successor-in-interest at any point in time to attempt to collect from Plaintiff the aforementioned late fees.

39. Pursuant to the terms and conditions of the credit card, the legal right of Synchrony Bank and any assignee or successor-in-interest to collect from Plaintiff other fees on the account is not waived by Synchrony Bank or any assignee or successor-in-interest as a result of a failure by either Synchrony Bank or any assignee or successor-in-interest at any point in time to attempt to collect from Plaintiff the aforementioned other fees.

40. 15 U.S.C. § 1692e requires debt collectors, when they notify consumers of their account balance, to disclose that the balance may increase due to interest and fees.

- 41. The Letter failed to disclose that the balance stated may increase due to interest.
- 42. The Letter failed to disclose that the balance stated may increase due to late fees.
- 43. The Letter failed to disclose that the balance stated may increase due to other fees.
- 44. The Letter, because of the aforementioned failures, violates 15 U.S.C. § 1692e.

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

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

46. Alternatively, even if Plaintiff's account was not subject to continued interest pursuant to the terms and conditions of the credit card – which it was – the account was subject to interest by operation of law.

47. Plaintiff's debt was incurred pursuant to a contract between Plaintiff and Synchrony Bank.

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

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

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

51. Synchrony Bank and any assignee or successor-in-interest possessed a guaranteed right to interest on the Debt from, at the latest, December 7, 2016.

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

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

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

**THIRD COUNT**  
**Violation of 15 U.S.C. § 1692g**

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

56. 15 U.S.C. § 1692g provides 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 information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing certain enumerated information.

57. 15 U.S.C. § 1692g(a)(1) requires the written notice provide “the amount of the debt.”

58. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must convey the amount of the debt clearly from the perspective of the least sophisticated consumer.

59. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must convey the amount of the debt accurately from the perspective of the least sophisticated consumer.

60. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must convey the amount of the debt without ambiguity from the perspective of the least sophisticated consumer.

61. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must state whether interest, late fees and/or other fees are accruing.

62. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must allow the least sophisticated consumer to determine the minimum amount he or she owes at the time of the notice.

63. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must allow the least sophisticated consumer to determine what he or she will need to pay to resolve the debt at any given moment in the future.

64. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must contain an explanation, understandable by the least sophisticated consumer, of any fees or interest that may cause the balance to increase at any time in the future.

65. The failure to include the foregoing information renders an otherwise accurate statement of the “amount of the debt” violative of 15 U.S.C. § 1692g(a)(1).

66. The Letter fails to indicate the minimum amount Plaintiff owed at the time of the Letter.

67. The Letter fails to provide information that would allow the least sophisticated consumer to determine the minimum amount he or she owes at the time of the Letter.

68. The Letter fails to provide information that would allow Plaintiff to determine what Plaintiff will need to pay to resolve the debt at any given moment in the future.

69. The Letter fails to provide information that would allow the least sophisticated consumer to determine what he or she will need to pay to resolve the debt at any given moment in the future.

70. The Letter fails to provide information that would allow the least sophisticated consumer to determine the amount of interest owed.

71. For instance, the Letter fails to indicate the applicable interest rate.

72. For instance, the Letter fails to indicate the date of accrual of interest.

73. For instance, the Letter fails to indicate the amount of interest during any measurable period.

74. The Letter fails to provide information that would allow the least sophisticated consumer to determine the amount of late fees owed.

75. For instance, the Letter fails to indicate the amount of late fees.

76. For instance, the Letter fails to indicate the date such fees will be added.

77. For instance, the Letter fails to indicate the amount of late fees during any measurable period.

78. The Letter fails to contain an explanation, understandable by the least sophisticated consumer, of any fees and interest that may cause the amount stated to increase.

79. The Letter fails to state whether interest, late fees and/or other fees are accruing.

80. The Letter fails to state what part of the amount stated is attributable to principal.

81. The Letter fails to state what part of the amount stated is attributable to interest.

82. The Letter fails to state what part of the amount stated is attributable to late fees.

83. The Letter fails to state what part of the amount stated is attributable to other fees.

84. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine the minimum amount owed at the time of the Letter.

85. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine what she will need to pay to resolve the debt at any given moment in the future.

86. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine the amount of his or her debt.

87. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine the amount of her debt because the consumer would not know whether interest and fees would continue to accrue, or whether the amount of the debt was static.

88. The Letter, because of the aforementioned failures, did not convey “the amount of the debt” clearly from the perspective of the least sophisticated consumer.

89. The Letter, because of the aforementioned failures, did not convey “the amount of the debt” accurately from the perspective of the least sophisticated consumer.

90. The Letter, because of the aforementioned failures, did not convey “the amount of the debt” without ambiguity from the perspective of the least sophisticated consumer.

91. The Letter, because of the aforementioned failures, renders the statement of the amount of the debt, even if otherwise accurate, violative of 15 U.S.C. § 1692g(a)(1).

92. The Letter, because of the aforementioned failures, did not adequately set forth “the amount of the debt” as required by 15 U.S.C. § 1692g.

93. The Letter, because of the aforementioned failures, violates 15 U.S.C. § 1692g.

**FOURTH COUNT**  
**Violation of 15 U.S.C. § 1692e**

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

95. As previously set forth, the Letter sets forth a “Balance” of \$4,181.01.

96. As previously set forth, the Letter states, “As of the date of this letter, you owe \$4,181.01.”

97. As previously set forth, Plaintiff was always charged interest on any balance carried on the account.

98. As previously set forth, Plaintiff was always charged late fees on any payments due but not timely made by Plaintiff.

99. As previously set forth, Plaintiff was never informed by anyone that the terms and conditions of the credit card were changed.

100. The Letter fails to disclose whether the amount stated may increase due to additional interest.

101. The Letter fails to disclose whether the amount stated may increase due to additional late fees.

102. The Letter fails to indicate whether the creditor will accept payment of the amount stated in full satisfaction of the debt if payment is made by a specified date.

103. 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.

104. The Letter, because of the aforementioned failures, and because interest and late fees were always charged on the account and Plaintiff was never informed by anyone that interest and late fees would no longer be applied, and especially because of the use of the phrase “As of the date of this letter,” can reasonably be read by the least sophisticated consumer to mean that interest was still accruing.

105. The Letter, because of the aforementioned failures, and because interest and late fees were always charged on the account and Plaintiff was never informed by anyone that interest and late fees would no longer be applied, and especially because of the use of the phrase “As of the date of this letter,” can reasonably be read by the least sophisticated consumer to mean that



late fees were still accruing.

106. The Letter could also reasonably be read by the least sophisticated consumer to mean that interest was no longer accruing.

107. The Letter could also reasonably be read by the least sophisticated consumer to mean that late fees were no longer accruing.

108. The Letter could reasonably be read by the least sophisticated consumer to mean that the debt could be satisfied in full by payment of the amount stated.

109. The Letter could reasonably be read by the least sophisticated consumer to mean that the debt could be satisfied in full by payment of the amount stated at any time after receipt of the Letter.

110. The Letter could also reasonably be read by the least sophisticated consumer to mean that the amount stated was accurate only on the date of the Letter because of the continued accumulation of interest and/or late fees.

111. 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 under 15 U.S.C. § 1692e.

112. For these reasons, Defendant violated 15 U.S.C. § 1692e.

#### **FIFTH COUNT**

#### **Violation of 15 U.S.C. § 1692e(3) False or Misleading Representations**

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

114. 15 U.S.C. § 1692e prohibits a debt collector from using any false, deceptive, or misleading representations in connection with the collection of any debt.

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

116. 15 U.S.C. § 1692e(3) prohibits a debt collector from using the false representation or implication that any individual is an attorney or that any communication is from an attorney.

117. Defendant’s Letter is on the letter head of “Zwicker & Associates, P.C., Attorneys at Law.”

118. The letter states, “This law firm has been retained by the above-named creditor to

assist it in the collection of the funds you owe on the above-referenced account.”

119. The Letter is signed “ZWICKER & ASSOCIATES, P.C.”

120. The Letter identifies Defendant as a debt collector.

121. Defendant was acting as a debt collector, as defined by the FDCPA, concerning Plaintiff’s alleged debt.

122. The FDCPA prohibits a debt collector from sending a letter, such as the subject Letter herein, if such letter misleads the consumer regarding “meaningful attorney involvement” in the debt collection process.

123. A letter, such as the subject Letter herein, does not mislead a consumer regarding “meaningful attorney involvement” in the debt collection process so long as that letter includes a disclaimer, such as the following: “At this time, no attorney with this firm has personally reviewed the particular circumstances of your account.”

124. The Letter contains no such disclaimer.

125. Because the Letter states that it is from a law firm, and because the Letter contains no disclaimer as to “meaningful attorney involvement,” the least sophisticated consumer would likely believe that one or more attorneys have been personally involved in the day-to-day collection of Plaintiff’s debt.

126. The least sophisticated consumer would likely be deceived by Defendant’s conduct.

127. The least sophisticated consumer would likely be deceived in a material way by Defendant’s conduct.

128. The least sophisticated consumer would likely be deceived into believing that an attorney had meaningful involvement in the collection of the alleged debt.

129. Defendant has violated 15 U.S.C. § 1692e by using a false, deceptive, and misleading representation in its attempt to collect the debt.

### **CLASS ALLEGATIONS**

130. 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 a proper disclosure concerning “meaningful attorney involvement,” from

one year before the date of this Complaint to the present.

131. 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.

132. Defendant regularly engages in debt collection.

133. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts without a proper disclosure concerning “meaningful attorney involvement.”

134. 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.

135. 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.

136. 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**

137. 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: December 8, 2017

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

**BARSHAY SANDERS, PLLC**

By: /s/ Craig B. Sanders  
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csanders@barshaysanders.com  
*Attorneys for Plaintiff*  
Our File No.: 112687



ZWICKER & ASSOCIATES, P.C.<sup>®</sup>  
ATTORNEYS AT LAW

THIS LAW FIRM  
EMPLOYS ONE  
OR MORE  
ATTORNEYS  
ADMITTED TO  
PRACTICE IN  
THE FOLLOWING  
STATES:

FRED MURDOLO  
73 IMPERIAL DR  
SELDEN, NY 11784-2346

- ALASKA
- ARIZONA
- CALIFORNIA
- COLORADO
- CONNECTICUT
- FLORIDA
- GEORGIA
- IDAHO
- ILLINOIS
- INDIANA
- KENTUCKY
- MAINE
- MARYLAND
- MASSACHUSETTS
- MICHIGAN
- MINNESOTA
- NEW JERSEY
- NEW HAMPSHIRE
- NEW YORK
- NORTH CAROLINA
- OHIO
- OREGON
- PENNSYLVANIA
- RHODE ISLAND
- SOUTH CAROLINA
- TENNESSEE
- TEXAS
- VERMONT
- VIRGINIA
- WASHINGTON
- WEST VIRGINIA
- DISTRICT OF COLUMBIA

**Personal and Confidential**

Creditor: Synchrony Bank  
Account number ending in: 5806<sup>1</sup>  
Balance: \$4181.01

12/07/16  
RE: PC Richards account  
File ID: ██████████7900

Dear FRED MURDOLO:

This law firm has been retained by the above-named creditor to assist it in the collection of the funds you owe on the above-referenced account. As of the date of this letter, you owe \$4181.01.

The following is an itemized accounting of your balance going forward from the date your account was charged off:

Total amount due as of charge-off	\$4181.01
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/credits made since charge-off	-\$0.00
Balance as of 12/07/16	\$4181.01

This letter is not a threat of suit and should not be construed to be a threat of suit.

*Please note that unless you dispute said debt, or any portion thereof, within thirty (30) days after your receipt of this letter, this office shall assume the validity of this debt. Upon your written notification within such thirty-day period that this debt, or any portion thereof, is disputed, this office shall obtain verification of the debt or a copy of a judgment, if any, against you and mail you a copy of such verification or judgment. Furthermore, upon your written request within said thirty-day period, this office shall provide you with the name and address of the original creditor, if different from the current creditor.*

Please contact this office to discuss repayment with one of our non-attorney account representatives.

**IMPORTANT NOTICES**

**We are required under state law to notify consumers of the following rights. This list does not contain a complete list of the rights consumers have under state and federal law.**

**NEW YORK STATE:**

Debt collectors, in accordance with the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., are prohibited from engaging in abusive, deceptive, and unfair debt collection efforts, including but not limited to:

- (1) The use or threat of violence;
- (2) The use of obscene or profane language; and
- (3) 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.

Federal law or other state laws may also provide you with similar or even greater rights.

Sincerely,  
ZWICKER & ASSOCIATES, P.C.

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.

<sup>1</sup> Please read the important notices appearing on the back of this letter.

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: FREDERICO MURDOLO; DEFENDANTS: ZWICKER & ASSOCIATES, P.C. (b) County of Residence of First Listed Plaintiff: SUFFOLK; County of Residence of First Listed Defendant: HARTFORD. (c) Attorneys: BARSHAY SANDERS, PLLC, 100 Garden City Plaza, Ste 500, Garden City, NY 11530, (516) 203-7600.

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). 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), Incorporated or Principal Place of Business In This State.

IV. NATURE OF SUIT (Place an "X" in One Box Only): CONTRACT (0110 Insurance, 0120 Marine, 0130 Miller Act, 0140 Negotiable Instrument, 0150 Recovery of Overpayment & Enforcement of Judgment, 0151 Medicare Act, 0152 Recovery of Defaulted Student Loans (Excludes Veterans), 0153 Recovery of Overpayment of Veteran's Benefits, 0160 Stockholders' Suits, 0190 Other Contract, 0195 Contract Product Liability, 0196 Franchise); REAL PROPERTY (0210 Land Condemnation, 0220 Foreclosure, 0230 Rent Lease & Ejectment, 0240 Torts to Land, 0245 Tort Product Liability, 0290 All Other Real Property); TORTS (0310 Airplane, 0315 Airplane Product Liability, 0320 Assault, Libel & Slander, 0330 Federal Employers' Liability, 0340 Marine, 0345 Marine Product Liability, 0350 Motor Vehicle, 0355 Motor Vehicle Product Liability, 0360 Other Personal Injury, 0362 Personal Injury - Medical Malpractice); CIVIL RIGHTS (0440 Other Civil Rights, 0441 Voting, 0442 Employment, 0443 Housing/Accommodations, 0445 Amer. w/Disabilities - Employment, 0446 Amer. w/Disabilities - Other, 0448 Education); PRISONER PETITIONS (Habeas Corpus: 0463 Alien Detainee, 0510 Motions to Vacate Sentence, 0530 General, 0535 Death Penalty; Other: 0540 Mandamus & Other, 0550 Civil Rights, 0555 Prison Condition, 0560 Civil Detainee Conditions of Confinement); FORFEITURE/PENALTY (0625 Drug Related Seizure of Property 21 USC 881, 0690 Other); LABOR (0710 Fair Labor Standards Act, 0720 Labor/Management Relations, 0740 Railway Labor Act, 0751 Family and Medical Leave Act, 0790 Other Labor Litigation, 0791 Employee Retirement Income Security Act); IMMIGRATION (0462 Naturalization Application, 0465 Other Immigration Actions); BANKRUPTCY (0422 Appeal 28 USC 158, 0423 Withdrawal 28 USC 157); SOCIAL SECURITY (0861 HIA (1395ff), 0862 Black Lung (923), 0863 DIWC/DIWW (405(g)), 0864 SSID Title XVI, 0865 RSI (405(g))); FEDERAL TAX SUITS (0870 Taxes (U.S. Plaintiff or Defendant), 0871 IRS—Third Party 26 USC 7609); OTHER STATUTES (0375 False Claims Act, 0400 State Reapportionment, 0410 Antitrust, 0430 Banks and Banking, 0450 Commerce, 0460 Deportation, 0470 Racketeer Influenced and Corrupt Organizations, 0480 Consumer Credit, 0490 Cable/Sat TV, 0850 Securities/Commodities/Exchange, 0890 Other Statutory Actions, 0891 Agricultural Acts, 0893 Environmental Matters, 0895 Freedom of Information Act, 0896 Arbitration, 0899 Administrative Procedure Act/Review or Appeal of Agency Decision, 0950 Constitutionality of State Statutes).

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: 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 No.

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

DATE: December 11, 2017. SIGNATURE OF ATTORNEY OF RECORD: /s Craig B. Sanders.

FOR OFFICE USE ONLY: RECEIPT #, AMOUNT, APPLYING IFF, 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, Craig B. Sanders, 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

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: 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
b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? YES
c) If this is a Fair Debt Collection Practice Act case, specific the County in which the offending communication was received: SUFFOLK

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**

Frederico Murdolo, on behalf of himself and all others similarly situated	)	
_____	)	
<i>Plaintiff(s)</i>	)	
	)	Civil Action No.
v.	)	
	)	
Zwicker & Associates, P.C.	)	
_____	)	
<i>Defendant(s)</i>	)	

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*  
Zwicker & Associates, P.C.  
C T CORPORATION SYSTEM  
155 FEDERAL ST., SUITE 700  
BOSTON, MA 02110

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: Zwicker & Associates' Collection Letter Missing Required Disclosures](#)

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